

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.178/SCIC/2010

Shri Pradeep D. Halarnkar,
Kamat Nagar H.No. 887/15(2),
Socorro, Porvorim, Bardez –Goa.

....

Appellant

V/s

1) Shri Ranjit M. Borkar, P.I.O,
And Town Planner, Town & Country
Planning Dept., Mapusa,
Bardez –Goa.

....

Respondent.

Appellant in person.

Respondent in person.

J U D G E M E N T
(07/10/2010)

1. Appellant, Shri Pradeep D. Halarnkar, has filed the present appeal, praying that the information be supplied free of cost without any further delay and that necessary fine may be imposed on the Public Information Officer for refusal of information and disobeying the order of First Appellate Authority dated 28/04/2010.

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

That the appellant had filed an application dated 09/02/2010 seeking certain information under Right to Information Act ('RTI'Act for short). That the said application was transferred to other Authority, Public Information Officer, Senior Town Planner, District level Office, Town and Country Planning Department Govt. of Goa, Mapusa Bardez –Goa, in terms of section 6(3) of Right to Information Act, 2005. It is the case of the Appellant that he visited the office for collecting the information, however, nothing was made available by Public Information officer. That by reminder dated 19/03/2010 he again requested to provide the information as early as possible. Being not satisfied the appellant preferred the First Appeal before First Appellate Authority ('FAA') Senior Town Planner. By order dated 28/04/2010 the PIO was directed to provide the information within 15 days. Since information is not furnished the Appellant preferred the present appeal.

3. The Respondent resists the appeal and the reply is on record. It is the case of the Respondent that the information sought was regarding documents submitted by M/s Shelter Constructions and Shri Salvadorr N. Ribeiro to P.PD.A for extension of stair case and addition of the First Floor to the existing ground floor based on which the order Ref No.PPDA/PCR/DEV/418/6486/04 dated 4/12/2004 was issued and also certified copy of the said order. That the appellant had also requested for inspection of the file. That all the efforts were made to trace out the said file, however, the same could not be traced out and as such the information sought by the Appellant could not be furnished. That the Appellant produced the letter dated 22/04/2010 by PIO. NGPDA addressed to P.I.O. North District Office, Mapusa, informing that the Concerned file along with other 25 files were transferred to the Town and Country planning department in the year 2006. That on the receipt of the said letter a thorough search was made to track the file from the records of TCP office Mapusa and also files stored in Margao TCP office due to shortage of office space, however, the said file could not be traced out. That the Appellant preferred the First Appeal before Sr. Town Planner and the First Appellate Authority had also directed to make efforts to locate the relevant file and furnish the information to the Appellant. It is further the case of the Respondent that as all efforts to track the file in the office records did not yield any result, the Respondent obtained the said records from the Village Panchayat of Socorro and obtained Xerox copies of the documents to be furnished to the Appellant. It is further the case of the Respondent that/incidentally it was found that the said plans were approved by the Respondent in his earlier posting in the said planning and Development Authority as Member Secretary. According to the Respondent Appeal is to be dismissed.

4. Heard the arguments of the appellant as well as Respondent. According to the Appellant he filed an application dated 09/02/2010 seeking certain information, however, till date the information is not furnished to him.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties.

It is seen that appellant by his application dated 09/02/2010 sought certain information from the Public Information Officer, Panaji, Planning and Development Authority Panaji. By letter dated 10/02/2010 the Public Information Officer, NGPADA transferred the said application under section 6(3) to the Public Information Officer of Senior Town Planner, District Level Office Town & Country Planning Department Mapusa Bardez-Goa. By letter dated 19/03/2010 the Appellant reminded the PIO Sr. Town Planner about furnishing information. Since information is not furnished the appellant preferred the Appeal before First Appellate Authority. By order dated 28/04/2010 it is observed as "..... it is a duty of the public Information officer North Goa District office to track the file either from his records or from the North Goa PDA records and furnish the information to the appellant.

5 The Respondent Public Information Officer is hereby directed to make efforts to locate the relevant file and furnish the information to the Appellant within 15 days from the date of pronouncement of this order."

It is now the grievance of the Appellant that till to-day information is not furnished to him. According to the Respondent the said documents could not be traced.

6. From the records i.e. from order of First Appellate Authority and reply filed it can be seen that the required documents could not be traced, that means the same are not available with the Respondent/Public Information Officer.

The purpose behind the Act is per se to furnish information. An information seeker can seek only information which is available with public Authority in material form. In the instant case it appears records are not existing. Non-existing documents

cannot be physically given. In the case before me it is established that the documents are untraceable so no responsibility for disclosure of this information can be cast upon the respondents.

7. Another aspect is regarding time/penalty. It is seen that application is dated 09/02/2010. However no reply is furnished within 30 days. Even if information is not traceable Public Information Officer should inform the other side within the stipulated time of thirty days, however, this has not been done. From the records it is found that during first appeal this was stated. Naturally there is delay. The delay may be due to non-appreciation of the provisions of the Act. The appellant on his part does not press for penalty. However Public Information Officer to bear in mind in future that even if records are not available Public Information Officer should inform the information seeker accordingly and that too in time.

8. In view of the above, it is not possible to direct Public Information Officer/Respondent to furnish information in view of the fact that documents are not traceable. Hence I pass the following order:-

ORDER

No intervention of this Commission is required. The Appeal is disposed off.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 7th day of October, 2010.

(M. S. Keny)
Chief Information Commissioner

