

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No. 142/SIC/2008

Shri Subodh S. Sawant,
B-2, Shanti Campus, Nr. Mehul Talkies,
Nr. Mahesh Tutorials, Mulund (W),
Mumbai – 400 080 ... Appellant

V/s

1. Public Information Officer,
Shri Pramod D. Bhat,
Office of the Mamlatdar of Bicholim Taluka,
Bicholim –Goa ... Respondent No.1.
2. First Appellate Authority,
Shri Arvind V. Bugde,
Deputy Collector & S.D.O.,
Bicholim - Goa ... Respondent No.2.

Appellant in person.

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

Respondent No. 2 absent.

J U D G M E N T
(22.12.2010)

1. The Appellant, Shri Subodh S. Sawant, has filed the present Appeal praying for a direction to quash and set aside the order of deemed refusal passed by First Appellate Authority and also of Public Information Officer; for direction to the Respondents to grant the information to the Appellant for penalty under section 20 of the 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. 2.

2. The brief facts leading to the present appeal are as under:- That the Appellant is a Mahajan/Mazania of Shree Saptakoteshwar Devasthan, situated at Deulwada, Naroa, Bicholim-Goa. That Shree Saptakoteshwar

is the family deity of the Appellant and his ancestors. That the Appellant has been elected as Attorney for two terms of three years each. It is the case of the Appellant that, by application dated 07.05.2008, he sought certain information under Right to Information Act, 2005 (R.T.I. Act for short) from the Public Information Officer ('P.I.O.)/Respondent No. 1. That the information was furnished within the stipulated period. 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 set out fully in the Memo of Appeal.

3. The Respondent resists the Appeal and the reply of Respondent No. 1 dated 06.10.2008 and 04.12.2008 are on record. It is the case of Respondent No. 1 that the copies of documents furnished by Shri Sadanand Gad, ex-Devasthan Clerk are ready and the Appellant can collect the same on payment of required charges. That as directed by the First Appellate Authority the information sought by the Appellant has already been supplied vide letter dated 08.08.2008 and that the said reply has been sent Under Certificate of Posting on 08.08.2008.

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 the Devasthan Clerk vide memorandum dated 23.05.2008. That in response to the said memorandum the Devasthan Clerk informed vide his reply dated 23.05.2008 that he will submit the information within two days. That on the margin of the same letter the said 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 detailed list of information dated 27.05.2008 and at Sr. No. 41 the Devasthan Clerk mentioned that the information is ready and applicant

may collect it in respect of the application dated 07.05.2008. But he did not furnish the copy of the documents sought by the Appellant. It is the case of Respondent No. 1 that due to the lethargic attitude and non-cooperation from the Devasthan Clerk there was some delay in providing the information to the Appellant. That as per the directions of the First Appellate Authority the Appellant has been informed that the copies are ready and that he may collect the same on payment of prescribed fee within the stipulated time on the basis of the submissions made by the ex-Devasthan Clerk dated 08.08.2008. It is also the case of the Respondent No. 1 that there was no delay on the part of Respondent No. 1 in furnishing the information to the Appellant. However, the delay is caused due to non-submission of information by the ex-Devasthan Clerk in time and that penalty should 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 the respective case. According to Adv. Bhagat information is already furnished. Appellant has also filed 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. S. S. Sawant submitted that information has been fully furnished. It is also seen from the records that information has been furnished. Since information is furnished no intervention of this Commission is required. Now, it is to be seen whether there is any delay in furnishing the information.

According to the Appellant there is delay of about 196 days which has been calculated from the date of the application dated 07.05.2008. Whereas according to Adv. K. L. 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 First Appeal is dated 02.07.2008 it is to be noted here that RTI Act in general is a time bound programme between the Administration and citizens requesting information and every step will have to be completed within time of presentation of request and disposal of the same, presentation of First Appeal and disposal by First Appellate Authority.

It is to be noted that First Appellate Authority ought to give opportunity of hearing to the party. Principles of natural justice also require that parties be heard. Even though First Appellate is not covered by the penal provisions yet Appeal should be disposed in time. Hope First Appellate Authority bears the same in mind. Coming to the case at hand, apparently there is some delay. However, Public information Officer and the said ex-Devasthan Clerk, Sadanand Gad should be given an opportunity to explain the same in the factual matrix of this case.

6. In view of the above, since information is furnished no further intervention of this Commission is required. Since there is delay Respondent No. 1 and Shri Sadanand Gad, ex-Devasthan Clerk 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 Shri Sadanand Gad 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 31.01.2011. Public Information

Officer/Respondent No. 1 and Shri Sadanand Gad shall appear for hearing.

Further enquiry posted on 31.01.2011 at 10:30.a.m.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 22nd day of December, 2010.

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

