

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 111/SCIC/2010

Nishant Gurudas Sawant,
Mahalaxmi Bandora,
H.No. 1188,
Ponda –Goa,

....

Appellant

V/s

1) The Executive Engineer,
W.D. XVI (BC),
Public Information Officer,
PWD, Ponda-Goa.

....

Respondent No. 1.

2) First Appellate Authority/S.S.W.,
PWD, Altinho,
Panaji –Goa.

....

Respondent No. 2.

Appellant in person.

Respondent No.1 in person.

Respondent No.2 absent.

J U D G E M E N T
(26/08/2010)

1. The Appellant, Nishant Gurudas Sawant, has filed the present appeal praying that respondents be directed to Act and provide correct information as applied by the appellant by his Application dated 10/11/2009 and for imposing penalty for delay in providing information.

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

That the Appellant filed an application dated 10/11/2009 seeking certain information under Right to Information Act 2005 ('RTI' Act for short) from Respondent No. 1. that the S.P.I.O/Respondent No. 1 has called the appellant vide its letter dated 13/11/2009 to know the details of information called. That the Respondent No. 1 requested the Appellant vide letter dated 04/12/2009 to grant 10 more days. That the Respondent No. 1 has asked the appellant vide letter dated 25/03/2009/10 and directed to deposit the requisite amount to collect the relevant document. That the Appellant accordingly deposited the requisite amount on 21/12/2009 but the information asked was not given. That owing to the unsatisfactory response the appellant submitted letter to the Respondent dated 21/12/2009 for asking detailed information be given. Being not

satisfied the Appellant preferred the First Appeal before the First Appellate Authority. That the First Appellate Authority passed the order on 10/02/2010. That on 17/02/2010 by letter Respondent No. 1 informed to the Appellant that he had submitted information vide Registered A/D letter dated 12/02/2010. That Appellant tried to get the information. Being aggrieved the Appellant preferred the present appeal.

3. Respondents resist the appeal and the reply of the Respondent No. 1 is on record. It is the case of the Respondent No. 1 that with reference to the application of the Appellant he was requested to attend the Divisional Office in connection with the inspection of the documents vide letter No. PWD/Div XVI (BC) Acts/F.RTI/09-1-/949 dated 13/11/2009. However, he did not attend this office. That another letter was sent dated 04/12/2009 to allow 10 more days time to collect information documents from 11/12/2009 to 20/12/2009. It is the case of the Respondent No. 1 that vide letter dated 14/12/2009 the appellant was informed that relevant documents can be collected from the office on any working day during office hours after making payment of fees. That the Appellant paid the said amount of Rs. 96/- vide receipt dated 21/12/2009. It is further the case of the Respondent No. 1 that the Appellant did not collect the information and as such a registered A/D letter dated 17/02/2010 was sent to him to inform that the required copies of documents are submitted to him vide their registered A/D letter dated 12/02/2010, however, the Appellant did not accept the Registered letter from the postman and the same was returned to the sender unclaimed. That thereafter one more letter dated 24/02/2010 requesting the Appellant to attend their office to collect the documents, which were returned unclaimed. That the Appellant thereafter came after some days, gone through the documents but did not take away the documents stating that he will come again to collect the documents after consulting somebody. That the Appellant did not come to collect the documents. Instead file the second Appeal. According to the Respondent No. 1 appeal is to be dismissed.

...3/-

4. Heard the arguments. The Appellant argued in person and the Respondent No.1 also argued in person.

According to the Appellant he sought certain information from the Respondent No.1. He narrated in detail the facts of the case. According to him he attended the office of Respondent No. 1 and 2 on 2 or 3 occasions and that even gave his phone number and that there was one Shri Kamat. However no information was given. He referred to the letter dated 04/12/2009 asking for 10 days. Appellant submitted that till date no documents are given. He also referred to the various correspondences on record. He next referred to First Appeal and order passed thereon. He also referred to the letter dated 23/02/2010. In short according to the Appellant till to-day documents are not furnished to him.

Respondent No. 1 also referred to the facts of the case and various correspondence on record. He pointed out in detail about information received Exhibit C-1. He then pointed Exhibit C-2 then C-3 about asking 10 days. Respondent No. 1 pointed that the Appellant refused to collect the information. He even did not accept the requested AD letter. He referred to various correspondence and submitted that Appellant came, confirmed the documents but did not take the documents and thereafter filed second Appeal. According to the Respondent No. 1 Appellant is solely responsible for this and not taking the documents.

5. Appellant in reply states that he did not receive any documents. He also pointed that on 04/03/2010 he had gone to the office of the Respondent No.1.

6. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the relief prayed is to be granted or not?

It is seen that by application dated 10/11/2009 the Appellant sought certain information from Respondent No. 1. By letter dated 13/11/2009 the Respondent No. 1 requested the Appellant to attend the office in connection with the inspection of document. It appears that Appellant did not attend. Thereafter Respondent No. 1 by letter dated 04/12/2009 sought 10 more days to furnish the information. By letter dated 14/12/2009 the Respondent No. 1 called the Appellant to pay the fees and collect the information. It appears that on 21/12/2009 the Appellant paid the amount of Rs. 96/- According to the Appellant no information was furnished to him. It appears that on 31/12/2009 the Appellant preferred appeal with the First Appellate Authority ('FAA' for short). The FAA by order dated 10/02/2010 directed the SPIO to furnish the certified copies of all the relevant documents as sought by the Appellant within a period of 10 days from the date of receipt of the order.

It is seen that SPIO sent the certified copies by Registered AD on 12/02/2010 and informed the Appellant by letter dated 17/02/2010. According to Respondent No. 1 the Appellant did not receive the same and the same letter was returned to the sender. I have seen the said parcel and there is postal endorsement on the same.

In short it is the grievance of the Appellant that he has not furnished the said documents/information.

7. Looking at the factual backdrop of this case, this Appeal is for non-execution of the order of First Appellate Authority dated 10/02/2010 Apparently the Appellant has no grievance against F.A.A. Under section 19(3) of the Right to Information Act 2005, second Appeal lies only against the order of the FAA. However in the ends of Justice and in true spirit of Right to Information Act. I am proceeding with the same as the grievance of the Appellant is non-furnishing of information.

8. It is to be noted here that Right to Information Act has been enacted to provide for a legal right to information for citizens to secure access to information under the control of Public Authorities, in order to promote transparency and accountability in the working of every public Authority. The citizens and information seekers have subject to few exemptions, an overriding right to be given information on matters in possession of State and Public Agencies that are covered by the Act.

It is pertinent to note that 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 for presentation of request and disposal of the same, presentation of First Appeal and disposal by the Appellate Authority.

9. In the case at hand according to the Respondent No. 1 the information was kept ready but the Appellant did not collect the same whereas according to the Appellant he was not provided with the information. In any case the information is to be provided to the Appellant in terms of the Right to Information Act.

10. Now it is to be seen whether there is any delay. Apparently there is delay in furnishing the information as contended by the Appellant. According to the Respondent No. 1 there is no delay on his part, however, the delay is created by the Appellant himself. In any case Public Information officer /Respondent No. 1 should be given an opportunity to explain that the same was not malafide or on account of him in the factual matrix of this case.

11. In view of the above, the Respondent No. 1 has to furnish the information sought by the Appellant. Since there is delay the Respondent No. 1 is to be heard on the same. Hence I pass the following order:-

O R D E R

The Respondent No. 1 is hereby directed to furnish the information to the Appellant vide his application dated 10/11/2009 within 15 days from the date of receipt of this order.

Issue Notice under section 20 (1) of the Right to Information Act to the Respondent No.1/PIO why penalty action should not be taken against him for causing delay for furnishing information. The explanation, if any, should reach the Commission on or before 30/09/2010. Public Information Officer/Respondent No. 1 shall appear for hearing.

Further inquiry posted on 30/09/2010 at 10.30 a.m.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 26th day of August, 2010.

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

