

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No. 133/SIC/2010

Shri Mohan Kamat,
H. No. 267, Fatorda,
Salcete - Goa

... Appellant.

V/s.

1). Public Information Officer,
South Goa Planning & Development Authority,
Near SGPDA Market,
Fatorda,
Salcete – Goa

... Respondent No. 1.

2). First Appellate Authority,
Office of South Goa Planning &
Development Authority,
Osia Commercial Arcade,
Fatorda,
Margao – Goa

... Respondent No. 2.

Appellant in person.

Adv. Vivek Rodrigues for Respondent No. 2.

J U D G M E N T
(25.02.2011)

1. The Appellant, Shri Mohan Kamat, has filed this Appeal praying that records and proceedings be called from the First Appellate Authority and the Impugned Order may be quashed and set aside and appropriate action be taken against the Respondent No. 1.

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

That the Appellant vide application dated 06.10.2010 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Respondent No. 1/Public Information Officer (PIO). That since the information was not received after more than one month the Appellant wrote another letter dated 12.02.2010. That inspite of the letter the Respondent No. 1 did not furnish the information. Being not satisfied the Appellant preferred Appeal before First Appellate

Authority/Respondent No. 2 (FAA). That after filing of the Appeal the Respondent No. 1 by his letter dated 26.03.2010 wrote to the Appellant that the request is rejected as the Respondent No. 1 had not issued any approval in regard to which the information was sought. That thereafter the Appellant made another application to Respondent No. 2 dated 29.04.2010 requesting the Respondent No. 2 to punish the Respondent No. 1 for not giving the information in time. That after hearing the parties the Respondent No. 2 passed the Order dismissing the Appeal. Being aggrieved by the Impugned Order the Appellant has preferred this Appeal on various grounds as set out in the Memo of Appeal.

3. The case of the Respondent No. 1 is fully set out in the affidavit in reply which is on record. In short, it is the case of Respondent No. 1 that the present Second Appeal is not maintainable as the information sought for is already been given and this is admitted before the FAA. That the Appeal is an abuse of the process of law as the Appellant has already received the information. That it is a fact that Respondent No. 1 received the application dated 06.01.2010 filed by the Appellant. However, there was another application dated 13.01.2010 received from one Mohandas P. Kamat and on account of mix-up the Respondent No. 1 called for the wrong file and upon clarification within the department the information as provided to the Appellant vide letter dated 26.03.2010. That during the interregnum the Appellant had issued a reminder which facilitated the process. It is the case of Respondent No. 1 that the mistake was bonafide and although there is a delay the same is unintentional and arises from genuine causes. That this point was considered and forms part of the Order of FAA. That the FAA was pleased to accept the submissions and did not impose cost or disciplinary action against the Respondent No. 1. But in fact dismissed the Appeal as information has already been provided. That this is not a fit case to be heard in Second Appeal and that the grounds raised in the Appeal are not available in law and that the Appeal ought to be dismissed in limine.

4. Heard the arguments. The Appellant argued in person and Adv. Vivek Rodrigues argued on behalf of Respondent No. 1.

According to the Appellant there is a delay and the same is malafide. He also submitted that issue of Mohandas P. Kamat is fabricated. According to him penalty is to be imposed.

During the course of his arguments Advocate for Respondent No. 1 submitted that there is a slight confusion in view of application of Mohandas Kamat. He next referred to the affidavit in reply which is on record. According to him there is a reasonable ground. He next submitted that the delay is not with malafide intention nor it is deliberate. However, due to certain genuine circumstances the delay occurred. According to him the same ought to be condoned. He also relied on rulings of Haryana High Court and also of Delhi High Court, the Xerox copies of which are on record.

5. I have carefully gone through the records of the case, considered the arguments advanced and also considered the rulings relied by Advocate for Respondent No. 1. The point that arises for my consideration is whether the relief prayed is to be granted or not.

At the outset I must say that right to know is a basic right of citizens of a free country. Without adequate information a person cannot form an informed opinion. The Right to Information Act, 2005 has been enacted to provide for legal right to information for citizens to secure access to information under the control of Public Authorities in order to promote transparency and accountability in the working of every Public Authority. The citizens/information seekers have, subject to few exemptions, an overriding right to be given information on matters in possession of State and Public Agencies that are covered by the Act.

It is pertinent to note, R.T.I. Act in general is the time bound programme between the Administration and the citizens 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 the Appellate Authority.

6. Coming to the case at hand, the Appellant filed an application dated 06.01.2010 seeking certain information from the Respondent No. 1. It appears that no reply/information was furnished within the statutory period of thirty days. The Appellant by letter dated 12.02.2010 called upon the Respondent No. 1 to furnish the information, however, no information was furnished. It appears that since no information was furnished the Appellant preferred an Appeal. That on 26.03.2010 the Respondent No. 1 furnished the information.

The present Appeal is for taking action against the Respondent No. 1. The Appellant has made such a prayer before F.A.A.; however the same was rejected.

7. Looking at the factual backdrop of this case this Appeal is only for taking action against Respondent No. 1. In fact it is for taking penal action. First Appellate Authority has no power to levy penalty under R.T.I. In fact, Appellant ought to have filed a complaint. However, in the ends of justice and in true spirit of R.T.I. Act I am proceeding with the same as the grievance of the Appellant is about delay in furnishing the information.

8. According to the Appellant there is much delay in furnishing the information. According to the Advocate for Respondent No. 1 the delay if any is unintentional and the same is not malafide. Admittedly there is delay in furnishing information. However, Public Information Officer/Respondent No. 1 should be given an opportunity to explain the same in the factual matrix of this case.

9. In view of all the above, since information is furnished no intervention of this Commission is required. Since there is delay the Respondent No. 1/P.I.O. is to be heard on the same. Hence, I pass the following Order:

ORDER

The Appeal is allowed. No intervention of this Commission is required as information is furnished.

Issue notice under section 20(1) of the R.T.I. 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 05.04.2011. Public Information Officer/Respondent No. 1 shall appear for hearing.

Further inquiry posted on 05.04.2011 at 10:30a.m.

Pronounced in the Commission on this 25th day of February, 2011.

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

