

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal No.133/SIC/2008

Shri Subodh Sawant,
B-2, Shanti Campus, Nr. Mehul Talkies,
Nr. Mahesh Tutorials,
Mulund West,
Mumbai – 400 080

... Appellant.

V/s.

1) The Public Information Officer,
Shri Pramod Bhat,
Office of the Mamlatdar,
Bicholim Taluka,
Bicholim – Goa

... Respondent No. 1

2) The First Appellate Authority
Shri Arvind V. Bugde,
The Deputy Collector & S.D.O.,
Bicholim – Goa

... Respondent No. 2

Appellant in person.

Respondent No. 1 absent.

Adv. K.L. Bhagat for Respondent No. 1.

Respondent No. 2 absent.

J U D G M E N T

(02/11/2010)

1. The Appellant, Shri Subodh S. Sawant, has filed the present Appeal praying for direction to quash and set aside the order of deemed refusal passed by First Appellate Authority and also of Public Information Officer; for a direction to the Respondents to grant the information to the Appellant; for penalty under section 20 of the

...2/-

R.T.I. Act; for disciplinary action against Respondent No. 2 as per the provisions of section 20 for persistently not granting the information to the Appellant and also on Respondent No. 1.

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

That the Appellant, vide his application dated 07.05.2008, sought certain information under Right to Information Act. ('R.T.I.' act for short) from the Public Information Officer ("P.I.O.)/Respondent No.

1. That no information was furnished. The Appellant being aggrieved by the refusal of the P.I.O. to furnish the information preferred the first Appeal before the Respondent No. 2 as per the provisions of the R.T.I. Act. However, the First Appellate Authority has not even fixed a date for hearing and this has been done deliberately and with malafide intention. Being aggrieved the Appellant has preferred the present Appeal on the grounds as mentioned in the memo of Appeal.

3. The Respondents resist the Appeal and the reply is on record. It is the case of the Respondent No. 1 that as per the information furnished by Shri Sadanand Gad, ex-Devasthan Clerk the documents of which copies were sought by the Appellant are not available in the Devasthan Section of the office. That as directed by

the First Appellate Authority, the Appellant has already been informed vide letter dated 08.08.2009 which was sent under Certificate of Posting. It is further the case of Respondent No. 1 (vide reply dated 04.12.2008) that information sought by the Appellant has been sought from Devasthan Clerk vide Memorandum dated 23.05.2008. That in response to the above Memorandum the Devasthan Clerk informed vide his reply dated 23.05.2008 that he will submit the information within two days and on the margin of the same letter ex-Devasthan Clerk has put the remarks stating that the Appellant has already been informed under Certificate of Posting, but he could not produce the certificate. That thereafter Shri Sadanand Gad, ex-Devasthan Clerk submitted the detailed list of information dated 27.05.2008 at Sr. No. 46 the Devasthan Clerk mentioned that "No reply has been sent" in respect of the application dated 07.05.2008. It is the case of Respondent No. 1 that due to the lethargic attitude and non-cooperation from the Devasthan there was some delay in providing the information to the Appellant. It is also the case of the Respondent No. 1 that there was no delay on the part of Respondent No. 1. However, the delay is caused due to non-submission of the information by the ex-Devasthan Clerk in time and that penalty shall not be imposed on Respondent No.1.

4. Heard the Appellant/Adv. S. S. Sawant and Adv. K. L. Bhagat for Respondent No. 1. Both sides advanced arguments of their respective case. Adv. S. S. Sawant also submitted written arguments which are on record.

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?

First it is to be seen whether the information is furnished or not?

During the course of his arguments Adv. Shri S. S. Sawant submitted that the information has been fully furnished. Since information is furnished no intervention of this Commission is required on this count.

6. Now it is to be seen whether there is any delay in furnishing the information.

According to the Appellant there is delay. Whereas according to Adv. Shri Bhagat there is absolutely no delay.

It is seen that application seeking information is dated 07.05.2008. Reply is dated 08.08.2008. It is seen that the First Appeal was preferred. First Appeal is preferred on 02.07.2008.

It is to be noted here that, R.T.I. Act in general, is a 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 the request and disposal of the same, presentation of First Appeal and disposal by the First Appellate Authority.

Again it is to be noted that First Appellate Authority ought to give opportunity of hearing to the parties. Principles of natural justice require that parties be heard. Hope Appellate Authority bears in mind the same.

Coming to the case at hand apparently there is some delay. However, Public Information Officer and the said Ex-Devasthan Clerk, Shri Sadanand Gad, should be given an opportunity to explain the same in the factual backdrop of this case.

7. In view of the above, since information is furnished no intervention of this Commission is required. Since there is delay the Respondent No. 1. and Shri Sadanand Gad are to be heard on the

same. Hence, I pass the following Order:

ORDER

Appeal is partly allowed. Since information is furnished no intervention of this Commission is required.

Issue notice under section 20(1) of the R.T.I. Act to Respondent No. 1/Public Information Officer and Ex-Devasthan Clerk, Sadanand P. Gad, to show cause why penal action should not be taken against him for causing delay in furnishing information. The explanation, if any, should reach the Commission on or before 25.11.2010. Public Information Officer/Respondent No. 1 and Shri Sadanand P. Gad shall appear for hearing.

Further inquiry posted on 25.11.2010 at 10:30a.m.

Pronounced in the Commission on this 2nd day of November, 2010.

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