

# GOA STATE INFORMATION COMMISSION AT PANAJI

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

**Appeal No. 237/SCIC/2010**

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

...

Appellant

**V/s**

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

...

Respondent No.1

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

...

Respondent No.2

Appellant in person.

Respondent No. 1 and 2 absent.

Representative of Respondent No. 1 and 2 Shri S.P. Singnapurker (Head Clerk)  
present.

## **J U D G M E N T**

(01/03/2011)

1. The Appellant, Shri Nishant G. Sawant, has filed the present appeal praying that the Respondents, be directed to act providing information free of cost as applied by Appellant by his application dated 02/03/2010; that the Respondent No. 1 be directed to act according to section 4 1(a) and (b) and particularly clause (b). That the Respondent No.1 be imposed penalty under Right to Information Act for causing delay, misguiding and not providing information.

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

That the Appellant filed an application dated 02/03/2010 seeking certain information under Right to Information Act 2005 (RTI Act for short), from the Respondent No.1/Public Information Officer (PIO). That Appellant did not receive the document within time specified in sub section 1 or clause (a) of sub section 3 of section 7. That being not satisfied the Appellant preferred an appeal before the First

...2/-

Appellate Authority(FAA)/Respondent No.2. That after hearing both the parties the FAA passed the order on 15/07/2010. Being aggrieved the Appellant has preferred the present appeal.

3. Respondent No. 1 resists the appeal and their say is on record. It is the case of the Respondent No. 1 that Appellant Shri Nishant G. Sawant approached their office and collected the document on 19/05/2010 and paid Rs. 64/- towards the copies required by him. That Appellant went through the document available with the Administration section and refused to collect the same. That the reason given for his refusal to collect the document was "the name written on the tender paper is Nishikant Sawant instead of Nishant Sawant". That the Applicant preferred the appeal before the First Appellate Authority. The First Appellate order to furnish information within 10 days. That accordingly Appellant was informed to collect the document failing which they would send the same by Registered A/D. It is the case of the Respondent No. 1 that the Appellant did not collect the information and the same was dispatched to him by registered A/D letter dated 18/06/2010 which was returned to their office by postal authority with a remark "unclaimed returned to the sender." That the original returned documents are available in their office. That they can give the information in time but the Appellant does not collect the same. That the Appellant has refused to collect the document in the office of First Appellate Authority during the hearing. That the tender paper indicates the names of Nishikant Sawant instead of Nishant Sawant. That this is a mistake which cannot be corrected at this stage. That the Appellant has already collected the tender paper on which the name was written as Nishikant Sawant and quoted for the work.

4. Heard the arguments. Appellant argued in person and representative of Respondent No. 1 argued in person.

According to the Appellant he sought certain information. Vide application dated 02/03/2010 by letter dated 08/04/2010 no copies were sent and that copies were not proper.

According to representative of Respondent NO. 1 they have furnished the information however appellant refused to receive the same. According to Respondent Appellant did not collect the information at all.

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 his application dated 02/03/2010, sought certain information from the Respondent No. 1. By letter dated 08/04/2010 the Respondent No. 1 requested the Appellant to collect the information by making payment towards the Xerox copies. It appears from the receipt produced that payment was made on 19/05/2010. The Appellant on 20/05/2010 filed the Appeal before the First Appellate Authority. By order dated 15/07/2010 the First Appellate Authority directed the Respondent No. 1 to furnish to the Appellant certified copies of the relevant documents and also to provide inspection of work, documents and records as sought by the Appellant vide his application dated 02/03/2010 within a period of 10 days from the date of receipt of the order. It is the contention of the Appellant that no information was furnished and hence the present appeal.

6. According to Respondent no. 1 they furnished the information but the appellant refused to accept. As observed above the Respondent No. 1 by letter dated 08/04/2010 requested the Appellant to collect the information after making payment. Payment was made on 19/05/2010. In his memo of Appeal the Appellant does not state about the same. According to the Respondent No. 1 the Appellant went through the documents and refused to collect the same. I have also perused

the letter dated 11/06/2010 addressed to the Appellant requesting to collect the information. It is pertinent to note the observation of first Appellate Authority which states as under:-

“ The Appellant stated that the Division Office staff was giving him only the forwarding letter without any enclosed documents and therefore he had refused to take up only forwarding letter.....  
.....  
.....

The Respondent/S.P.I.O. placed before the Appellant all the documents which had brought during the hearing for handing over the same to Appellant. However, the Appellant refused to accept the same on the grounds that the documents were not sought from the Respondent SPIO.....

Further it is observed:-

“After hearing the submissions of both the parties and taking into consideration the documents on record, the undersigned is of the opinion that the Respondent SPIO, The Executive Engineer works Div. III P.W.D has not shown any malafide intention in hiding or refusing to furnish the information sought by the Appellant. The Respondent SPIO during the hearing had tried to furnish the documents to the Appellant for which the necessary payment was already made by him, however, the Appellant had refused to accept the same.”

7. From the above it appears that Appellant did not receive the documents. It is to be noted here that Public Information Officer is to furnish the available information. In any case PIO alone cannot be blamed in the instant case. It is also

the duty of the Information seeker to get the information sought by him. Assuming for a while that incorrect information is furnished there is remedy for the same under Right to Information Act.

Now it is to be seen whether there is any delay in furnishing the information.

It is seen that information was sought vide application dated 02/03/2010. Letter requesting to collect the information is dated 08/04/2010. Apparently there is 5/6 days delay. However, in the factual backdrop of this case the same is liable to be condoned.

8. In the instant case information ought to have been furnished free of charge. However the Appellant has already paid the amount. Respondent No. 1/PIO to bear in mind that in future, if information is not furnished within 30 days as per provisions of RTI Act the same should be given free of charge.

9. In view of all the above the Respondent No. 1 to furnish the information to the Appellant and the Appellant to receive the same. Since the fees are paid no more charges to be paid by the Appellant.

10. Coming to the prayers in the Appeal. Prayer (b) is in respect of section 4(a) (b). The same is to be followed by the public Authority. The Respondents also to follow the same.

11. In view of all the above I pass the following order:-

### **ORDER**

The Appeal is allowed. The Respondent No. 1 is hereby directed to furnish the information to the Appellant as sought by him, vide his application dated 02/03/2010, within 15 days from the receipt of this order and report compliance.

The Respondent No. 1 to comply section 4 1(a) and (b).

The appeal is accordingly disposed off.

Pronounced in the Commission on this 1<sup>st</sup> day of March, 2011.

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





