

**GOA STATE INFORMATION COMMISSION**  
**AT PANAJI**

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

Appeal No. 48/SIC/2010

Mr. Hilary Lobo,  
Volvaddo Pilerne,  
Bardez – Goa

... Appellant.

V/s.

1). Public Information Officer,  
The Administrator,  
N. M. Gad,  
O/o. The Administrator of  
Comunidade of North Zone,  
Mapusa, Bardez – Goa

... Respondent No. 1.

2). First Appellate Authority,  
Additional Collector-II,  
North Goa,  
Panaji – Goa

... Respondent No. 2.

Appellant absent.

Adv. A. Mandrekar for Appellant.

Respondent No. 1 and 2 in person.

Adv. K. Bhosale for Respondent No. 1.

**J U D G M E N T**  
**(28.02.2011)**

1. The Appellant, Shri Hilary Lobo, has filed the present Appeal praying that the information as requested by him in his application dated 11.09.2009 be furnished to him correctly and fully without reserving any information to save any person. That action be taken on Public Information Officer, Administrator Office of the Administrator of Comunidade of North Zone, Mapusa, Bardez for not providing full information and inspection of records within stipulated time limit of thirty days. That penalty be imposed on the Public Information Officer; that disciplinary action may be initiated against the Public Information Officer; that compensation be given and that no fees are charged as under section 7(6) of RTI Act.

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

That the Appellant, vide his application dated 11.09.2009 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from Respondent No. 1/Public Information officer (PIO). That the application dated 11.09.2009 was complete in all respect and was submitted in person and that the same was accepted in the office of PIO. That unsatisfactory reply dated 16.10.2009 was received from the PIO/Respondent No. 1. That being not satisfied the Appellant preferred the First Appeal against the deemed refusal by the Respondent No. 1 before the First Appellate Authority-Respondent No. 2. That the First Appellate Authority by Judgment and Order dated 27.11.2009 directed the Respondent No. 1 to furnish the required information as per the application dated 11.09.2009 within fifteen days. It is the case of the Appellant that Respondent No. 1 furnished part information by reply/letter dated 09.12.2009 and as such he has not complied with the Orders of FAA to provide complete and correct information within the time limit specified in the Order passed in the First Appeal. Being aggrieved the Appellant has preferred the present Appeal on various grounds as set out in the Memo of Appeal.

3. The Respondents resist the Appeal and the reply of Respondent No. 1 is on record. It is the case of Respondent No. 1 that the Appellant by application dated 11.09.2009 requested for information under point No. 1 to 9. That the available information was provided to the Appellant on 16.10.2009 by seeking the assistance of Assistant Public Information officer and Attorney of Comunidade of Pilerne under section 5(3) of the RTI Act. That the Comunidades are autonomous bodies and function under Code of Comunidades and maintain the complete record related to the landed property under their control like, allotment of plots, sanction, approval and temporary possession, etc. as per the Code of Comunidades. That it is necessary that the Attorney of Comunidade be appointed as PIO or at least deemed PIO under RTI for granting information within time schedule. That Respondent No. 1 has supervisory

authority specified under Article 125 of Code of Comunidade and the controlling authority is Government under Article 153 of Code of Comunidades. The Respondent No. 1 denies that he refused to give information. That Respondent No. 1 sought the assistance of APIO and Attorney of Comunidade of Pilerne since information was related to the said Comunidade. It is the case of Respondent No. 1 that he complied with the Orders of FAA and provided the information by letter dated 19.12.2009. It is further the case of Respondent No. 1 that the copies of the documents being voluminous could not be provided, however, access was granted to the Appellant with a request to visit the office, inspect the relevant file and take extracts of the copies. That diligent efforts were made to provide information and that the Respondent No. 1 is not liable for any action as the information provided is in good faith as specified in section 21 of RTI Act.

4. Heard the arguments. Ld. Adv. Shri A. Mandrekar argued on behalf of Appellant and the Ld. Adv. Shri K. H. Bhosale argued on behalf of Respondent No. 1. Both sides advanced elaborate arguments.

Advocate for Appellant referred to the application. He next submitted that no reply was received within thirty days so he preferred First Appeal. According to him FAA directed to furnish the information. He also referred to the Order in detail. He next referred to the reply furnished. According to him information sought at point No. 2 is not voluminous and he referred to the Judgment of Canara Bank, Xerox copy of which is on record. He next submitted that there is gross delay in furnishing the information.

Adv. Shri Bhosale referred to the facts of the case in detail. According to him application was referred to Respondent. That the record is kept with the Comunidade and the records are not at one place. He next submitted that record is not maintained in the Office of Administrator. He next submitted that he had to obtain the information from the Comunidade and sometimes information is not available and

delay occurs. According to him delay is not intentional and the same is because of difference in administration.

In reply, Advocate for Appellant referred to section 5 and submitted that information be provided and delay be dealt with.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the Advocates of 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 11/09/2009, sought certain information from Respondent No. 1. The information consisted of 9 items i.e. Sr. No. 1 to 9 pertaining to the names and addresses of those who have been allotted plots under survey No. 53/1, certain resolutions passed by the Comunidade of Pilerne in the General Body Meeting etc. It is seen that Respondent No. 1 failed to provide information and hence the Appellant filed the Appeal before First Appellate Authority/Respondent no. 2. By order dated 27/11/2009 the FAA allowed the Appeal and Respondent No. 1 was directed to furnish the information within 15 days. It is seen that by letter dated 09/12/2009 the Respondent No. 1 furnished the information.

6. Adv. for Appellant contends that information at Sr. No.2 has not been given. I have perused the reply as per the reply information is voluminous and also called to inspect. In any case there is no harm if Appellant takes inspection and specifies the documents required.

7. Adv. for Appellant contends that there is delay in furnishing information. According to Adv. for Respondent No.1 record is kept with Comunidade and that record is not maintained in the office of the Administrator. According to him delay is not intentional.

I have perused the records considering the application and reply apparently there is some delay. However, Public Information Officer/Respondent No.1 should be given an opportunity to explain the same in the factual back drop of this case.

8. In view of all the above, Appellant to take inspection and specify the documents required. Since there is delay the Respondent No.1 is to be heard on the same. Hence I pass the following order:-

### **O R D E R**

Appeal is allowed. The Respondent No. 1 to give inspection to the Appellant on a mutually agreed date and specify the documents required and respondent No.1 to furnish the same within 30 days from the date of receipt of the order.

Issue notice under section 20 (1) of the Right to Information 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 13.04.2011. Public Information Officer/Respondent No. 1 shall appear for hearing.

Further inquiry posted on 13.04.2011 at 10.30 am.

Appeal is accordingly disposed off.

Pronounced in the Commission on this 28<sup>th</sup> day of February, 2011.

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









