

GOA STATE INFORMATION COMMISSION  
AT PANAJI

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

**Appeal No.241/SCIC/2010**

Shri Nilesh S. Porob,  
H. No. 95, Ward No.9,  
Ansabhat, Mapusa –Goa.

... Appellant.

**V/s**

1) The Public Information Officer,  
The Health Officer,  
Urban Health Centre,  
Mapusa –Goa.

... Respondent No.1.

2) The First Appellate Authority,  
Dte. Of Health Services,  
Govt. of Goa, Vigilance Cell Campal,  
Panaji –Goa.

... Respondent No.2.

Appellant absent. His representative Shri J.T. Shetye present.

Respondent No. 1 present.

Respondent No.2 absent. His representative Smt. Singnapurker present.

**J U D G E M E N T**  
**(02/02/2011)**

1. The Appellant, Shri Nilesh S. Porob, has filed the present Appeal praying that Public Information Officer be directed to provide correct information; for a direction to the Appellate Authority in respect of First appeal and for penalty for causing delay in furnishing the information.

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

That the Appellant, vide his application dated 09/08/2010, sought certain information under Right to Information Act 2005('RTI' Act for short) from the Public Information Officer (PIO)/Respondent No.1 That the Appellant received the information on 21/09/2010 after filing the First Appeal before the First Appellate Authority. That the FAA passed the order without going to the merits of the case. Being aggrieved by the said order the Appellant has preferred the present Appeal.

3. The Respondents resist the Appeal and their replies are on record. It is the case of the Respondent No. 1 that the information furnished is correct, true and not misleading. That the information provided is within the stipulated time of 30 working days as specified in RTI application. That the application seeking

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information was submitted on 10/08/2010. That the letter requesting the Appellant to collect the information was posted on 17/09/2010. It is also the case of the Respondent No.1 that PIO was also deputed to attend the 'Training of Trainers' training at NIT Bangalore from 16<sup>th</sup> to 20<sup>th</sup> August 2010

It is the case of the Respondent No. 2 that the information furnished by PIO is correct and agreeable and as such First Appeal was disposed off. That the information was provided within 30 days and as such the question of recommending penalty does not arise.

4. Heard the arguments. Shri J. T. Shetye representative of the Appellant argued on behalf of the Appellant and the Respondent No.1 argued in person.

Shri J. T. Shetye submitted that application was filed on 08/08/2010 and that no reply was sent within 30 days. He next submitted that misleading and incorrect information is furnished. He also submitted that enclosure not given.

Respondent No. 1 submitted that they have not issued the notice and that they informed the municipality. He also submitted that they would take action.

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 Appellant vide his application dated 09/08/2010 sought certain information. It is seen that information is furnished by letter/reply dated 22/09/2010. Information is furnished and this is not in dispute. According to the Appellant information is furnished. His only grievance is the same is incomplete and misleading and secondly there is delay in furnishing information.

6. First it is to be seen whether there is any delay. According to Respondent there is no delay. However considering the application and the reply there appears to be some delay. In any case, Public Information officer, should be given an opportunity to explain the same in the factual backdrop of this case.

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7. The Appellant contends that the information is incomplete and misleading. According to respondent No.1 the information furnished is correct.

It is to be noted here that purpose of RTI Act is per se to furnish information. Of course Appellant has a right to establish that information furnished to him is incorrect incomplete, misleading etc, however, the Appellant has to prove it to counter Respondents' claim. It is pertinent to note that mandate of RTI Act is to provide information \_\_information correct to the core and it is for the Appellant to establish that what he has received is incorrect and incomplete. The approach of the Commission is to attenuate the area of secrecy as much as possible. With this view in mind, I am of the opinion that the complainant must be given an opportunity to substantiate that the information given to him is incomplete, misleading etc as provided in section 18(1) (e) of the RTI Act.

8. In view of the above, the Respondent No.1 is to be heard on the aspect of delay. The Appellant should be given an opportunity to prove that information is incomplete, misleading etc. Hence I pass the following order:-

**ORDER**

Appeal is allowed and since information is furnished no intervention of this Commission is required on this count.

Issue notice under section 20(1) of the Right to Information Act to Respondent No.1/Public Information Officer to show cause why penalty action should not be taken against him for causing delay in furnishing information. The explanation, if any, should reach the Commission on or before 09/03/2011. Public information Officer/Respondent No.1 shall appear for hearing.

The Appellant to prove that information furnished is incorrect/incomplete, misleading etc.

Further inquiry posted on 09/03/2011 at 10.30 am.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 2<sup>nd</sup> day of February, 2010.

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

