

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal No. 259/SCIC/2010

Yeshwant Vishnu Gavdo,
R/o H.No. 62, Ambeshi, Pale,
Bicholim- Goa.

... Appellant

V/s

1) The Dy . Collector & SDO,
Bicholim –Goa.

... Respondent No.1.

2) Mamlatdar of Bicholim,
Bicholim –Goa.

... Respondent No.2.

Appellant absent.

Adv. Shri Patker for Appellant present.

Respondent No.1 absent.

Respondent No.2 in person.

J U D G M E N T

(31/01/2011)

1. The Appellant, Yeshwant Vishnu Gavdo, has filed the present Appeal praying that appeal be allowed by quashing the impugned orders and the Appellant be provided the information prayed for.

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

That the appellant, vide his application dated 06/05/2010, sought certain information under Right to Information Act 2005('RTI' Act for short) from the Public Information Officer (PIO)/Respondent NO. 2. That the Respondent No. 2 by reply dated 24/05/2010 informed that the request does not fall within the meaning of section 2(f) of RTI Act and also replied that the information sought by this appellant is not held by Mamlatdar of Bicholim office as the Form I and XIV of the above said properties have not been prepared and supplied to Mamlatdar office. That being not satisfied the Appellant preferred appeal before the First Appellate Authority i.e. Respondent NO. 1. That in between the Learned Mamlatdar vide letter dated 20/07/2010 called upon the Appellants to collect information. That the Respondent No. 1 by order dated 16/08/2010 directed the PIO to inform the appellant about the procedure of promulgation of survey record. It is the case of the Appellant that as per the direction given by the Dy. Collector, the Mamlatdar/ Respondent No. 2 by

...2/-

letter dated 18/08/2010 informed the Appellant that the records in respect of survey Nos 71/1 and 78/8 of Village Ambeshi Pale in Bicholim Taluka is not promulgated so far and requested the Appellant to approach the Director of Settlement and Land Records, Panaji regarding promulgation of records. Being aggrieved by the impugned order the Appellant has filed the present Appeal.

3. The Respondent NO. 2 resists the appeal and the reply is on record. The Respondent No. 2 admits of having received the application, giving reply and also about appeal preferred and order passed. That as per the direction given by the Dy. Collector, Respondent No.2 informed the Appellant vide letter dated 18/08/2010 that records in respect of survey No. 71/1 and 73/8 of Village Ambeshi Pale, Taluka Bicholim is not promulgated so far and requested to approach the Director of Settlement and Land Records, Panaji for promulgation. That the Records of Rights are not maintained by the Office of Mamlatdar Bicholim and that the information sought as alleged is well with the jurisdiction of Mamlatdar is not correct as said record is not promulgated. However, the records which are promulgated are only in the custody of Mamlatdar/concerned Talathi. It is the case of the Respondent No.2 that Survey records are prepared by survey Department i.e. Director of Settlement and Land Record, Panaji. The Respondent No.2 also states about letter received from Talathi etc to show that records were not promulgated.

3. Heard the arguments. The learned Adv. Shri P.K. Patker argued on behalf of the Appellant and Respondent No. 2 argued in person.

4. Adv. for the Appellant referred to the facts of the case in detail. He also referred to memo of Appeal. He submitted that Respondent No.2 replied casually.

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?

It is seen that the appellant vide his application dated 06/05/2010 sought certain information from the PIO/Respondent No. 2. By reply dated 24/05/2010 the Respondent No. 2 informed that his request in respect Sr. No.1 does not fall within the meaning of information and in respect of 2 it was informed that information sought is not held by their office. It is seen that Appellant preferred Appeal before the First Appellate Authority and by order dated 16/08/2010 the FAA directed the PIO to inform the Appellant the procedure of promulgation.

From the reply as well as from the submission of the Respondent No.2 the said information is not available in their office. Since the information is not available in their office the same cannot be furnished.

6. The PIO/Respondent No. 1 ought to have transferred the application to the Public Authority with which the said information is available. During the course of arguments Respondent No.1 agrees to transfer. The Appellant on his part has no objection.

Without touching the merits of the case I would like to direct the PIO to transfer the said request to the concerned Authority with intimation to the Appellant. Needless to add that all the contentions of the parties are kept open and nothing is mentioned on the merits of the case.

7. In view of the above, I pass the following order:-

O R D E R

The Appeal is partly allowed and the impugned order of the FAA is set aside. The Respondent No.1 is hereby directed to transfer the application to the concerned Public Authority under Section 6(3) of the RTI Act within 5 days from the receipt of this order and the concerned authority to deal with the same having regard to the statutory time period.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 31st day of January, 2011.

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

