

**GOA STATE INFORMATION COMMISSION**  
**AT PANAJI**

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

**Appeal No. 09/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 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, 4<sup>th</sup> lift 6<sup>th</sup> flr,  
Panaji –Goa.

... Respondent No.2.

Appellant alongwith Adv. A. Mandreker present.  
Respondent No. 1 and 2 absent.  
Adv. S. Satardeker for Respondent No.1 .

**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 in terms of section 20 of the Right to Information Act; that disciplinary action may be initiated against the PIO & First Appellate Authority and that inspection of files/document be given and documents may be collected from all deemed Public Information officers and compensation may be given as deems fit for harassing the Appellant.

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

That the Appellant has filed application dated 26/10/2009 under section 6 of the Right to Information Act, 2005 ('RTI' Act for short), thereby requesting the PIO/Respondent No. 1 to furnish the information specified therein on 21 points. The

Respondent No. 1 and 2 have knowingly received no access to any information. That the Respondent No. 1 has not given any response to the request for information or access to information within the time limit specified under the Act and thus failed to provide the information as per the application. That the Respondent have also failed in providing inspection of file/document as per the application dated 26/10/2009. Being not satisfied the Appellants preferred First Appeal against the deemed refusal of the Respondent No. 1 before the FAA/Respondent NO. 2. It is the case of the Appellant that unsatisfactory information dated 08/12/2009 was received from the PIO/Respondent No. 1 and that too only when appeal was preferred before FAA/Respondent No. 2. That the information furnished from point No. 1 to 21 is false and incomplete as no document are enclosed and moreover part of information provided is very vague, inconclusive and evasive. That the Respondent No. 1 miserably failed to meet the object of RTI Act by not providing the complete and correct information as per the application. That the unsatisfactory reply dated 14/12/2009 was filed by PIO/Respondent NO. 1 during the hearing of the First Appeal before Respondent NO. 2 and that the same is vague, inconclusive and evasive. It is further the case of the Appellant that Appellants have moved the application dated 14/12/2009 restraining the Respondent No.2 to hear and decide the matter. That the FAA is barred from hearing the appeal since the FAA is the party to the complaint filed by the Appellant against Smt. Rosa Fernandes, the Block Development Officer (BDO) and the Secretary to Village Panchayat St-Cruz before the Dy. Director of Panchayat under Goa Panchyat Raj Act 1994 for illegally constructing the house. That, However, Respondent No. 2 deliberately heard the First Appeal and has purposely dismissed the application even after Respondent NO. 2 ousted the jurisdiction to hear and decide the appeal. That being aggrieved by the order of the FAA the appellant has preferred the present appeal on various grounds as set out in the memo of appeal.

3. The Respondent resists the appeal of the reply and Respondent No. 1 is on record. It is the case of the Respondent No. 1 that by order dated 28/12/2009 the FAA directed him to furnish information to the Appellant on certain points as mentioned in the order. The Respondent narrated in detail the said points in the reply. It is also the case of the Respondent No. 1 that in cases of houses, which are old, there are no records available about the construction license and that PIO can only inform the financial order from which the house tax is being paid in respect of particular house. In short, according to Respondent No.1 the information is furnished fully and whatever information is furnished is as per the records of Village Panchyat St-Cruz.

4. Heard the arguments. The learned Adv. Shri A. Mandrekar argued on behalf of Appellant and Ms S. Satardekar argued on behalf of the Respondent No.1. Adv. Mandrekar referred to the facts of the case in detail. According to him information was sought by application dated 20/06/2009 However no reply was furnished he next submitted that First Appeal was filed on 30/11/2009. According to him during the pendency of the First Appeal information was furnished in short. According to Adv. for Appellant information is furnished. However the same is false, incorrect etc beside there is delay in furnishing information.

Adv. for Respondent No.1 also referred to the facts of the case according to her full information has been furnished the information is correct and as per the records available. She next submitted that there is no delay. According to her information is furnished and appeal is liable to be dismissed.

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 under RTI Act. the information consisted of 21 points i.e. Sr. No. 1 to 21. It appears that the same was not furnished within 30 days. It is seen that the Appellant preferred Appeal with the First Appellate Authority on 30/11/2009. It appears that during the pendency of the Appeal the Respondent No. 1 furnished the information. Subsequently by order dated 28/12/2009 the Appeal was allowed. Thus information is furnished.

Since information is furnished no intervention of this Commission is required.

6. It is the contention of the Appellant that information is furnished after much delay and secondly the information furnished is incomplete and incorrect.

First it is to be seen whether there is any delay in furnishing the information. The application seeking information is dated 26/10/2009 and the reply is dated 08/12/2009 considering this there is apparently some delay. However, Public Information officer should be given an opportunity to explain the same in the factual backdrop of this case.

7. Adv. for Appellant contends that information is incomplete, incorrect etc. This is disputed by Adv. for Respondent No.1. According to Adv. for Respondent No. 1 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 respondent's claim. The information seeker must feel that he got the 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 in correct and incomplete. The approach of the Commission is to attenuate the area of the 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 incorrect etc as provided in section 18(1) (e) of the RTI Act.

8. 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.

9. 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:-

**ORDER**

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

The 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 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 15<sup>th</sup> day of February, 2011.

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



