

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 220/SCIC/2010

Shri Nishant Gurudas Sawant,
Mahalaxmi Bandora,
H.No. 1188,
Ponda –Goa

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Appellant

V/s

1) Executive Engineer, W.D.III (PHE),
State Public Information Officer,
PWD, St. Inez, Panaji –Goa.

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Respondent No.1.

2) First Appellate Authority/SSW,
PWD Altinho,
Panaji –Goa.

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Respondent No.2

Appellant in person.

Respondent No. 1 alongwith Adv. A. Mandreker present.

Respondent No. 2 absent.

J U D G M E N T

(01/03/2011)

1. the Appellant, Nishant Gurudas Sawant, has filed the present appeal praying that Respondent No. I and II be directed to act provide information free as applied by Appellant by his application dated 05/04/2010; that the Respondent No. 1 be directed to Act according to clauses (a) (b) of section 4 particularly clause (b) and that penalty be imposed on Respondent No. 1 for causing delay.

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

That the Appellant, vide his application dated 05/04/2010, 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 did not receive the information within the stipulated time. Hence the Appellant preferred the Appeal before the First Appellate Authority. That by order dated 20/08/2010 the FAA directed the Respondent No. 1 to furnish the information. Being aggrieved the appellant has filed the present appeal.

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3. The case of Respondent No. 1 is fully set out in the reply which is on record. In short it is the case of Respondent No. 1 that the Appellant had filed an application dated 05/04/2010. That the Appellant was requested to attend Division office in connection with the inspection of documents/records vide registered A/D letter dated 19/04/2010. However the Appellant did not attend the office. That whatever information was available was kept ready. That the Appellant preferred Appeal before the First Appellate Authority. That in the meantime the information was submitted to the Appellant by Registered A/D letter dated 02/082010, however, the Appellant did not accept the parcel and returned it to the sender. That the certified copies of the relevant documents as sought by the Appellant were kept ready. That registered AD letter was also sent to the Appellant to make payment of Rs. 120/- as charges and to take the documents. However, the Appellant did not attend the office and even not paid the charges. That the information sought is still pending. That surprisingly the present appeal is filed. According to Appellant appeal is liable to be dismissed.

4. Heard the arguments. Appellant argued in person and Adv. Shri A. Mandreker argued on behalf of the Respondent No. 1.

Appellant referred to the facts of the case in detail. According to him letter dated 19/04/2010 to attend was posted on 14/05/2010. He next submitted that information has not been furnished till to-day.

Adv. for Respondent no. 1 submitted that Appellant refused to accept the information and he referred to the facts and letters on record. According to him Appellant himself did not receive the information.

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 the Appellant, vide application dated 05/04/2010, sought certain information from the Respondent No. 1. The same was received in the office on the same day . It is seen that by letter dated 19/04/2010 the Respondent No. 1 requested the Appellant to attend the office for inspection. It appears that the appellant did not attend the office in pursuance of the said letter. Since information not furnished the appellant preferred the Appeal before First Appellate Authority. By order dated 20/08/2010 the FAA directed the Respondent to furnish the information within 10 days from the date of receipt of the order.

It is also seen from the record that during the pendency of First Appeal the Respondent No. 1 sent the information by Registered A/D letter dated 02/08/2010 however the same was not accepted by the Appellant and the same was returned.

By Registered AD letter dated 30/08/2010 the Respondent No. 1 informed the appellant to pay Rs. 120/- as charges and to take away the documents. This was in pursuance of the order of the FAA. From Exhibit C4 it appears that the Appellant did not receive the information.

6. Appellant contends that letter dated 19/04/2010 was in fact posted on 14/05/2010 and he produced Xerox copy of AD card. Assuming it is so the Appellant did not act on the letter. Instead preferred Appeal before FAA on 11/06/2010.

It is pertinent to note the finding given by the FAA which is as under:-

“The undersigned also cannot agree to the submission of the Appellant that the information should be given free of charge as per the relevant clause of the Right to Information Act- 2005 since the onus of delay for non-furnishing the information in prescribed time limit cannot be attributed to the Respondent SPIO as per the documents brought on record.”

It is pertinent to note that even after the order the Appellant did not collect the information.

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7. It is contended by the Appellant that there is delay. In view of the order of FAA. this aspect is over as there is a finding to that effect. In any case Public information Officer should be given an opportunity to explain the same.

8. Looking at the factual backdrop of this case this Appeal is for non-execution of the order of First Appellate Authority. Apparently the Appellant has no grievance against FAA. Under section 19(3) of RTI Act second Appeal lies only against the order of the FAA. However, in the ends of justice and in true spirit of RTI Act, I am proceeding with the same as the grievance of the Appellant is non-furnishing of information.

9. Coming to the prayer (b) the Respondent No. 1 to comply with the same as the same is required as per the Act.

10. In view of all the above the Respondent No. 1 to furnish the information. Since aspect of delay is to be checked properly the Respondent No.1 to be heard on the same. Hence I pass the following order:-

O R D E R

The Appeal is partly allowed. The Respondent No. 1 is hereby directed to furnish the information to the Appellant vide his application dated 05/04/2010 within 20 days from the date of receipt of this order and report compliance.

The Appellant on his part to collect the same.

Respondents to comply section 4(1) (a) and (b) of RTI Act.

Issue notice under section 20(1) of the RTI 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 20/04/2011. Public Information officer/Respondent No. 1 shall appear for hearing.

Further inquiry posted on 20/04/2011 at 10.30 am.

Appeal is accordingly disposed off.

Pronounced in the Commission on this 1st day of March, 2011.

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

