

# GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 270/SCIC/2008

Mr. Sunilkumar Sirsaikar,  
R/o. Badem, Assagao,  
Bardez - Goa

... Appellant.

V/s.

1) The Public Information Officer,  
Asst. Registrar of Cooperative Societies,  
North Zone, Mapusa – Goa

... Respondent No.1.

2) The Registrar of Cooperative Societies,  
Panaji – Goa

... Respondent No. 2.

Adv. V. Parab for Appellant.  
Respondent No. 1 in person.  
Respondent No. 2 absent.

## **J U D G M E N T** **(18.03.2011)**

1. The Appellant, Shri Sunilkumar Sirsaikar, has preferred the present Appeal praying that the Impugned Order dated 23.10.2008 be quashed and set aside and that the Respondent No. 1 be directed to furnish proper information and the document as sought by the Appellant.

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

That the Appellant, vide his application dated 18.06.2008 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Respondent No. 1/Public Information Officer (P.I.O.). That the information was in connection with Xapora Boat Owners Fisheries Co-op. Society. That the Asst. Registrar of Co-operative Societies, North Zone, Mapusa, Bardez, Goa vide its order/letter dated 22.07.2008 refused the information sought and as such the Appellant had to prefer appeal before the Respondent No. 2 which office vide its order dated 23.10.2008 dismissed the said Appeal. It is the case of the Appellant that Respondent No. 2 instead of directing the Respondent No.

1 to furnish proper information by its impugned order dismissed the appeal filed by the Appellant. Being aggrieved by the impugned order the Appellant preferred the present Appeal on various grounds as set out in the Memo of Appeal.

3. The Respondents resist the Appeal and their replies are on record.

It is the case of the Respondent No. 1 that the present dispute is raised by the Appellant in connection with the information sought by him in respect of Xapora Boat Owner's Co-operative Society Ltd., Xapora, Bardez-Goa which has not been furnished to the Appellant as the said information was not available on the record of the office of Respondent No. 1. That the information sought by the Appellant was not available on the record of the office of Respondent No. 1 and as such Respondent No. 1 preferred to request the concerned society to provide the said information to the Appellant vide letter dated 24.06.2008 in view of compliance of section 6(3) of the RTI Act as the Society was in the possession of the information sought by the Appellant. That the Chairman of the said Society, vide his letter dated 18.07.2008 has informed their office his inability to provide the said information to the Appellant stating therein the various reasons of his inability and requested the Respondent No. 1 to depute the Appellant to the office of the Society during office hours to verify the records. That the Respondent No. 1 has requested the Appellant to approach the Chairman of the Society for verification of the records and also for procuring the information as sought by him. It is the case of the Respondent No. 1 that the information as sought by the Appellant was not available on the record of the office of the Respondent No. 1 and as such the Respondent No. 1 transferred the request to the concerned society in compliance with section 6(3) of the RTI Act and sought assistance of the Chairman of the Society in order to make available the requisite information. That the contention of the Appellant that information is in possession of the

Respondent No. 1 is not correct. That there is no question of refusing or concealing the information. That the Appeal is liable to be dismissed.

It is the case of Respondent No. 2 that the Appellant has no locus standii to file the present appeal and that the appeal is filed before wrong forum and that the appeal is not maintainable. On merits it is the case of the Respondent No. 2 that the Respondent No. 1 transferred the application since Respondent No. 1 was not in possession of requisite information. The Respondent No. 2 denies the grounds set out by the Appellant in the Memo of Appeal. It is also the case of Respondent No. 2 that the order of the Commission holding that Co-operative Societies are falling within the jurisdiction of section 2(h) of RTI Act has been stayed by the Hon'ble High Court in Writ Petition No. 427 of 2007 in Sainik House Building Co-operative Society Ltd., V/s. Bismark Facho.

4. Heard the arguments. The learned Adv. Shri V. Parab argued on behalf of the Appellant and the Respondent No. 1 argued in person.

The learned Advocate for Appellant referred to the facts of the case in detail. According to him the Appellant sought information from Asst. Registrar of Co-operative Society. That the Society is registered with the Registrar. He also referred to various documents on record. According to him Respondent No. 1 has full right to direct the Society to furnish the information. According to him Appellant is prepared to take inspection.

The Respondent No. 1 argued on similar lines as per his reply. According to him information was not available with them. Besides, information is bulky and that Appellant can seek inspection.

In reply, Advocate for Appellant agrees to take inspection.

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 18.06.2008 sought certain information from the Respondent No. 1. The information relates to Chapora Boat Owners Co-operative Society. This letter was received on 19.06.2008. By letter dated 24.06.2008 the Respondent No. 1 transferred the said application to the Chairman, Xapora Boat Owners Fisheries Co-operative Society Ltd. By letter dated 18.07.2008 the Chairman of the said Xapora Boat Owners Fisheries Co-operative Society furnished information to the Appellant in respect of point No. 1, 4 and 5 and in respect of point No. 2 and 3 it was informed that the party can come and check the records. Regarding point at Sr. No. 3 it was informed that it is a vast record. It was also mentioned that their Society does not have that much Staff to give each and every record and it was requested to send the Appellant during office hours.

It appears that being aggrieved the Appellant preferred the First Appeal. By Judgment and Order dated 23.10.2008 the First Appellate Authority dismissed the Appeal. However, it was observed that Respondent No. 1 does not have the requisite information and further it was observed that the Appellant would have approached the Chairman of Society who has shown willingness for inspection of records.

6. It is seen that Respondent No. 1 does not have the required information and as such he rightly transferred the application. It is seen that Chairman furnished the information and in respect of two points requested to take inspection. This appears to be fair. It is to be noted here that Chairman himself has offered inspection and they are willing to give inspection. The Appellant could take the inspection and see the records. Such records need not be with the Respondent No. 1 and they say so.

During the course of arguments Advocate for the Appellant states that the Appellant is ready to take the inspection. Appellant states that the Appellant is ready to take the inspection. Appellant states that

Respondent No. 1 may also send their representative alongwith him. The Respondent No. 1 is agreeable to this request. Since he is agreeable this Commission has no objection for the same.

7. In view of all the above and also since Chairman has no objection, I pass the following Order:

**ORDER**

The Appellant to take inspection as requested by the Chairman of the said Society and thereafter can seek the documents if required by him on payment of required charges.

The inspection is fixed on 08.04.2011 during office hours. Respondent No. 1 to depute their representative to accompany the Appellant to their office.

The Appeal is accordingly disposed off.

Copy of the Order be sent to the Chairman of the said Society.

Pronounced in the Commission on this 18<sup>th</sup> day of March, 2011.

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









