

# GOA STATE INFORMATION COMMISSION AT PANAJI

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

## **Appeal No.180/SCIC/2010**

Sakharam Nagesh Marathe,  
Village: Ambede, PO Nagargaon,  
Taluka: Sattari, Goa.

... Appellant

**V/s**

1) First Appellate Authority  
The Director of Transport,  
Govt. of Goa,  
Panaji-Goa.

... Respondent No.1.

2) Manuel Afonso,  
Dy. Director of Transport North Goa, and SPIO,  
Directorate of Transport, Goa Govt.,  
Panaji –Goa.

... Respondent No.2

Appellant in person.

Respondent No. 1 absent.

Respondent No.2 present.

### **JUDGMENT** (03/09/2010)

1. The Appellant, Sakharam Nagesh Marathe, has preferred this appeal praying that order of First Appellate Authority be set aside; that information be furnished to him; that penalty be imposed on S.P.I.O; that action be taken against First Appellate Authority and for reimbursement of money spent on sending Registered A.D letter.

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

That the Appellant, vide application dated 16/11/2009 sought certain information from Director of Transport, under Right to Information Act ('RTI' Act for short). That the S.P.I.O did not give any information on item No. 2. That the Appellant preferred Appeal before the First Appellate Authority ('FAA' for short). That the Appeal was dismissed for default as the Appellant was not present. Being aggrieved the Appellant has preferred the present appeal.

...2/-

3. In pursuance of the notice the Respondent remained present.

4. Heard both sides and perused the records. It is seen that the Appellant vide his letter dated 16/11/2009 sought certain information. The information was in respect of construction of bus stand at Honda and Valpoi. It is seen that by letter dated 14/12/2009, the P.I.O informed the Appellant that Item/serial No. 1,4 & 5 were forwarded to Managing Director GSIDCL under intimation to the appellant. Information regarding item Sr. No. 2 and 3 were furnished. According to the Appellant what he wanted is Resolution/permission to construct. According to Appellant information on item 1 and 4 has been furnished.

Respondent No. 2 during the course of arguments submitted that information regarding item No. 3 is with the Kadamba and not with them and further submitted that he would furnish regarding item No. 2 whatever is available with them. Appellant too is agreeable for the same.

5. It would not be out of place if I refer to section 6 of the Right to Information Act.

“6 Request for obtaining information

1. Any person, who desires to obtain any information under this Act shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed to.

(a) .....

(b) .....

Specifying the particulars of the information sought by him or her.

Provided that where such request cannot be made in writing the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to render the same in writing.

2. ....

...3/-

3. Where an application is made to a public authority requesting an information....

- (i) which is held by another public Authority; or
- (ii) the subject matter of which is more closely connected with the functions of another public Authority.

The Public Authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public Authority and inform the applicant immediately about such transfer,

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.”

It is seen that sub-section (3) of section 6 carves out an exception to the requirement of sub-section (1). As per the same where a public Authority to whom an application for information is made, finds that information demanded is not with it but is held by some other Authority, it is duty bound to transfer the application for information to the concerned authority under intimation to the applicant/information seeker. Intention of the legislature in enacting sub-section (3) is noble considering Right to Information Act is a people friendly Act. The pure objective behind enacting this provision is perhaps to lesson the travails of an information seeker, lest he is lost in the labyrinth of procedural technicalities.

The Public Information Officer in future should bear this provision in mind.

6. Another ground urged is regarding Appeal before the First Appellate Authority. It is seen appellant remained absent hence appeal was dismissed for default.

Under the Act the First Appellate Authority is required to dispose off the appeal within 30 days of its receipt. This period may be extended to 45 days for reasons to be recorded in writing. The law does not mandate granting a hearing by first Appellate Authority. However, nothing prevents FAA to give a fair hearing and this in consonance of equity as well as principles of natural justice. Even other wise a mechanical order is not expected. The FAA under RTI is endowed with the duty of discharging his functions in a quasi-judicial manner and it is incumbent on his part to give a decision, which is a reasoned one. Irrespective of presence the decision should be on the merits of the case. The Appellate Authority to bear the same in mind while dealing appeals.

7. Appellant contends about delay. It is seen from record that Application on 26/11/2009 was received in the office of Respondents on 26/11/2009. The reply furnishing information is 14/12/2009. That means it is in time.

8. In view of the above Respondents/Respondent No. 2 to furnish the information in respect of item No. 2 PIO to transfer item No. 3 to Kadamba Transport Corporation to furnish the Information to the Appellant. Regarding other points it appears that Information is furnished.

9. In view of all the above I pass the following order:-

### **ORDER**

The Appeal is allowed and the Public Information Officer/Respondent No. 2 is hereby directed to furnish the information in respect of item No. 2/Sr. No.2 of the Application dated 16/11/2009 within 10 days from the receipt of the order.

Regarding item No. 3/Sr. No.3 the same be referred to the Kadamba Transport Corporation within five days from the date of receipt of the order and concerned PIO to furnish the information preferably within 15 days.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 3<sup>rd</sup> day of September, 2010.

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

