

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

**Application for condonation of delay
in
Appeal No.100/2009**

Engr. Rabindra A. L.Dias,
Dr. Pires Colony, Block "B",
Cujira, St. Cruz,
Tiswadi –Goa.
V/s.

..... Appellant

1) Public Information Officer,
Office of the Superintendent of Police,
South Goa District, PHQ (South),
Margao, Salcete –Goa .

..... Respondent No.1.

2) First Appellate Authority,
Office of IGP, PHQs (North),
Panaji-Goa.

..... Respondent No.2.

Appellant in person.

Adv. Smt. N. Narvekar for Respondent No.1.

Respondent No. 2 absent.

O R D E R

(20/09/2010)

1. This is an application filed by the Appellant praying to condone the delay of 50 days as the Appellant was sick due to accident which has occurred on 23/03/2009 and was unable to appeal accordingly within the stipulated time as per Right to Information Act.

2. Heard the Appellant as well as Adv. Smt. Nilima Narvekar for Respondent No.1. Appellant submitted about delay and also referred to the Medical certificates on record. Advocate for the Respondent No. 1 submitted that she has no objection if delay is condoned.

I have gone through the records of the case and also perused the medical certificates from the record. It is seen that the Appellant was not well for some time it is seen that he had met with an accident and as such there was delay in filing the appeal. Since other side has no objection delay is to be condoned.

Hence pass the following order:-

“ Delay is condoned”

Application is accordingly disposed off.

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

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JUDGEMENT

(20/09/2010)

1. The Appellant, Engr. Rabindra A. L. Dias, has preferred this Appeal praying for taking cognizance for giving incorrect, incomplete and misleading information; for imposing penalty; for compensation etc.

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

That the Appellant, vide his application dated 04/03/2009, sought certain information under Right to Information Act 2005 ('R.T.I Act for short) from the Public Information Officer ('PIO' for short) Police Head Quarters (South) Margao –Goa. That since the Respondent No. 1 did not furnish the information within the stipulated time of 30 days the Appellant preferred an appeal before the First Appellate Authority ('FAA' for short) and the hearing of the appeal was fixed on 29/04/2009 from the Respondent No. 1 only on 29/04/2010. That subsequently the Appellant received a letter dated 02/04/2009 from the Respondent No. 1 only on 19/04/2010 and that too after 30 days.

That the Respondent No. 1 did not abide by section 7(3), 6 and 7. It is the case of the Appellant that he paid Rs. 10/- that is the requisite fee. It is the case of the Appellant that F.A.A. passed the order dated 20/05/2009. It is the case of the Appellant that the Respondent No. 1 has not furnished the information within the stipulated time of 30 days. Being aggrieved the appellant has preferred the present appeal on the grounds as set out in the memo of appeal.

3. The Respondents resist the appeal and their say is on record. It is the case of the Respondent No. 1 that the request dated 04/03/2009 was received and the same was disposed by furnishing information on 02/04/2009 and accordingly the appellant was informed of further fees. That the said letter was sent through Police Inspector Old Goa Police Station and also ordered to return duplicate copy duly acknowledged as usual. That as per the wireless message bearing No. SP/S-Goa/Reader/RTI/542/2009 dated 02/04/2009, the Police Inspector Old Goa Police station was required to inform Engineer Rabindra A.L.Dias the Appellant to collect the reply to his application upon payment of prescribed fees and report compliance after informing the applicant. That as per wireless message No.575 dated 07/04/2009 the P.I. Old Goa Police station informed that the house of Eng. Rabindra A.L. Dias was found closed. That the applicant/appellant had received the said letter dated 02/04/2009 on 19/04/2009 and the appellant collected the information on 20/04/2009 after paying the fees. It is the case of Respondent No. 1 that as per clause (a) of sub-Section (3) of section 7 of R.T.I. Act 2005 the period intervening between the despatch of the said intimation for payment of fees and payment of fees i.e. 02/04/2009 to 20/04/2009 shall be excluded for the purpose of calculating the period of 30 days referred to in section 7(3) (a) of R.T.I Act 2005. That the records of Colva Police station were destroyed after following the proper procedure. That the Appellant preferred First Appeal etc is admitted. That the order of F.A.A was only complied with. That Shri F.X. Corte, Police Inspector of Colva Police station was duly authorized to represent Public Information Officer. In short it is the case of the Respondent No. 1 that the Information sought has been furnished. That there is no cause of second Appeal and that the same is liable to be dismissed.

4. Heard the arguments. The Appellant argued in person and the learned Adv. Smt. N. Narvenker argued on behalf of the Respondent No. 1. Both sides advanced elaborate arguments.

Appellant referred to the facts of the case in detail. According to him information is not furnished in time. He referred to section 7. He also referred to section 19, 19(8) of Right to Information Act. He next submitted that no letter was served, however, it was commented that person is not available in the house. That the information is pages and fees should have been Rs. 6/- but he was charged Rs. 10/- and that information which was not asked was furnished. He next submitted that wireless message is not a means of communication. He also submitted that which documents are destroyed is not stated and miscellaneous papers are not recorded. He also submitted that how they destroyed is not mentioned. He next referred to the Appeal and order of First Appellate Authority. He also referred to the replies on record. He also submitted that Police Inspector was not given letter of Authority to appear.

Adv. for Respondent No. 1 also referred to the facts of the case. According to her application is dated 04/03/2009 and the same was disposed on 02/04/2009. she also submitted that letter was sent to the house of the Appellant but the house was closed. Adv. for Respondent No. 1 submitted that wireless message was sent to the Police Inspector to serve the letter. That how the record was destroyed is also explained. Adv. for Respondent referred to the various Exhibits on record. She next submitted that Police Inspector Corte who having authority letter and referred the Exhibit H. She also referred to the order of F.A.A. In short according to her information asked is supplied. Adv. for Respondent No. 1 next submitted that there is no delay. She also referred to section 7(3).

In reply Appellant submitted Rule 6 of service of notice and that 2 pages of information were not sought. He also referred to additional amount taken. According to him Public Information Officer be penalized.

5. 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 Appellant vide his application dated 04/03/2009 sought certain information. The information consisted of letters of March and April 1996, FIR etc. It is seen that by letter dated 02/04/2009 (Exhibit –C on record) the Appellant was informed that reply is ready and to deposit required fees. It is not in dispute that information was received by the appellant on 20/04/2010 after paying the required fees of Rs. 10/-. This part is not in dispute.

It is to be seen whether there is any delay? It is to be noted here 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 schedule prescribed that is presentation of request and disposal of the same, presentation of the appeal and disposal by the Appellate Authority.

According to Respondent No. 1 letter dated 02/04/2009 was sent through Police Inspector old Goa to serve on the Appellant. As per material on record house of Appellant was closed/locked. I have also perused the wireless message on record. It is to be noted here that wireless message was for Police Inspector to inform the Appellant to collect the reply. I have also perused the said letter dated 02/04/2009. During the relevant period also the Appellant was not fit. In any case it appears attempt was made to serve the Appellant. Apparently there is delay However considering this back ground as well as provisions of 7(3) (a) of RTI Act benefit is to be given to the Respondent No. 1 when they contend that they tried to serve the Appellant.

However, it is made clear to avoid such things in future that PIO/Respondent No. 1 shall send the letters by Registered Post A/D and that too well in advance and not on the last date of the prescribed period. Public Information Officer shall see that the letter is reached much before 30 days. This is to ensure that information seeker gets the same in time. Hope Public Information Officer shall bear this in mind henceforth. What this Commission wants is to get sure that the party concerned was informed in time.

6. Another contention of the Appellant is that he was charged in excess and documents which were not asked were furnished.

It is to be noted here that PIO has to charge fee as per Right to Information Rules only. There is no provision in the Right to Information Act to collect fees and costs other than what is prescribed by the Government for providing information. Therefore, Public Information Officer should be careful in matters of fees and there should not be error on this aspect. Incidentally amount appears to be less i.e. only Rs. 4/- as per the contention of the Appellant. I do agree with the Appellant that even if amount is less one should not be made to pay the same.

7. It was next contended that Police Inspector Corte had no proper authority to represent the Public Information Officer/Respondent No.1.

Exhibit H on record is the copy of the Authority letter. However, this point ought to have been considered by the First Appellate Authority. Hope in future the FAA will bear the same in mind.

8. Regarding penalty and compensation. In view of all the above the question of penalty does not arise so also the question of granting compensation does not arise.

9. It was also contended about destruction of record. Certain institutions have this practice. I have perused Exhibit –G Colly on record. In any case I need not comment on the same the same is as per their procedure and there are guidelines in that direction.

If the Respondents follow section 4 of the Right to Information Act this also could be controlled to some extent in so far as furnishing information.

10. The Appellant contends that the information furnished is incorrect, incomplete and misleading. This is disputed by the Adv. for Respondent No. 1. According to Adv. for Respondent No. 1 information furnished is correct.

It is to be noted here that purpose of Right to Information Act is per se to furnish information. Of course Appellant has a right to establish that information furnished to him is false, incorrect, misleading etc., but the Appellant has to prove it to counter opponent's claim. The information seeker must feel that he got the true and correct information otherwise purpose of Right to Information Act would be defeated. It is pertinent to note that mandate of Right to Information Act is to provide information

----- information correct to the core and it is for the appellant to establish that what he has received is incorrect and incomplete. The approach of the Commission is to attenuate the area of secrecy as much as possible. With this view in mind, I am of the opinion that the Appellant must be given an opportunity to substantiate that the information given to him is incomplete, incorrect, misleading etc as provided in section 18(1) (e) of the Right to Information Act.

11. In view of the above since information is furnished no further intervention of this Commission is required. Appellant should be given an opportunity to prove that the information is incomplete, incorrect, misleading etc. hence I pass the following order:-

O R D E R

No further information of this Commission is required.

The Appeal is disposed off.

The Appellant to prove that information furnished is incorrect, incomplete, misleading etc.

Further inquiry posted on 02/11/2010 at 10.30 am.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 20th day of September,2010.

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

