

**GOA STATE INFORMATION COMMISSION**

**AT PANAJI**

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

**Appeal No. 168/SIC/2010**

Shri Sanjay K. Parsenkar,  
H. No. 151, Xell, Bastora,  
Bardez –Goa.

...

Appellant.

V/s

1) The Public Information Officer,  
Village Panchayat Secretary,  
Village Panchayat, Bastora.

...

Respondent NO. 1.

2) The First Appellate Authority,  
Block Development Officer II,,  
Mapusa, Bardez –Goa.

...

Respondent No. 2.

Appellant in person.

Respondent No. 1 in person.

Respondent No. 2 absent.

**J U D G E M E N T**

**(10/12/2010)**

1. The Appellant, Shri Sanjay K. Parsenkar, has preferred the present appeal praying that information as requested by the Appellant be furnished to him correctly free of cost as per section 7(6); that penalty be imposed as per law and that compensation may be granted as for the detriment faced by the Appellant for not getting information.

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

That the Appellant filed an application dated 11/03/2010 seeking certain information, under Right to Information Act ('RTI' Act for short) from the Public Information Officer, (P.I.O for short)/Respondent NO.1. That no reply was received after 30 days time. That the Appellant preferred an appeal before the First Appellate Authority/Respondent No.2. That during the hearing Respondent No. 1 promised that he will take action and give action taken report, however, the same is not furnished even after completion of 30 days. Being aggrieved the Appellant has preferred the present appeal on various grounds which are fully set out in the memo of appeal.

3. The Respondents resist the Appeal and the reply of the Respondent No.1 is on record. It is the case of Respondent No.1 that the Respondent NO. 1 has already

...2/-

provided the information as sought by the Appellant and also the First Appellate Authority was satisfied about the same and passed order on 31/05/2010 stating that the Respondent has provided the information as asked by the Appellant and nothing survives in the Appeal and matter was closed. That the Respondent No. 1 has provided the information available with his office. That the additional information asked is beyond the scope of the RTI Act to create information or to solve the problem raised by the Appellant. It is the case of Respondent NO. 1 that no action taken report are available on record of V.P. Bastora.

In his reply dated 06/09/2010 the Respondent No. 1 states that at no time respondent has refused inspection or information to the appellant and that vide letter dated 09/04/2010 furnished the information sought by the appellant.

4. Reply of Appellant dated 04/11/2010 is on record.
5. Heard Shri H. Parseker representative of Appellant and the Respondent No.1 and perused the records.

It is seen that the appellant, vide his application dated 11/03/2010 sought certain information under RTI Act. This application was received in office on 17/03/2010. By letter dated 09/04/2010 the Respondent No. 1 furnished the reply. The Appellant had submitted a complaint dated 28/01/2010 to the panchayat regarding window which was opened towards his house, Encroachment by Smt. Arolker illegally constructed toilet on his property to be demolished; action about illegal construction ground plus one and revoking permission for repairs of house. The Appellant has sought information about action taken on his complaint dated 28/01/2010 under RTI Act. By reply dated 09/04/2010 it is stated about action taken in respect of 3 points. Regarding point No. 2 i.e. "Encroachment by Smt. Arolker illegally constructed toilet on his property to be demolished" it is stated as under;-

...3/-

“As per point No. 2, I have gone through the records and it is found that the complaint against the said illegal toilet is not traceable in this office please furnish the same for further necessary action.”

It is seen being not satisfied the Appellant preferred the Appeal before First Appellate Authority. By order 31/05/2010 the FAA passed the order stating that Respondent has provided the information as asked by the Appellant and that nothing survives in the appeal and matter was closed.

6. Now it is to be seen whether the Appellant has received this reply dated 09/04/2010. In his reply dated 30/09/2010 in para 3 the Appellant states that the contents of para 1 cannot be denied as he has forwarded part of information that is of illegal house constructed but illegal toilet encroached on the property not provided..... this reply is in time.

The only grievance of the Appellant is that no information is furnished regarding illegal toilet.

7. According to PIO/Respondent No. 1 the Complaint against the said illegal toilet is not traceable. It is to be noted here that complaint dated 28/01/2010 mentions about window, which was opened towards his house, illegal construction, repairs and toilet. Regarding three points information has been furnished and regarding illegal toilet complaint is not traceable. It is rather difficult to digest this in view of the facts that complaint dated 28/01/2010 mentions all this. In any case Respondent No. 1 to trace the said complaint.

The Complaint is dated 28/01/2010 and the same is not traceable. How and in what way it is missing is not explained and/or stated. If this contention is accepted that information cannot be furnished as the Complaint is not traceable then it would be impossible to implement RTI Act. However, it is also a fact that if information is not available the same cannot be furnished. It is to be noted here that it is obligatory for the Public Authority to maintain the record properly and duly

catalogued and indexed so as to facilitate the right to Information under RTI Act.

Since, Complaint is of 2010 and information regarding other points is furnished, a thorough inquiry is to be made regarding the same. In my view higher Authorities should hold proper inquiry and bring to book the delinquent officer/official.

In view of the above, the Respondent No. 1 should be given an opportunity to search the said Complaint/file and to trace the same. At the same time if the file is not traceable inquiry is to be held. Hence, I pass the following order:-

**O R D E R**

Appeal is allowed. The Respondent No.1 is directed to trace the file and furnish the information in respect of point/Sr. No. 2 of the application of the Appellant dated 11/03/2010 within twenty days (20 days) from the receipt of this order and report Compliance.

In case the Complaint is not traced within the said period the Director of Panchayat to conduct an inquiry regarding the said complaint and to fix responsibility for misplacement/missing of the said complaint/file and initiate action against the delinquent officer/officials including lodging of FIR and/or be suitably penalised as per law. The inquiry to be completed as early as possible preferably within 3 months.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 10<sup>th</sup> day of December, 2010.

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

