

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

Appeal No. 96/SCIC/2010

Shri Sadanand D. Vaingankar,  
304, Madhalawada, Harmal,  
Pernem - Goa

.... Appellant

V/s.

1) Public Information Officer,  
Office of Chief Secretary,  
Secretariat,  
Porvorim - Goa

... Respondent No. 1.

2) Shri Vinayak A. Naik,  
Joint Director of Accounts,  
Public Information Officer,  
Sports Authority of Goa,  
Campal, Panaji - Goa

... Respondent No. 2.

3) First Appellate Authority,  
Joint Secretary (GA),  
Secretariat, Porvorim - Goa

... Respondent No. 3.

4) Shri D. M. Redkar,  
Public Information Officer,  
Under Secretary (Revenue),  
Secretariat, Porvorim - Goa

... Respondent No. 4.

5) The Secretary (Sports),  
Secretariat, Porvorim - Goa

... Respondent No. 5.

6) Deemed Public Information Officer,  
Director, Directorate of Sports & Youth Affairs,  
Government of Goa, Campal,  
Panaji - Goa

... Respondent No. 6.

Appellant present.

Respondent No. 2 and 6 present.

Respondent No. 1, 3, 4 and 5 absent.

**J U D G M E N T**  
**(03.06.2011)**

1. The Appellant, Shri Sadanand D. Vaingankar, has filed the present appeal praying that appeal be allowed; that Respondent No. 2, 4, 5 and 6 be directed to pay fine as applicable; that disciplinary action be initiated against Respondent No. 1, 2, 4, 5 and 6 and that order of Respondent No. 3 be set aside.

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

That the Appellant, vide his application dated 09.09.2009 on 11.09.2009, 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 Appellant received a letter dated 08.10.2009 from Respondent No. 2 informing that Respondent No. 2 cannot entertain as it is beyond scope to reply to the questionnaire. That on 11.11.2009 the Appellant filed First Appeal before the First Appellate Authority (F.A.A.)/Respondent No. 3. That the Appellant received a letter dated 20.11.2009 from Respondent No. 1 addressed to Respondent No. 4 and 5 mentioning that application for information has already been sent to their office vide outward No. 8702/L and 8703/L respectively. That Appellant received letter dated 09.12.2009 from Respondent No. 4 addressed to Respondent No. 3, wherein it was mentioned that copy of application for information and copy of First appeal forwarded to F.A.A. for doing needful in the matter. That the Appellant received letter dated 16.12.2009 from Respondent No. 4 addressed to Respondent No. 6, wherein it was mentioned that copy of application for information and copy of first appeal forwarded to Respondent No. 6 for giving necessary reply. That the F.A.A. passed the order dated 11.01.2010. That the order of F.A.A. is erroneous and that Respondent No. 3 has not given any clear cut directions to Respondent No. 4 in order to furnish information. Being aggrieved by the order of the F.A.A. the Appellant has filed the present appeal.

3. The Respondents resist the appeal and their replies are on record. It is the case of Respondent No. 2 that the Appeal is frivolous, vexatious and an abuse of the process of R.T.I. Act as well

as this Commission. That the Appeal is garbled and difficult to comprehend. That no grievance against Respondent No. 2 is made out in the Appeal and that Respondent No. 2 has been unnecessarily dragged into the present Appeal. That the Respondent No. 2 was not a party in the First Appeal. That the information sought by the Appellant has been furnished to him by Respondent No. 2 pursuant to his request for information dated 05.01.2010. That the Appellant is again seeking the same information and this material fact has been deliberately and malafidely suppressed. On merits it is the case of the Respondent No. 2 that the request for information dated 09.09.2009 was made by Appellant to Respondent No. 1 who in turn forwarded the same to Respondent No. 2. That Respondent No. 2 by letter dated 08.10.2009 informed the Appellant that the request is in questionnaire form and hence cannot be obliged by the P.I.O. That by the same letter the Respondent No. 2 also informed the Appellant that the Appellant may meet the Respondent for any clarifications. That there is no complaint or appeal filed against the same. That request dated 11.09.2009 was also addressed to the Chief Secretary. That the same was forwarded to the Respondent No. 2 by Secretary, Sports and that reply dated 23.10.2009 was sent. That there is no appeal or complaint filed against the same. That after a gap of nearly 3 months the Appellant approached the respondent No. 2 with request for information dated 05.01.2010. That the Appellant would frequent the office of Respondent No. 2 and on 04.02.2010 he was told to collect information on payment of Rs. 624/- toward the certified copies. The Appellant promised to come on a subsequent

date but never came. A follow-up letter dated 15.02.2010 was also sent to the Appellant to collect the information. That to the shock and surprise of the Respondent No. 2 the Appellant preferred First Appeal and by Order dated 15.03.2010 the F.A.A. was pleased to direct the Respondent to provide information to the Appellant free of cost. That the same was furnished by letter dated 22.03.2010. That no case is made out and that appeal is untenable in law.

According to Respondent No. 5 he is neither a P.I.O. nor a first Appellate Authority connected with the issue in question.

It is the case of Respondent No. 6 that the information sought by Appellant vide letter dated 06.01.2010 has already been furnished to him vide letter dated 27.01.2010. That the Appellant failed to collect on payment of Rs. 2/- the copy of the information requested for which was a letter of Dy. Collector & S.D.O., Pernem. That the Appellant has not filed a first Appeal. According to Respondent No. 6 no case is made out against the Respondent No. 6 and appeal is liable to be dismissed.

4. Heard the arguments. Appellant submitted that Respondent No. 4 has not furnished the information.

According to the Respondents all the information has been furnished.

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 furnished in time.

It is seen that the Appellant vide his application dated 09.09.2009 sought certain information from the Chief Secretary, Respondent No. 1. That the said application was received on 11.11.2009. The information consisted of 9 points/items and is in the form of queries. The Respondent No. 2 by reply dated 08.10.2009 informed the Appellant about his request in questionnaire form. It appears that Respondent No. 1 transferred the request to respondent No. 2 and Respondent No. 2 sent the reply. The reply is in time. That on 09.11.2009 the Appellant filed the Appeal before F.A.A./Respondent No. 2. The Respondent was P.I.O., Under Secretary (Revenue)-I, Secretariat, Porvorim. The Appellant did not join Respondent No. 2 before F.A.A. though he had received the reply dated 08.10.2009. The F.A.A. passed the order on 11.01.2010. It is observed as under:-

“.....  
..... Since the Respondent/P.I.O./Under Secretary (Revenue) has taken an action to transfer the application under section 6(3) to the Acquiring Department, who is the custodian of the information sought by the Appellant, nothing survives in the Appeal. Furthermore, the Respondent/P.I.O. has agreed to provide all the information available in their file to the Appellant.

In view of the above the Appeal is disposed off as complied with.”

Respondent No. 1, 2, 5 and 6 were not the parties to the first Appeal. It is seen that by letter dated 16.12.2009 Under Secretary (Revenue)/P.I.O. transferred to the Director, Directorate of Sports & Youth Affairs/Respondent No. 6. By letter dated 20.11.2009 Section Officer from Office of Chief Secretary forwarded the letter dated 09.11.2009 alongwith letter dated 09.09.2009 to Under Secretary (Revenue)/Respondent No. 4 and Secretary (Sports)/Respondent No. 5.

6. In this case the Appellant has addressed the application to the Chief Secretary. It appears that office of Chief Secretary transferred the same to the Under Secretary (Revenue). The First Appeal was preferred however most of the Respondents were not parties. Instead they have been joined before this Commission in the Second Appeal. It appears that the information appears to have been furnished as can be seen from the reply of the Respondent No. 2. There is also mention of another application as can be seen from the reply of Respondent No. 2 and also of Respondent No. 6. In the case before me there are some irregularities such as application was made to the P.I.O. of Chief Secretary. At the relevant time, it appears that there was no P.I.O. The application was transferred in normal course and not under section 6(3). Again Appeal was addressed to the F.A.A., O/o. Chief Secretary. Notice was issued to P.I.O., Under Secretary(Revenue)-I. The same was disposed off by F.A.A./Joint Secretary (GA) on 11.01.2010.

Some of the Respondents have objected that no First Appeal was filed in respect of them and that they are directly joined as parties in Second Appeal. Secondly, reply dated 08.10.2009 has not been challenged in the First Appeal. Normally under section 19(3) of the R.T.I. Act Second Appeal lies only against the order of F.A.A. I have perused some of the rulings of Central Information Commission on this point. It was observed that decision ought to be challenged before F.A.A. before approaching the Commission.

7. During the course of arguments the Appellant concedes to this aspect and submits that if need be he will file fresh application. In any case if the Appellant feels that information is not furnished then he is at liberty to file fresh application. However the same be filed before proper authority.

8. In view of all these appeal is to be disposed off. However it is made clear that in case the Appellant files the application afresh this Order should not come in the way. Hence, I pass the following Order:-

### **ORDER**

No intervention of this Commission is required. The Appeal is disposed off.

The Appeal is, accordingly, disposed off.

Pronounced in the Commission on this 3<sup>rd</sup> day of June, 2011.

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







