

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

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

Appeal No.276/SCIC/2010

Mr. Promod Poly D'Silva,  
S/o Late Polycarpo D'Silva,  
R/o H.No.277, 2<sup>nd</sup> Palvem,  
Chinchinim, Salcete-Goa

... Appellant.

V/s

1) The Public Information Officer,  
Village Panchayat at Chinchinim-Deussua,  
Chinchinim-Goa

... Respondent No.1.

2) The Block Development Officer,  
Salcete, Margao-Goa

... Respondent No.2.

Appellant in person.

Adv. M. Mascarenhas for Respondent no.1

**JUDGEMENT**  
**(02-06-2011)**

1. The Appellant, Pramod Polly D'Silva, has filed the present appeal praying that penalty and exemplary costs on the Respondent payable to the Appellant on the First Appeal as well as on the present second appeal .

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

That the appellant has preferred an appeal bearing first Appeal/BDOS/RTIA/33/2010 and he had requested first Appellate Authority to hold the inquiry into his complaint and summon and enforce the attendance of the Secretary, village Panchayat of Chinchinim-Deussua, Chinchinim-Goa, the Public Information Officer and compel her to give oral or written evidence on oath and to produce the documents, the Appellant has requested for , by way of his application dated 23/08/2010. The Appellant has further prayed that exemplary costs may be imposed on the Secretary,

Village Panchayat of Chinchinim, P.I.O., for delay and failure to provide the requested information within the stipulated time. That by the judgment and order dated 9/11/2010, the First Appellate Authority has been pleased to direct the Appellant to collect the information from the Secretary on 23/11/2010, however in spite of the Appellant insisting that penalty be imposed on the Respondent to be paid to the Appellant, the First Appellate Authority has not imposed a penalty on the Respondent. It is the case of the Appellant that the First Appellate Authority stated that he could not impose costs/penalty as he was not authorized to do so. That the appellant incurred costs on account of delay and hence the present appeal.

3. The Respondent resists the appeal and the reply of the Respondent no.1 is on record It is the case of the Respondent no.1 that upon receiving the application on 25/8/2010 filed by the Appellant under R.T.I., the Respondent No.1 after verifying the Panchayat record made a reply to the Appellant on 23/09/2010 which was delivered by the Panchayat peon/Messenger to his residence, wherein the Panchayat Peon/Messenger usually puts in a bag tied for the gate of the Appellant as per the verbal instruction to the Panchayat peon by the Appellant and the office copy was filed for the inward correspondence file. That due to ill health the Respondent No.1 went on sick leave on 22/10/2010 and the Secretary of Village Panchayat Ambelim was ordered to take additional charge of this Panchayat. That in spite of sending the reply the Appellant filed the First Appeal before Respondent No.2 where in the hearing took place on 19/1/2010 and the Respondent No.1 was holding additional charge stated that he will supply the required information on 23/11/2010 for which the appellant agreed to collect from the Secretary. It is further the case of Respondent

No.1, that on 23/11/2010, the Respondent No.1 who was on sick leave joined back the office in the Village Panchayat Chinchinim but up till today the appellant did not appear to the Panchayat. That since the reply was given by Respondent NO.1 within the stipulated time the imposition of penalty and exemplary cost does not arise.

4. Heard the arguments. The Appellant argued in person and the learned Adv. M. Mascarenhas argued on behalf of the Respondent No.1 According to the Appellant besides delay, the information furnished is incomplete, false and misleading.

During the course of his arguments the Adv. for Respondent submitted that information furnished is in time and that available information is furnished and that information furnished is correct.

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 vide application dated 25/08/2010, the Appellant sought certain information from the Respondent no.1/Public Information Officer(P.I.O.). The information sought consists of two items i.e whether action is taken on his complaint and secondly whether action taken on the letter sent by the Town Planner. It is seen from the records particularly produced by Respondent No.1 that by reply dated 23/09/2010, the information was furnished. On 21/01/2010, the appellant preferred an appeal before the First Appellant Authority (F.A.A.). By order dated 09/11/2010 , it is observed as under:-

“..... The previous Secretary has gone on sick leave. The Respondent stated that he will supply the required information on 23/11/2010 for which Appellant agree.

As the Appellant agrees to collect the information from the Secretary, the matter is closed without any further order”.

According to the Appellant information is not furnished. According to the Respondent No.1, the Appellant did not collect the same. In any case the information is sent on 26/11/2010.

6. Now, it is to be seen whether there is any delay in furnishing the information. If the letter dated 23/09/2010 is considered there is no delay. It is also a fact that before F.A.A., the present P.I.O. was not present and this is reflected in the order of F.A.A.. Regarding Appellant going to the Village Panchayat on 23/11/2010 to collect information and Respondent no.1. contention that he did not come are bare statements. In any case under this peculiar circumstances even if there is delay, it is minor and ought to be condoned.

However, P.I.O. in future should note that information that is sent should reach the concerned information seeker and that too within 30 days. Again P.I.O. should not wait till 30<sup>th</sup> day to post or send the same. Proof of receipt of the same should be there as the same is required to be proved by the P.I.O.

7. The next contention of the Appellant is that the information furnished is incomplete, incorrect, false misleading etc This is disputed by the Adv. for Respondent no.1. According to him information furnished is correct.

It is to be noted here 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 incorrect., incomplete, misleading etc, but the Appellant has to prove it to counter

Respondents 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 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, incomplete, misleading etc. 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 information given to him is incomplete, incorrect, misleading etc. as provided in section 18(1) (e) of the R.T.I. Act.

8. In view of the above no intervention of this Commission is required as information is furnished. The Appellant should be given an opportunity to prove that the Information is incomplete, incorrect, misleading etc. Hence I pass the following order:

#### ORDER

Appeal is partly allowed. No intervention of this Commission is required as information is furnished.

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

Further, inquiry posted on 22/06/2011 at 12.00 noon.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 2<sup>nd</sup> day of June , 2011.

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





