GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No. 138/2009

Mr.Zaidev R. Aldonkar,
H.No. 51/4-A,
Porio Waddo,
Post Carona, Pomburpa,
Bardez-Goa. … Appellant

V/s

1) The Public Information Officer
James Mathew,
Town & Country Planning Department,
Mapusa –Goa. … Respondent No.1

2) The Public Information Officer,
Subhash Nilekani,Landscape Architect,
Town & Country Planning Dept.,
Panaji –Goa. … Respondent No.2

3) First Appellate Authority,
Chief Town Planner,
Town & Country Planning Dept.,
Panaji –Goa. … Respondent No.3

Adv. Shri A. Mandreker for appellant.
Respondent No. 1**.** absent.
Respondent No.2 present.
Respondent No. 3 absent.

J U D G E M E N T
(07/12/2010)

1. The Appellant, Shri. Zaidev R. Aldonkar, has filed the present appeal praying that the information as requested by the Appellant in his application dated 29/06/2009 be furnished to him correctly and fully without reserving any information to save any person; that action be taken on Public Information Officer Town & Country Planning, Panaji for not providing full information and inspection of record within stipulated time of 30 days; to quash and set aside the office order dated 25/09/2007 creating the RTI Cell or direction may be given to the Public Authority to reconstitute the RTI Cell by appointing the appropriate Officers; that penalty be imposed on the PIO; that disciplinary action may be initiated on the PIO and that compensation may be given to the Appellant and no fees be charged.

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

That the Appellant, vide his application dated 29/06/2009, addressed to the Public Information Officer ('PIO') requested for certain information under Right to

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Information Act ('RTI' Act for short). That the application dated 29/06/2009 was complete in all respect and was submitted in person and the same was reluctantly accepted in the office of Town and Country Planning Dept, Panaji –Goa. That the Appellant received unsatisfactory reply dated 09/07/2009 from the PIO/Respondent No.1. Being not satisfied the Appellant preferred the First Appeal. That during the hearing of the First Appeal the part information was furnished i.e. from point No. 9 to 14 and from 16 to 17 by Respondent No. 1. It is the case of the Appellant that the First Appellate Authority ('FAA') passed a common order dated 06/10/2009 directing Respondent No. 1 to furnish the required information. It is further the case of the Appellant that the Appellate Authority directed the Respondent No. 1/Public Information Officer to submit compliance report but the same has not been furnished and that Respondent No. 2 has not complied with the order of FAA to provide the information within time as specified in the order. It is further the case of the Appellant that the Right to Information cell constituted at the HQ of the department violates RTI Act. Being aggrieved the Appellant has preferred this appeal on various grounds as set out in the memo of appeal.

3. The Respondents resist the appeal and the say of Respondent No. 1 is on record. It is the case of Respondent No. 1 that he has been appointed PIO in the Town and Country Planning Dept., (HQ), Panaji –Goa under section 5 of the RTI Act. That the PIO under provision of section 5 (4) of the RTI Act may seek the assistance of another officer as he considers necessary for proper discharge of his duty and under section 5(5) of the RTI Act. It is the case of Respondent No. 2 that PIO, HQ received application from 16 Appellants individually but which are similar in content for information under section 6(1) of RTI Act and the application was for certified copy of documents. That the application was immediately processed and marked to APIO(HQ) and other deemed PIO as found fit in order to get requisite information sought by appellant. That assistance of office Supdt. Shri K Halarnker, Head clerk Smt. Gonsalves and UDC Shri Sandesh Naik in the Town and

Country Planning Department was sought. That available information was furnished and the Appellant has collected the same after payment of cost. Respondent No. 1 also refers to the appeal and order passed by the FAA. It is further the case of the Respondent No. 2 that the information has been furnished and the same was done within time and also within time limit of the FAA. Referring to grounds in the memo of appeal the Respondent No. 1 states that no inspection was sought. In short, according to him all the information has been furnished.

4. Heard the arguments. Adv. A. Mandrekar argued on behalf of Appellant and Respondent No. 2 argued in person. According to Adv. for the Appellant information is furnished but not fully. He submitted that initially some information was furnished then during first appeal stage some information was furnished and thereafter following 2nd appeal the remaining information was furnished. He next submitted that there is considerable delay in furnishing information.

During the course of his arguments the Respondent No. 1 submitted that whatever information was available was furnished in time. He next submitted that some information was furnished after the order was passed by the FAA. According to him he was not a custodian of information but he has to collect the same from other office. He also relied on the reply filed.

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 there is any delay in furnishing the information?

It is seen that the Appellant vide his application dated 30/06/2009 sought certain information from the Public Information officer (PIO). The same was received in the office on the same day. This information consisted of 1 to 18 points/items. It is seen that by reply dated 09/07/2009 the Respondent No.1/PIO furnished information to point/item 8.It was informed that Sr. No. 1 to 7 and 9 to

18 is within the domain of another PIO i.e. Respondent NO. 2. By reply dated 31/07/2009 the Respondent No.2 furnished information at point No. 4. As Regards (6) copy of Report of D.PC. constituted for ACPs; (8) Annual Confidential Report of last 5 years and (15) ARD study Reports it was informed that the same are confidential Reports/Documents and hence are not available as information and giving copies of the same is denied under section 8(d) read with 8(j) of RTI Act. As regards 1to 3, 10 to 15, and 17 & 18 it was informed that no information is made available and put on record by the deemed PIOs and hence it is not available. This reply appears to be in time.

It is seen that the appellant preferred the First Appeal on 19/8/2009, received in office on the same day. It is seen that information regarding point No. 9 to 17 and 16 and 17 was furnished apparently on 26/08/2009. By order dated 06/10/2009 the appeal was allowed and the information on point No. (6) (8) and (15) was ordered to be furnished within 25 days from the date of the receipt of the order. It appears that the said information is furnished. It is further seen that information at point No.6 is not traceable.

Adv. for the Appellant submits that he has received the information, however, the same is received late.

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

It is to be noted here 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, presentation of request and disposal of the same and presentation of first appeal and disposal by the Appellate Authority.

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According to the Adv. for the Appellant there is delay. According to the Respondent No.2 there is no delay as such. In any case PIO/Deemed PIOs should be given an opportunity to explain the same in the factual matrix of this case.

7. Coming to the prayers in the appeal. Regarding prayer (a) the information is furnished (b) no inspection was sought in the initial application. Prayer (c) is to be considered by the concerned authorities. Prayer (e), (f) and (g) also cannot be granted in the factual back drop of this case.

8. In view of the above, since information is furnished no further intervention of this commission is required. Since there is delay the Respondent No. 2 deemed PIOs Shri K Halarnker, Smt Gonsalves and Shri Sandesh Naik are to be heard on the same. Hence I pass the following order:-

O R D E R

The Appeal is partly allowed. Prayer (d) is granted.

Issue Notice under section 20(1) of the RTI Act to Respondent No. 2/PIO and Shri K. Halarnker, Smt. Gonsalves and Shri Sandesh Naik/Deemed PIOs to show cause why penalty action should not be taken against them for causing delay in furnishing information. The explanation, if any, should reach the commission on or before 05/01/2011. PIO and Deemed PIOs shall appear for hearing.

Further inquiry posted on 05/01/2010 at 10.30 am.

The Appeal is accordingly disposed off.

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

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