

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No. 146/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
(31.01.2011)

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 and 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. 1.

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 no 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 No. 1 resist the Appeal and the reply dated 07.10.2008 and reply dated 18.11.2008 are on record.

It is the case of Respondent No. 1 (vide reply dated 07.10.2008) that as per the information furnished by Shri Sadanand S. Gad, ex-Devasthan Clerk, the documents of which copies were sought by the Appellant are not available in the Devasthan Section of the office. That as directed by First Appellate Authority vide Memorandum dated 24.07.2008 the Appellant has already been informed vide letter dated 08.08.2008 which was sent under certificate of posting.

It is further the case of the Respondent No. 1 (vide reply dated 18.11.2008) that on receipt of the copy of Application dated 07.05.2008 from the First Appellate Authority Shri Sadanand P. Gad, Ex-Devasthan Clerk was directed to furnish the information sought by the Appellant. That Shri Sadanand P. Gad, Ex-Devasthan Clerk who was having custody of all the Devasthan records, informed the Respondent No. 1 vide his endorsement dated 30.07.2008 that "No such document is available in the Devasthan section of this office". That the applicant was, therefore,

informed accordingly vide letter dated 08.08.2008 i.e. within the time stipulated by the First Appellate Authority. That, thereafter, the Ex-Entry clerk, Shri R. C. Sawant has been called in this office and it is revealed that the said letter was received by him and handed over to Shri Gad, Ex-Devasthan Clerk, however, Shri Gad has denied that letter was received by him. That after termination of his service an inventory has been carried out but still the letter is not traceable. It is the case of Respondent No. 1 that reply to the applicant was sent based on the information furnished by Shri Sadanand Gad, Ex-Devasthan Clerk. That the copy of the document is not available as the same is misplaced by Shri Sadanand Gad, Ex-Devasthan Clerk. In view of this the Respondent No.1 prays to withdraw the Show Cause Notice and also to waive the proposed penalty for imposition of fine and disciplinary proceedings.

4. Heard the Appellant/Adv. S. S. Sawant and Adv. K. L. Bhagat for Respondent No. 1. Both sides advanced arguments of their respective case. According to Adv. Bhagat information is already furnished.

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. Shri S. S. Sawant submitted that the information has been fully furnished. Since information is furnished no intervention of this Commission is required on this count.

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

According to the Appellant there is delay. Whereas according to Adv. Shri 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 preferred on 02.07.2008.

It is to be noted here that R.T.I. Act, in general, is a time bound programme between the Administration and the citizen requesting information and every step will have to be completed within the time for presentation of request and disposal of the same, presentation of First Appeal and disposal by First Appellate Authority.

Again it is to be noted that First Appellate Authority ought to give opportunity of hearing to the parties. Principles of natural justice require that parties be heard. Even though the first Appellate Authority is not covered by the penal provisions yet the appeals should be disposed in time. Hope the 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, Shri Sadanand Gad should be given an opportunity to explain the same in the factual backdrop of this case.

7. In view of the above, since information is furnished no further intervention of this Commission is required. Since there is delay the Respondent No. 1 and Shri Sadanand Gad 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, Sadanand Gad, to show cause why penal action should not be taken against them for

causing delay in furnishing information. The explanation, if any, should reach the Commission on or before 23.02.2011. Public Information Officer/Respondent No. 1 and Shri Sadanand Gad shall appear for hearing.

Further enquiry posted on 23.02.2011 at 10:30a.m.

The Appeal is accordingly disposed off.

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

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