

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 86/SIC/2010

Shri Cedric Lobo,
1-C, Shivkrupa Building,
Opp. Don Bosco High School,
Panaji – Goa

... Appellant.

V/s.

Public Information Officer,
Village Panchayat of Calangute,
Calangute,
Bardez - Goa

... Respondent.

Appellant in person.

Respondent alongwith Adv. Pronoy Kamat.

J U D G M E N T (05.04.2011)

1. The Appellant, Shri Cedric Lobo, has filed the present Appeal praying that the Public Information Officer be ordered to furnish information; that penalty be imposed on the Public Information Officer; that disciplinary action against Public Information Officer be taken; that compensation be granted to him; and other relief as mentioned in the Memo of Appeal.

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

That the Appellant, vide his application dated 11.01.2010 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Respondent/Public Information Officer ('P.I.O.'). That the Respondent failed to furnish the information even after thirty days. Being not satisfied the Appellant preferred the First Appeal before the First Appellate Authority. That during the hearing the Respondent remained absent on both the occasions. By order dated 15.03.2010 the First Appellate Authority directed the Respondent to furnish the information

within seven days. However, no information was furnished within seven days. That even after seven days no information was furnished. Being aggrieved the Appellant has filed the present Appeal praying the abovementioned reliefs.

3. The Respondent resists the Appeal and the reply is on record. It is the case of the Respondent that the application of the Appellant was received on 11.01.2010. That the Appellant was called on his mobile to approach in office several times. That the reason was to get more clarification about information asked and also to give documents. That inspite of calls Appellant failed to turn up in the office when the Respondent was available. That the said communication was done within 30 days. It is the case of the Respondent that the Dy. Collector, Mapusa, vide acquisition order No.3/28/Z.P./ELN/2010/12 dated 10.02.2010 has requisitioned service of P.I.O. till first week of March and the Respondent was posted for that work. That during this time Shri Kambli was officiating as Secretary and P.I.O. of Panchayat. That the Appellant made fresh application on 18.02.2010 about failure to furnish information. That by reply dated 23.03.2010 the reply was given to the Appellant as per the order of F.A.A. That this information was given within 8 days of the passing of the Order by F.A.A. who has given 7 days. That there was delay of one day which is not deliberate. That the information is furnished and that there is no deliberate or intentional delay. According to the Respondent the Appeal is liable to be dismissed.

4. Heard the arguments. The Appellant argued in person and Advocate Shri Pronoy Kamat argued on behalf of Respondents.

The Appellant submits that information is furnished but there is delay in furnishing information. He next submitted that the information furnished is false, incorrect, etc. Appellant submits that from the date of filing the application there is delay of 107 days. He referred to a letter to

show that the Respondent was the P.I.O. He next submitted that if he was on census duty then how the Respondent conducted site inspection on 10.02.2011.

Advocate for Respondent referred to the facts of the case. According to him there is mention in the reply about delay. He next submitted that this Commission cannot conduct inquiry under section 18 (1) (a).

6. 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 information is furnished and whether the same is in time?

It is seen that the Appellant sought certain information vide letter dated 09.01.2011. This letter was received in the office of Respondent on 11.01.2010. It appears that no information was furnished. Hence, the Appellant preferred Appeal before the First Appellate Authority. It is to be noted here that by letter dated 18.02.2010 the Appellant informed the Respondent about non-furnishing of information and also about filing Appeal. By Order dated 15.03.2010 the F.A.A. directed the Respondent to furnish the information. Since information was not furnished the Appellant landed in this Commission.

7. During the course of hearing the Appellant submits that he has received the information. The grievance of the Appellant is twofold. Firstly, there is gross delay of about 107 days from the date of filing and secondly, the information that is furnished is false, incorrect, incomplete, etc.

According to the Advocate for the Respondent there is no delay as such and secondly, the Appellant's contention that information is false, etc. cannot be entertained in the present Appeal.

Looking at the factual backdrop of this case, this Appeal is for non-execution of the Order of F.A.A. Apparently, the Appellant has no grievance against F.A.A. Under section 19(3) of the R.T.I. Act, 2005, Second Appeal lies only against the Order of F.A.A. 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 non-furnishing of information.

9. Now it is to be seen whether there is any delay. Apparently, there is delay in furnishing information as contended by the Appellant. However, Public Information Officer should be given an opportunity to explain the same in the factual backdrop of this case.

10. The Appellant contends that the information given is incomplete, incorrect, false and misleading. This is disputed by Advocate for Respondent. According to him information furnished is correct.

It is to be noted here that the purpose of the R.T.I. 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 R.T.I. Act would be defeated. It is pertinent to note that the mandate of R.T.I. Act is to provide information – information correct to the core and it is for the Appellant to establish that what he has received is incorrect and incomplete. The approach of the Commission is to attenuate the area of secrecy as much as possible. With this view in mind, I am of the opinion that the Appellant must be given an opportunity to substantiate that the information given to him is incomplete, incorrect, misleading, etc. as provided in section 18 (1) (e) of R.T.I. Act.

11. 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 the information is false, incorrect, incomplete, etc. Hence, I pass the following Order:-

ORDER

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

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 29.04.2011. Public Information Officer shall appear for hearing.

The Appellant to prove that information furnished is false, incorrect, incomplete, etc.

Further inquiry posted on 29.04.2011 at 10:30a.m.

Pronounced in the Commission on this 05th day of April, 2011.

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

