

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 275/SCIC/2010

Shri Nakul Sagun Narulkar,
Hali Chandel,
Pernem - Goa

.... Appellant

V/s.

1) Public Information Officer,
Sr. Land Acquisition Officer (N),
Government Office Complex,
Goa Tillari Irrigation Development Corporation,
Morod, Mapusa - Goa ... Respondent No.1.

2) First Appellate Authority,
Managing Director,
Goa Tillari Irrigation Development Corporation,
Junta House,
Panaji - Goa ... Respondent No. 2.

Adv. A. Mandrekar for Appellant.
Respondent No. 1 in person.
Respondent No. 2 in person.

J U D G M E N T **(16.06.2011)**

1. The Appellant, Shri Nakul S. Narulkar, has filed the present appeal praying that the information as required by the Appellant be furnished to him correctly and fully without reserving any information to save any person; that penalty may be imposed on the Public Information Officer as per section 20 of Right to Information Act; that inspection of files/documents may be given and the documents be collected from all deemed Public Information Officer and the compensation may be granted for harassing the Appellant.

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

That the Appellant, vide application dated 20.09.2010, sought certain information under the Right to Information Act, 2005 (R.T.I.

Act' for short) from the Public Information Officer (PIO)/Respondent No. 1. That the application was complete in all respects and was submitted in person and the same was reluctantly accepted in the office of SC/CO-II, Goa Tillari Irrigation Development Corporation, Goa. That the Respondents knowingly refused access any information. That Respondent has not given any response to the request within the time limit specified under the Act and thereby failed to provide required information. That no inspection was given. Being aggrieved the Appellant preferred the First Appeal before First Appellate Authority (FAA)/Respondent No. 2. That the Respondent No. 2 failed to hear and decide the First Appeal within the stipulated time period. That Respondent No. 2 indirectly refused to hear the First Appeal. That Respondent No. 1 and 2 have not acted diligently but with malafide intention and have not decided the RTI application. Being aggrieved the Appellant has preferred the present Appeal on various grounds as set out in the Memo of Appeal.

3. The case of the Respondent in short is that the application for information under R.T.I. Act from Appellant was received on 01.10.2010 without indicating the date in the said application. As such, the said application in original was returned to the Appellant requesting to indicate the correct date wherein the information is sought vide letter dated 08.10.2010 and sent on 11.10.2010. That some of the information sought is confusing, irrelevant and does not fall under the purview of the R.T.I. Act and therefore, the Appellant was requested to attend the office for discussion so as to furnish

necessary information. That the Appellant has neither submitted the said application nor attended the office.

It appears that information is furnished on 18.02.2011.

4. Heard the arguments. The learned Adv. Shri A. Mandrekar argued on behalf of the Appellant and the Respondent No. 1 argued in person.

According to the Advocate for the Appellant, information was sought by application dated 20.09.2010 and reply/information furnished on 17.02.2011. That First Appeal was filed however, the appeal was not decided. That loss and hardship was caused to the Appellant. He submitted that information furnished in incorrect, incomplete and false. It was also contended about missing of file. Advocate for appellant next submitted that there is delay in furnishing information and that penalty be levied. He also submitted that compensation be granted to the Appellant.

Respondent No. 1 submitted that application was not given to him and that he was not aware of the same. He submitted that application was addressed to the P.I.O. and was received by Special Land Acquisition Officer (North) on 01.10.2010. That the said application was not placed or brought to the knowledge of Respondent No. 1. He submitted that he was not aware of the First Appeal also and that he came to know about the same only on receipt of notice from this Commission. He next submitted that he came to know about the application only on 31.01.2011 and,

thereafter, on 17.02.2011 he furnished the available information. According to him the 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 application seeking information is dated 20.09.2010. The date 20 is written in hand. By letter dated 08.10.2010 the Spl. Land Acquisition Officer (North) Shri Dilip S. Chavan returned the application to the appellant with request to indicate the date and also called the appellant to the office for discussion on the issue. It appears from the reply that Appellant did not come. It is seen that since information was not furnished the appellant preferred the Appeal. It is to be noted here that the first appeal was filed against "Public Information Officer, The Senior Land Acquisition Officer (N), Govt. Office Complex, Morod, Mapusa-Goa." It appears that F.A.A did not pass the order.

Second Appeal was filed against P.I.O. the Senior Land acquisition Officer (N), Government Office Complex, Morod, Mapusa-Goa and F.A.A. However in the index filed Goa Tillari Irrigation Development Corporation was added. It is seen that on 17.02.2011 the information was furnished.

The grievance of the Appellant is that the information furnished is incomplete and misleading. Secondly, there is delay in furnishing information.

6. Now it is to be seen whether there is any delay in furnishing information. According to the Advocate for the Appellant there is delay. However, according to Respondent No. 1 there is no delay at all. According to him application was not before him nor he was aware of the same. Secondly, First Appeal was filed but he was not made a party. In any case P.I.O/Respondent No. 1 must be given an opportunity to explain about the same in the factual matrix of this case.

7. The Advocate for the Appellant contends that the information is incomplete, incorrect and misleading. This is disputed by the Respondent No. 1. According to him the available information is furnished and the 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 false, incorrect, incomplete, misleading, etc., but the Appellant has to prove it to counter Respondent's claim. The information seeker must feel that he got 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 and misleading. 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 the 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, since information is furnished no intervention of this Commission is required. The Respondent No. 1 is to be heard on the aspect of delay. 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.

Issue notice under section 20(1) of the R.T.I. 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 20.07.2011. Public Information Officer/Respondent No. 1 shall appear for hearing.

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

Further inquiry posted on 20.07.2011 at 10:30 a.m.

Appeal is accordingly disposed off.

Pronounced in the Commission on this 16th day of June, 2011.

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

