

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 154/SIC/2010

Shri Gurudas K. Porob,
H. No. 41/6, Sairukmini,
Sai Nagar, Sirsaim Post via Assonora,
Bardez – Goa

... Appellant.

V/s.

1) Public Information Officer,
Secretary,
Village Panchayat of Anjuna Caisua,
Bardez – Goa

... Respondent No. 1

2) Shri K. S. Govekar,
Ex- V.P. Secretary,
Anjuna-Caisua
Bardez – Goa

... Respondent No. 2

Appellant in person.

Adv. Ms. S. Salgaonkar for Respondent No. 1.

Adv. Shri J. Cardozo for Respondent No. 2.

J U D G M E N T

(06.04.2011)

1. The Appellant, Shri Gurudas K. Porob, has filed the present Appeal praying that the Public Information Officer may be directed to grant the applicant sufficient time to inspect/verify the records of V.P. concerning issue of repair licences; that the Public Information Officer may be directed to make available the concerned records including files and registers concerning the subject matter and allow sufficient time limit to inspect/verify the records; that Public Information Officer may also be directed to show the records concerning the matter regarding transfer of professional tax so as to satisfy point No. 2 of the application dated 02.05.2009; that Public Information Officer may be fined for furnishing wrong and incomplete information intentionally; side-by-side inquiry may be proposed against him for disobeying the orders of the higher authorities.

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

That the Appellant, vide application dated 12.11.2009 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 vide letter dated 18.12.2009 the PIO granted certain information on certain points. However, it was noticed that he had submitted wrong and incomplete information. That the Appellant preferred an Appeal before First Appellate Authority/Block Development Officer and the Hon'ble Court was pleased to grant relief and issued directives to PIO to comply with point No. 2 of the application of the Appellant and to allow the Appellant to inspect the records of the V.P. within seven days vide Order dated 27.04.2010. It is the case of the Appellant that he visited the office of V.P. to inspect/verify the records on the very next day, however, PIO did not give sufficient time to inspect the records. That the PIO kept on giving excuses of attending court and some other authorities. That during inspection the Appellant could trace about eight such repair licenses on the first day itself and that there are likely to be more. That by letter dated 06.05.2010 the Appellant approached the First Appellate Authority again informing about the incident and also to impose fine on PIO for providing wrong and incomplete information. That the First Appellate Authority vide letter dated 13.05.2010 advised the Appellant to approach this Commission. That by letter dated 18.05.2010 the PIO enclosed four more repair licenses. Being aggrieved for not allowing sufficient time to the Appellant to inspect, the Appellant has preferred this Appeal. Though it is termed as Appeal in fact, application is under section 18 of R.T.I. Act as can be seen from Appeal Memo.

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

It is the case of Respondent No. 1 that Respondent No. 2 has provided information vide letter dated 18.12.2009. That Respondent No. 1 has taken charge as Secretary/PIO of the said V.P. on 07.06.2010. The

Respondent No. 1 states and submits that he is willing to give the necessary information which is available on record.

It is the case of Respondent No. 2 that Appellant has sought information by application dated 17.11.2009 on 6 points. That by reply dated 18.12.2009 the information was furnished. That prior to furnishing information the Respondent No. 2 had issued intimation dated 07.12.2009 directed the Appellant to pay necessary fees in the V.P. office and collect the information. That on payment of fees as required under RTI Act, the information has been furnished vide letter dated 18.12.2009. That inspite of furnishing the information the Appellant preferred Appeal before First Appellate Authority. That the First Appellate Authority by Order dated 27.04.2010 directed the Respondent to comply point No. 2 and also allow the Appellant to inspect the required documents within seven days. That the Order was duly complied. That the Appellant was also allowed to inspect the required documents and files on 30.04.2010 and also on 07.05.2010 in the presence of V.P. Clerks. However, on inspection, verification of documents the Appellant refused to sign having inspected and that the refusal had been noted by the V.P. Clerks and inspite of all this, Appellant has preferred the present Appeal. It is further the case of Respondent No. 2 that the Appellant has not made any application before the Respondents seeking information or verification of documents, files, as required. However, the same was allowed as per the Order given by First Appellate Authority, i.e. Block Development Officer without any prayer from the Appellant. In short, it is the case of Respondent No. 2 that whatever information was sought was furnished, however, some questions raised in the said application were vague and imaginary. That the directive of First Appellate Authority to allow the Appellant to inspect the documents was without jurisdiction and without any prayer from the Appellant. However, Appellant was allowed to do so and that the Appellant inspected the documents. That on 29.04.2010 the letter was kept ready with information on point No. 2 and 6 but the Appellant refused to accept the said information on 30.04.2010 and 07.05.2010. Hence, the same was sent by registered post which was

received by him. It is also the case of Respondent No. 2 that if inspection was not allowed how could the Appellant trace about eight such repair licenses on the first day itself. That the application dated 02.05.2009 is not existing in the V.P. records. That the said application is not submitted by the Appellant. As such the same was not Inwarded in the V.P. office and the Appellant has sought information to that effect. That the Appellant has failed to produce the said Inward copy of application. That the said Urmila G. Parab is the wife of the Appellant. In short, it is the case of Respondent No. 2 that the information has to be supplied as available in the V.P. office and that it cannot be created and supplied. According to Respondent No. 2 the Appeal is liable to be dismissed.

4. Heard the arguments. The Appellant argued in person and Adv. J. Cardozo argued on behalf of Respondents.

During the course of arguments Appellant submits that information has been furnished. However, the same is incomplete and false. According to Advocate for Respondent information in respect of point 1 to 6 has been furnished and that too, in time. According to him this is an attempt to harass the PIO. He also referred to para 8 of the reply on record. In short, according to him the information that is furnished is correct and no part of it is false.

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 by application dated 12.11.2009 the Appellant sought certain information from the PIO/Respondent No. 1. The information consisted of 6 points at Sr. No. 1 to 6. It is seen from records that by letter dated 07.12.2009 the PIO requested the Appellant to pay the necessary fees under RTI Act. It is seen that by letter dated 18.12.2009 information is furnished. Being not satisfied the Appellant preferred First

Appeal and by Order dated 27.04.2010 the First Appellate Authority directed the Respondent No. 1 to comply point 2 of the application and also allowed the Appellant to inspect the required documents within seven days. It is to be noted here that point No. 2 of the application is regarding transfer of professional tax from Sandeep K. Parab to her name and the query is in which meeting it is placed and whether it is done so. It is to be noted further that the Appellant has not sought inspection in the original application. However, the same was granted. It is almost settled that no additional information can be granted at appellate stage. However, granting inspection does not make much difference. I need not refer to all these aspects herein as according to the Appellant information is furnished. His only grievance is information that is furnished is incomplete and false and secondly, he wants to inspect the records.

6. It is true that inspection has not been sought in the original request and normally it was not to be granted. However, in the instant case Respondent No. 1 in reply and particularly, in para 7 states that he is willing to give inspection of the records available. In view of this, I feel that request can be granted though at a belated stage in Appeal. It is next contended that information is incomplete, incorrect, false, etc. This is disputed by the Respondent. According to Respondent No. 1 information furnished is correct.

It is to be noted that purpose of RTI 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 the Respondent's claim. The information seeker must feel that he got true and correct information otherwise purpose of RTI Act would be defeated. It is pertinent to note that mandate of RTI 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 Appellant must be given an opportunity to substantiate that information given to him is incomplete, incorrect, false, etc. as provided in section 18(1) (e) of the RTI Act.

7. In view of the above, Appellant can be given inspection at a mutually agreed date in terms of the RTI Act. Charges, if any, to be taken strictly in accordance with rules. The Appellant should be given an opportunity to prove that information is false, incomplete, etc. Hence, I pass the following Order:

ORDER

The Appeal is allowed. The Respondent No. 1 is hereby directed to give inspection of the records of the V.P. concerning issue of repair licenses and all records concerning the subject matter of this application be made available to the Appellant. The inspection be given at a mutually agreed date.

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

Further enquiry posted on 06.05.2011 at 10:30 a.m.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 06th day of April, 2011.

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