

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 103/SIC/2010

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

... Appellant.

V/s.

- 1). Public Information Officer,
Additional Collector,
Office of the Collector, North Goa District,
Panaji – Goa ... Respondent No. 1.
- 2) Public Information Officer,
Mamlatdar Bardez,
Mapusa – Goa ... Respondent No. 2.
- 3). First Appellate Authority,
Deputy Collector & SDO,
Bardez, Mapusa – Goa ... Respondent No. 3.
- 4). First Appellate Authority,
Collector & District Magistrate,
North Goa,
Panaji – Goa ... Respondent No. 4.

Appellant in person.

Respondent No. 1 absent.

Respondent No. 2 in person.

Respondent No. 3 and 4 absent.

J U D G M E N T
(23.02.2011)

1. The Appellant, Shri Gajanan D. Phadte, has filed the present Appeal praying that Public Information Officer/Respondent No. 1 and Public Information Officer/Respondent No. 2 be directed to provide information sought and to impose fine/penalty for denying information by distorting RTI request and recommend disciplinary action for dereliction and failure in duty to exercise functions vested under RTI Act.

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

That the Appellant has requested certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from Public Information

Officer/Respondent No. 1. That the request of the Appellant was within the definition of section 2(f). That Respondent No. 1 transferred part of request under section 6(3) of RTI Act to Public Information Officer/Respondent No. 2 stating that information sought is also related to his office as far as certain points are concerned. That NA Sanad in point (b) revoked by Additional Collector-II and construction declared illegal. However, other issues are pending. That both Public Information Officers failed to provide requested information within time limit. Hence Appellant approached First Appellate Authority and that both the First Appellate Authorities failed to dispose the Appeals within time limit hence the Appellant approached the State Information Commission. It is the case of the Appellant that State Information Commissioner (SIC) failed to apply fundamental parameters of fairness and distorted RTI request by excluding to peruse beginning para of RTI request and relied upon misquoted say of Respondent No. 1, 2 and 4. In short, according to the Appellant his appeals were dismissed. In short, it is the case of the Appellant that both Public Information Officers failed to provide information on RTI request and SIC had in not applying fundamental parameters of fairness in handling RTI matter and hence the present Appeal.

3. Respondent resists the Appeal and the replies are on record. It is the case of Respondent No. 2 that present Appeal and vide his application dated 03.10.2008 filed under provisions of RTI Act had prayed for information which was issued to him vide his office letter dated 13.11.2008 and his application was disposed. That similar application which was filed before Public Information Officer, Collector, District Magistrate, North Goa and transferred to his office under section 6(3) was also disposed alongwith main application as the information sought vide both the applications were common and same. Respondent No. 2 also refers to the Appeals preferred. It is further the case of Respondent No. 2 that there is no provision under RTI Act for filing same appeal on the same subject matter again and that the appeal filed is totally bad in

law and liable to be dismissed. Reply of Respondent No. 3 is also on record. Respondent No. 3 denies that Respondent failed to provide the requested information. According to Respondent No. 3 Appellant never appeared before him for the hearing and the delay was caused on account of Appellant. According to Respondent No. 3 the Appeal filed does not have any substance. Reply of Respondent No. 1 and 4 is also on record. Respondent No. 1 and 4 referred to the Order passed in Appeal No. 281/SIC/2008 and Appeal No. 288/SIC/2008.

4. Brief submissions of Appellant are on record. Appellant has also relied certain order which are on record. Written arguments on behalf of Respondent No. 2 are also on record. I have heard both sides. I have carefully gone through the records of the case and considered entire material on record. I have also considered the written submissions of Appellant and the rulings relied by him. It is seen that by application dated 03.10.2008 the Appellant sought certain information from Respondent No. 1 and also from Respondent No. 2. It is seen that replies were furnished. Appellant preferred First Appeal before the First Appellate Authority. Still being aggrieved the Appellant approached State Information Commission. It is seen that by Order dated 05.11.2009 the Appeals were dismissed. The Appellant by the present Appeal/Complaint challenged the validity of the said Order.

5. The first and foremost point that arises is whether this Commission can review the Order of SIC. In the factual backdrop of this case it is not possible to review this Order. I need not quote but I have perused some of the rulings of Central Information Commission wherein it is observed that under RTI such a power is not vested in the Commission. I have also perused Delhi Development Authority V/s. Central Information Commission and Another 2010 (2) ID 383 (Delhi High Court) [D.B.]. The said Judgment was in respect of certain regulations and the same were challenged. Though it was in a different context yet it is observed in para 35 as under:

“Neither the RTI nor the rules framed thereunder grants the power of review to the CIC or the Chief Information Commissioner. Once the statute does not provide for the power of review, the Chief Information Commissioner cannot without any authority of law, assume the power of review or even of a special leave of Appeal.”

Again it is to be noted that Order of SIC was passed on 05.09.2009 and present Appeal/Complaint was filed on 15.04.2010.

In Mahendra Kumar Gupta v/s. AIR New Delhi (CIC/AD/A/2009/000446 dated 25.06.2010) it was observed as under:-

“The Commission also deems it necessary to point out in the wake of the Judgment of the Hon’ble High Court of Delhi, as quoted by Appellant in his application that the power of reviewing its own decision does not lie with the Commission and therefore the Commission has neither exceeded nor failed to exercise jurisdiction lawfully vested in it while discussing the instant application.”

In Devina Mehra v/s. Director General of Income Tax (Investigations) Mumbai (File No. CIC/LS/A/2009/000989 decided on 25.06.2010 it was held that there is no provision for the review of the Commission’s decision.

6. In view of all the above the following Order is passed:

ORDER

The Appeal is dismissed.

Pronounced in the Commission on this 23rd day of February, 2011.

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

