

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 141/SCIC/2010

Shri Harihar V. Chodankar,
Block A-1, Ground Floor,
Kamat Woods, Pedem, Mapusa,
Bardez - Goa

... Appellant.

V/s.

1) The Public Information Officer,
Administrator,
Office of the Administration of Comunidades,
North Zone, Near Mapusa Court,
Mapusa – Goa

... Respondent No.1.

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

... Respondent No. 2.

Appellant absent.

Respondent No. 1 alongwith Adv. K. H. Bhosale.

J U D G M E N T
(02.05.2011)

1. The Appellant, Shri Harihar V. Chodankar, has filed the present appeal praying that the PIO be directed to provide the information sought; that penalty be imposed and that disciplinary action be initiated against the P.I.O.

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

That, the Appellant vide his application dated 02.12.2009 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (P.I.O.)/Respondent No. 1. That the P.I.O. vide letter dated 18.12.2009 directed the Registrar/Attorney of Serula Comunidades to furnish the information but of wrong files. That this has been deliberately to harass the Appellant. Since the P.I.O. failed to provide the information the Appellant preferred the Appeal before the

First Appellate Authority. That by order dated 18.04.2010 the F.A.A. directed the P.I.O. to furnish the information, however, the information was not furnished. That thereafter corrigendum dated 05.05.2010 was also passed but no information was furnished. Being aggrieved the Appellant has preferred the present Appeal. It is also the case of the Appellant that false, incomplete and incorrect information has been furnished.

3. The Respondent No. 1 resists the Appeal and the reply of the Respondent no. 1 is on record. It is the case of the Respondent No. 1 that the Appellant made an application on 02.12.2009. That vide letter dated 18.12.2009 assistance of the Registrar/Attorney was sought under section 5(4) of the R.T.I. Act with clear intention to furnish information to the appellant/applicant. That in order to provide information received from the Registrar/Attorney of Comunidade of Serula the applicant was intimated within a period of limitation by letter dated 22.12.2009 with a request to pay Rs.72/- towards 36 copies of the documents of the files of 6 persons. That the Comunidade being autonomous bodies they adhere their functioning to the Articles of the Code of Comunidades, 1961. That the Appellant did not provide the details of the payment of foro actually made to the Comunidade de Serula and as such could not comment upon the same. According to the Respondent No. 1 the matter is liable to be dismissed.

4. Heard the Appellant and the learned Advocate Shri K. H. Bhosale for the Respondent No. 1.

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 information is furnished and whether the same is in time?

It is seen that the Appellant vide application dated 02.12.2009 sought certain information from the Respondent No. 1. It is seen

that by letter dated 15.12.2009 the A.P.I.O. sought the said information from the Attorney/Clerk Comunidade de Serula. According to the Respondent No. 1 the documents are in the custody of Comunidade de Serula. It appears that information was furnished by letter dated 24.12.2009. According to the Appellant the information furnished is false, incorrect and incomplete. It is seen that Appellant preferred an appeal before First Appellate Authority. By order dated 18.04.2010 the F.A.A. directed P.I.O. to furnish information within 15 days from the receipt of the order. It is the grievance of the Appellant that full information is not furnished.

According to Advocate for Respondent No. 1 the information is with Comunidade de Serula and whatever information was furnished the same was handed over to the Appellant.

It appears from the record that no information has been furnished after the order of F.A.A.

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

Apparently there is delay in furnishing the information. However, P.I.O. as well as Attorney of Comunidade of Serula should be given an opportunity to explain the same in the factual backdrop of this case.

7. The Appellant contends that information is false, incomplete, incorrect, misleading, etc. This is disputed by Advocate for Respondent No. 1. According to him whatever information was made available has been furnished.

It is to be noted that 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 Opponent's claim. It is

pertinent to note that 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.

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 the R.T.I. Act. In view of the above the Respondent No. 1 and Attorney of Comunidade are to be heard on the same. The Appellant should be given an opportunity to prove that information is incomplete, incorrect, misleading, etc. Hence, I pass the following Order:-

ORDER

The Appeal is partly allowed. Issue notice under section 20(1) of the R.T.I. Act to Respondent No. 1/Public Information Officer and Attorney of Comunidade of Serula to show cause why penalty action should not be taken against them for causing delay in furnishing information. The explanation, if any, should reach the Commission on or before 17.06.2011. The Public Information Officer/Respondent No. 1 and the Attorney of Comunidade of Serula shall appear for hearing.

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

Further enquiry posted on 17.06.2011.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 02nd day of May, 2011.

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

