

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal No. 07/SCIC/2010

1) Shri Juju Araujo,
H.No. 360, Ruzaiwaddo, St-Cruz,
Ilhas –Goa.

2) Shri Luis Dias,
H. NO. 359, Ruzaiwaddo,
St-Cruz, Ilhas –Goa.

... Appellant's

V/s

1) The Public Information Officer,
The Secretary, Village Panchayat of St-Cruz,
Ilhas –Goa.

... Respondent No.1

2) The First Appellate Authority,
BDO, Shri Vishant Gaunekar of Tiswadi Taluka,
Junta House, 4th lift 6th flr,
Panaji –Goa.

... Respondent No.2.

Appellant alongwith Adv. A. Mandreker.

Respondent No. 1 & 2 absent.

Adv. S. Satardeker for the Opponent No. 1 present.

O R D E R

(15/02/2011)

1. The Appellants Shri Juju Araujo and Shri Luis Dias, have filed the present appeal praying that the information as required by the Appellant be furnished to him correctly and fully without reserving any information to save any person; that penalty be imposed on the Public Information Officer; that disciplinary action may be initiated on the PIO and the First Appellate Authority (FAA); that inspection of file be given and compensation may be given to the Appellants.

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

That the appellants filed an application dated 26/10/2009 under section 6 of the Right to Information Act 2005 ('RTI' Act for short), thereby requesting the Public Information Officer/(PIO)/Respondent NO. 1 to furnish the information specified therein on 22 points. That the Respondent No. 1 and 2 has knowingly refused access to any information. The Respondent No. 1 has not given any response to the request for information for access to information within the time limit specified under the act and thus failed to provide the required information as per the

...2/-

application. That Respondent have also failed to provide inspection of the file/documents as per the application dated 26/10/2009. Being not satisfied Appellant preferred First Appeal against the deemed refusal by the Respondent No. 1 before the First Appellate Authority/ Respondent No.2. That unsatisfactory information dated 08/12/2009 was received from the Public Information Officer/Respondent NO. 1 and that too when first Appeal was preferred. That the information furnished is false and incomplete and that no documents are enclosed. That information provided is very vague inconclusive and evasive and thus the Respondent No. 1 has miserably failed to meet the object of Right to Information Act by not providing the complete and correct Information as per the application. It is the case of the Appellant that unsatisfactory reply dated 14/07/2009 was filed by the Public Information Officer during the hearing of First Appeal and that the same is vague and that Respondent no. 1 has not provided the complete and correct information. It is further the case of the Appellant the First Appellate Authority is barred from hearing the appeal since the FAA is the party to the complaint. However the Respondent No.2 deliberately heard the First Appeal and has purposely dismissed the application even after respondent 2/FAA has ousted the jurisdiction to hear and decide the appeal. That the FAA by order dated 17/12/2009 dismissed the application filed by the Appellants restraining the Respondent No.2 to hear and decide the matter. That the FAA passed the order in First Appeal dated 28/12/2009 directing the Respondent No.1 to furnish the information. That the FAA/Respondent No.2 failed to appreciate the provisions of RTI Act by not providing information within 30 days from the date of filing the First Appeal. That the Respondent No. 1 did not comply with the orders of the FAA. Being aggrieved the Appellants have preferred the present appeal on various grounds as set out in the memo of Appeal.

3. The Respondents resist the appeal and the reply of Respondent No. 1 is on record. It is the case of Respondent No. 1 that by order dated 28/12/2009 the FAA directed Block Development Officer(BDO) to furnish the Appellant information as mentioned in the order. The Respondent by way of reply has furnished the information. It is the case of the Respondent that the information asked has been furnished.

4. Heard the arguments. The learned Adv. Shri A. Mandrekar argued on the behalf of the Appellant and the Learned Adv. Mrs. S. Satardekar argued on behalf of Respondent no. 1. According to Adv. A Mandrekar application was filed on 26/10/2009. However, the same was not replied within 30 days. The same was replied only when First Appeal was preferred. He referred to the reply dated 08/12/2009 according to him whatever information furnished is incomplete and incorrect.

During the course of argument Adv. for Respondent No. 1 submitted that full information has been furnished and the same is correctly furnished and that no part of information is false.

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 by application dated 26/10/2009 the Appellant sought certain information from the Respondent No. 1/PIO. The information was about 22 items i.e. Sr. No. 1 to 22. Inspection of documents was also sought. It appears that the Appellant did not receive any reply within 30 days. So he preferred Appeal before the First Appellate Authority on 30/11/2009. It is seen that by reply dated 08/12/2009 the Respondent No. 1 furnished the information.

6. It is the contention of the Adv. for the Appellant that information furnished is incomplete and incorrect. According to him the same has been furnished with much delay.

Since information is furnished no intervention of this Commission is required on that court.

7. Now it is to be seen whether there is any delay in furnishing the information. The information was sought by application dated 26/10/2009. The information is furnished by reply dated 08/12/2009. Apparently there is delay. However Public Information officer should be given an opportunity to explain the same in the factual matrix of the case.

8. The Appellant next contends that information is incomplete and incorrect. This is disputed by Adv. for the Respondent No. 1. According to her the information furnished is correct.

It is to be noted that purpose of the RTI Act is per se to furnish information. Of course Appellant has a right to establish that information furnished to him is false, incorrect, misleading etc., but the Appellant has to prove it to counter opponent's claim. The information seeker must feel that he got true and correct information otherwise purpose of RTI Act would be defeated. 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 Appellant must be given an opportunity to substantiate that the information given to him is incomplete, incorrect, etc as provided in section 18(1) (e) of the RTI Act.

9. It is seen from the records that some comments were made against the FAA. I need not refer them in detail. However FAA should give a fair hearing in the matter to the parties. Looking at the order passed it cannot be said that FAA was biased.

10. In view of the above, since information is furnished no intervention of this Commission is required. Since there is delay the Respondent No. 1 is to be heard on the same. The Appellant should be given an opportunity to prove that information is incomplete, incorrect etc. Hence I pass the following order:-

O R D E R

Appeal is partly allowed. Since information is furnished no intervention of this Commission is required.

Respondent No. 1 to give the inspection, as sought, on a mutually agreed date.

Issue notice under section 20(1) of the RTI Act to Respondent No.1 /PIO to show cause why penalty action should not be taken against him for causing delay in furnishing the information. The explanation, if any, should reach the Commission on or before 18/03/2011. The Public Information Officer/Respondent No. 1 shall appear for hearing.

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

Further inquiry posted on 18/03/2011 at 10.30 am.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 15th day of February, 2011.

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

Complaint No.512/SCIC/2010

Goa State Information Commission,
Shrama Shakti Bhavan, Gr. Floor,
Patto, Plaza, Panaji –Goa.

Dated:28/02/2011.

To,
Shri Gajanan D. Phadte,
898, Nila Niwas, Alto Torda,
Porvorim –Goa.

The Public Information Officer,
Mapusa –Goa.

Sub: Complaint No.512/SCIC/2010.

Sir,

I am directed to forward herewith copy of the Order dated 23/02/2011 passed by the Commission in the above referred Complaint for your information and necessary action.

Yours faithfully,

(Meena H. Naik Goltekar)
Under Secretary-Cum-Registrar

Encl: copy of Judgment/Order in 4 pages.

