

**GOA STATE INFORMATION COMMISSION**

**AT PANAJI**

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

**Appeal No. 229/SCIC/2010**

Shri Minguel Monteiro,  
H.No.72/2,  
Anotnio Pereira Vaddo,  
Utorda,  
Majorda, Salcete –Goa.

....

Appellant.

**V/s**

1)The Public Information Officer,  
Dy. Collector,  
Margao, Salcete –Goa.

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Respondent No.1

2) First Appellate Authority,  
Addl. Collector-I,  
South Goa, Margao.

....

Respondent No.2

Appellant alongwith his representative Shri Joao Pereira in person.  
Respondent No.1 in person.  
Respondent No. 2 absent.

**J U D G E M E N T**  
**(20/12/2010)**

1. The Appellant, Shri Minguel Monteiro, has filed this Appeal praying to quash, cancel and set aside the order dated 17/09/2010 of Respondent No.2; to direct the Respondent No. 1 to furnish correct information to the Appellant as sought on the application dated 03/05/2010; to initiate disciplinary proceedings and other action against Respondent No. 1 as per section 20 of the Act for malafidely denying the information to the Appellant and not even replying as per law; to issue directions to the Respondent No.2 to pass detailed reasoned orders on the First Appeal filed before the Appellate Authority under the Act; to issue directions to Respondent No. 2 to furnish free of cost certified copy of the order passed on the First Appeal.

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

That the Appellant, vide an application dated 03/05/2010, addressed to Addl. Collectorate-I, South Goa, Margao sought certain information under Right to Information Act 2005 ('RTI' Act for short). That the same was transferred to the office of the Respondent No. 1 for furnishing information to the Appellant. That the Respondent no. 1 never bothered to reply nor grant the said information to the

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Appellant within the stipulated period of 30 days, hence the same was treated as deemed refusal. Being not satisfied the Appellant preferred the First Appeal. The Appeal was fixed for hearing, the Appellant filed written arguments however the order was passed on the noting on the proceeding sheet of the case file and closed the matter as the information provided to the Appellant by letter dated 12/08/2010. That the Appellant sought for copy of the order which was not provided as per the provisions of the Act by Respondent No. 2, free of cost. That the order dated 17/09/2010 is merely a noting made on the proceeding sheet. Being aggrieved by the order of the Respondent No. 2 the Appellant has filed the present Appeal on various grounds as set out in the memo of appeal.

3. The Respondent No. 1 resists the Appeal and the reply of the Respondent No. 1 is on record. It is the case of the Respondent No. 1 that the Appeal filed is infructuous in as much as the information which was sought by Appellant has been already provided to him. That though there was delay in furnishing the information to the Appellant the said delay was unintentional because the records and proceeding of the closed file were not immediately available. It is the case of the Respondent No. 1 that since information is already provided to the Appellant nothing survives in the petition and hence the proceedings be dismissed.

4. Heard the arguments Shri Joao Pereira, Representative of the Appellant argued on behalf of Appellant and Respondent No. 1 argued in person. Shri Pereira submitted that application is dated 03/05/2010 and the same was transferred to Respondent No. 1. According to him no response within 30 days and hence appeal was preferred. He submitted that respondent No. 1 filed reply and that Appellant filed written Arguments, however, no speaking order was passed nor copy of the same was furnished to the Appellant. According to him file was there and it was not missing. He next submitted that till to day he did not get information. According to him his prayers be granted.

During the course of his arguments the Respondent No. 1 submitted that application seeking information was received and that under RTI information is to be given. He next submitted that if name and designation is not there it cannot be created. He also referred to the appeal filed and order passed as well as reply filed which is 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 information is furnished and whether the same is in time?

It is seen that Appellant, vide his application dated 03/05/2010 addressed to the PIO Addl. Collector –I Collectorate Bldg, Margao, sought certain information under RTI Act. The information sought was regarding the name and designation of the officer who has put his noting under his signature on the notesheet of LRC/Illeg-Conv/87 of 2008. It appears that the said application was transferred to the opponent. It appears that no information was furnished. Hence the Appellant preferred the First Appeal. It is seen that on 12/08/2010 the Respondent No. 1 filed the reply and in the reply has furnished the name i.e. the information sought. The First Appellate Authority has passed the order as under:-

“Heard Appellant.

Copy of reply dated 12/08/2010 issued to him as such nothing survives.

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.....”

The Appeal was accordingly closed.

The grievance of the Appellant is that information has not been furnished to him so far.

6. It is to be noted here that right to know is a basic right of citizen of a free country. Without adequate information a person cannot form an informed opinion. It

is precisely because of this RTI Act 2005 has been enacted to provide for a legal right to information for citizens to secure access to information under the control of Public Authorities. 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 RTI 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, the presentation of request and disposal of the same, presentation of First Appeal and disposal by the Appellate Authority.

7. Normally PIO has to give full information whenever such a request is made. It is incumbent upon PIO to provide such information as he commands and the same ought to be clear and in proper form. The FAA observed that copy of reply dated 12/08/2010 issued to him as such nothing survives. To my mind the reply ought to have been given to the Appellant the way the same was asked. The approach of FAA may be alludable but certainly not justified under RTI Act.

It has been held that PIO shall provide information in the form in which it is sought. In S.R.Prasad V/s PIO Ministry of Commerce (Dept. of Supply) (Appeal No. 119/ICPB/2006 F.No. PBA/06/36 dated 02/10/2006) certain information regarding notification issued by President of India was sought, the Appellant was told that since information being notification he could have access from concerned Gazette. However, CIC held that C.P.I.O. may note that even if information sought is available in gazette, he is bound to furnish the same and cannot ask the information seeker to search for the same elsewhere.

In any case the PIO will have to furnish the said information.

8. I need not refer in detail; however, the FAA has to give a reasoned order. Secondly FAA should dispose off the appeal within the time prescribed under RTI Act. Regarding furnishing the copy free of cost it should be left to concerned FAA to see.

9. Now coming to the aspect of delay. According the Appellant there is delay. Where as according to the Respondent No. 1 there is no delay. However PIO should be given an opportunity to explain about delay in the factual matrix of this case.

10. In view of the above the Respondent No.1 has to furnish the information. The Respondent no. 1 is to be heard on delay.

Hence I pass the following order:-

**O R D E R**

The Appeal is allowed and order of FAA is set aside. The Respondent No. 1 is hereby directed to furnish the information to the Appellant as sought by him by application dated 03/05/2010 within 15 days from the receipt of this order.

Issue notice under section 20(1) of the RTI Act to Respondent No. 1/Public Information officer to show cause why penalty action should not be taken against him for causing delay in furnishing information. The explanation, if any, should reach the Commission on or before 21/01/2011 PIO/Respondent No.1 shall appear for hearing.

Further inquiry posted on 21/01/2011 at 10.30 am.

Pronounced in the Commission on this 20<sup>th</sup> day of December, 2010.

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

