

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri M. S. Keny, State Chief Information Commissioner

Appeal No.25/SCIC/2010

Mr. Franky Monteiro,
H. No. 501, Devote,
Loutolim, Salcete - Goa.

....

Appellant

V/s

1) The Public Information officer,
The Secretary,
Village Panchayat Loutolim,
Loutolim,
Salcete- Goa.

....

Respondent No.1

Appellant in person.

Adv. S. Palkar for Respondent present.

J U D G E M E N T
(23/06/2010)

1. The Appellant, Shri Franky Monteiro, has filed this appeal praying that Respondent be directed to furnish forthwith the information as sought by the Appellant and as directed by First Appellate Authority; that appropriate disciplinary action be directed against the Respondent for denying the orders of the First Appellate Authority and intentionally causing delay and for penalty.

2. The brief facts leading to the present appeal are as under:-

That the Appellant sought certain information and certified copies from the Respondent being competent authority/Public Information Officer under the Goa Right to Information Act 2005 vide application dated 29/10/2009. That the Respondent in reply dated 26/11/2009 received by the Appellant on 30/11/2009 stated that the information sought cannot be furnished because Goa Right to Information Act, 2005 is not in force in the State of Goa. That being not satisfied with the reply the Appellant made an appeal dated 01/12/2009 to the First Appellate Authority('FAA' for short) i.e. the Block Development Officer requesting to direct the Respondent to furnish the information sought to the Appellant and for appropriate action against the

Respondent and also for imposing penalty. That the First Appellate Authority was pleased to pass the order on 06/01/2010 directing the Respondent to furnish the information under Right to Information Act, 2005 within next seven days. That the Respondent did not comply with the order till date. Being aggrieved by the refusal to furnish the information, the Appellant has preferred this Appeal on the grounds as set out in the memo of Appeal.

3. The Respondent resists the Application and the say is on record. It is the case of the Respondent that the appeal filed is totally misconceived untenable, and hence liable to be dismissed in limine. On merits it is the case of the Respondent that the information sought by the Appellant was admittedly under the "Goa Right to Information Act" which is not at all in force at the time of seeking information by the Appellant. That the "Goa Right to Information Act, 1997" stood repealed after the "Right to Information Act, 2005" came into force all over India except the State of Jammu & Kashmir. That in view of the above the question of applicability of Goa Right to Information Act does not arise at all. That since there is no Act the application is not maintainable at all.

4. The Appellant filed the written arguments, which are on record. The Respondent did not file any reply to the written arguments. However on 14/06/2010 the Adv. for Respondent advanced oral submissions.

According to Adv. Shri Palkar, Goa Right to Information Act was repealed. There is no Goa Right to Information Act. Since the Application was under old Act the same was not considered. Adv. for Respondent States that if proper application is filed Public Information Officer may provide the information.

5. I have carefully gone through the records of the case and considered the arguments of both sides. The only point that arises for my consideration is whether the relief prayed is to be granted or not?

It is seen that the Appellant vide his application dated 29/10/2009 sought certain information from the Public Information Officer/Secretary, Village Panchayat of Loutolim. The Information consists of 6 points in question form.

The Respondent sent the reply by his letter dated 26/11/2009. In the said letter the Respondent in para 2 states that “your request for information under Goa Right to Information Act 2005 cannot be furnished to you because Goa Right to Information Act 2005 is not in force in State of Goa”. The Appellant was directed to make appropriate application.

It is seen that the Appellant preferred the First Appeal before the First Appellate Authority. The FAA did not agree with the contention of the Public Information Officer as can be seen from para 4 of the order. The First Appellate Authority directed the Public Information Officer to furnish the information within next 7 days but till today information is not furnished.

6. I must mention here that Public Information Officer is the fulcrum around which Right to Information Act operates and a variety of functions are assigned to him. Under section 5(3) the Public Information Officer shall render reasonable assistance to the persons seeking such information. Supposing the application was not proper it was incumbent upon the Public Information Officer to render reasonable assistance to the Appellant. In the instant case he could have told the Appellant about repeal of the Act etc. However, Public Information Officer failed in his duty. It is to be noted here

that Public Information Officer should not put hurdles in making information available. He should not discourage the information seekers from seeking information. I have perused the information Act. Normally it is termed as Govt. of Goa Right to Information Act 2005. Again rules are termed as Goa Right to Information (Regulation of fee and cost) Rules 2006.

The Appellant's application mentions ".....under Goa Right to Information Act". Assuming for a while that such an act is not in force the Respondent could have told or asked the Appellant to correct it and furnish information. Again the reply is sent on the last date. In my view, the Public Information Officer should extend all reasonable assistance in making the information available rather than putting obstacles or finding faults and exhibiting insensitive attitude towards the Act.

7. Normally the Public Information Officer is bound by the order of First Appellate Authority, and he cannot disobey or flout the said order. But the Public Information Officer Committed gross violation of the said order. Even assuming for a while that Public Information Officer genuinely believed that Goa Right to Information was not in force then what prevented him to furnish information when his superior First Appellate Authority ordered to provide the information. This is something puzzling. In any case the Respondent failed to provide the information in time.

8. In fact, the Appellant is not aggrieved by the order of the First Appellate Authority. However he has approached this Commission as order of First Appellate Authority is not complied with.

9. Section 6 of the Right to Information Act postulates that a person who desires to obtain any information under the Act shall make a request in writing

or through electronic means to the authorities specifying the particulars of the information sought by him. Under section 7 (1) central Public Information officer or State Public Information officer as the case may be shall provide the information within 30 days of the receipt of the request on the payment of such fees as may be prescribed or reject the request on any of the grounds specified under section 8 and 9 of the Act.

It is pertinent to note that the Right to Information act, in general, is the time bound programme between the Administration and the citizen requesting information and every step will have to be completed within the time schedule prescribed for presentation of request and disposal of the same, presentation First Appeal and disposal by First Appellate Authority.

10. Coming to the case at hand application for information was filed on 29/10/2009. The same was received on the same day. Reply was sent on 26/11/2009. Of course no information was furnished. Thereafter First Appellate Authority ordered to furnish information within next 7 days. But till today no information is furnished. There is gross delay. It is said, "Delays have dangerous ends" More so in RTI matters where it is a time bound programme. No doubt Respondent has to furnish information as per order of First Appellate Authority. Since there is delay the Respondent is to be heard on the same thus giving an opportunity to explain the same.

11. In view of all the above, the appellant have made out a case for the relief prayed. Hence I pass the following order:-

...6/-

ORDER

The Appeal is allowed and the Respondent is directed to furnish the information to the Appellant as sought by him vide application dated 29/10/2009 and as directed by the First Appellate Authority within 15 days from the date of receipt of this order.

Since there is a delay Respondent is to be heard on the same. Issue notice under section 20(1) and (2) to the Respondent/Public Information Officer why penal action should not be taken against him for causing delay for furnishing the information. The explanation, if any, should reach the Commission on or before 15/07/2010 at 10.30 a.m. Public Information Officer shall appear for personal hearing regarding imposition of penalty.

Pronounced in the Commission on this 23rd day of June, 2010.

Sd/-
(M. S. Keny)
State Chief Information Commissioner

