

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 199/SCIC/2010

Shri Anil Patil,
H. No.202/94,
Kailashnagar, Assonora,
Bardez - Goa

.... Appellant

V/s.

1) Public Information Officer,
Mamlatdar of Bardez,
Bardez - Goa

... Respondent No. 1.

2) First Appellate Authority,
Dy. Collector & S.D.O. Mapusa,
Bardez - Goa

... Respondent No. 2.

Appellant in person.

Shri R. Mayenkar, representative of Respondent No. 1.

J U D G M E N T
(29.06.2011)

1. The Appellant, Shri Anil Patil, has filed the present appeal praying that the First Appellate Authority (F.A.A.) and Public Information Officer (P.I.O.) be directed to immediately to act on all the irregularities pointed out by the Appellant from time to time after proper verification of all facts and undertaking in respect of this to be obtained from F.A.A. and P.I.O; that the information requested by Appellant be furnished to him fully and correctly without reserving any information to save any person/persons and that any other action be initiated.

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

That the Appellant, vide his application dated 29.04.2010 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 information was not furnished and hence the Appellant preferred the First Appeal. That by order dated 30.07.2010 the F.A.A. directed the P.I.O. to furnish information within 10 days. However, the Respondent No. 1 failed to provide the information. Being aggrieved the Appellant has filed the present Appeal on various grounds as set out in the Memo of Appeal.

3. The Respondents resist the Appeal and their replies are on record. It is the case of the Respondent No. 1 that the Appellant has filed the application dated 29.04.2010 asking for action taken report to stop the nuisance with reference to case filed under section 133 of Cr. P.C. bearing No. PI/MAP/5669/2009 dated 04.06.2009 with all enclosures alongwith other 3 points mentioned in his letter. That this office verified the inward register and it was found that the application referred by the Appellant has been allotted to Joint Mamlatdar V and accordingly transferred the application to Jt. Mamlatdar V however it was informed that the application referred by the Appellant is not traceable in their Court. That the Appellate Authority passed the Order directing to trace the records and issue information to the Appellant. It is the case of the Respondent No. 1 that subsequently their office conducted thorough search and traced out the application referred by the Appellant. That the Joint

Mamlatdar to whom the application has been marked now has undertaken the necessary action in the matter.

It is the case of Respondent No. 2 that on receipt of the Appeal, notices were issued to the parties and after hearing both sides Order was passed. According to Respondent No. 2 no information was furnished within thirty days nor reply was sent to the Appellant within thirty days. According to Respondent No. 2 the Appeal is liable to be dismissed.

4. Appellant has filed the written arguments which are on record. In short, according to the Appellant information was not furnished.

It is seen from the oral submissions and reply of Respondent No.1 that initially it was informed by the officials of Joint Mamlatdar-V that the application of the applicant is not traceable. Subsequently the records were traced out and the application referred by the Appellant was also traced. According to Respondent No. 1, Jt. Mamlatdar-V to whom the application has been marked has undertaken the necessary action in the matter.

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 has been furnished and whether the same is furnished in time?

It is seen that the application is dated 29.04.2010 and the same was received in the office of Mamlatdar on the same day.

From the records it is seen that no information was furnished and as such the Appellant preferred the Appeal before First Appellate Authority. The First Appellate Authority by Order dated 30.07.2010 directed the Respondent/PIO to trace out the file and furnish the information to the Appellant within period of ten days from the date of receipt of the said Order. It appears that the information has not been furnished.

It is the contention of the Appellant that no information is furnished till today.

Records do not show that the Respondent has furnished the information or if any communication was sent to the Appellant. In other words it appears that no information is furnished so far.

5. Appellant contends that no notice was given to him by the F.A.A. properly. According to him notice was issued to remain present on 16.06.2010. However, he received the notice on 19.06.2010 after the date fixed for the hearing was over. I have perused the application dated 22.06.2010 filed before the F.A.A. It is to be noted here that the Appellate Authority should give the notice in advance so that party can remain present. The Appellate Authority to see that in future such things do not repeat.

7. Now it is to be seen whether there is delay in furnishing the information. According to the Appellant till today information is not furnished and that there is delay. According to Respondent No. 1 the file was not traceable and as such there was no delay as such. From

the records it appears that this aspect was not communicated to the Appellant. In any case PIO/Respondent should be given an opportunity to explain the same in the factual matrix of this case. Coming to the prayers in the Appeal, prayer (A) cannot be granted by this Commission as the same is beyond the jurisdiction of this Commission. Prayer (B) is to be granted and regarding delay the Respondent is to be heard on the same.

8. In view of all the above I pass the following Order:-

ORDER

The Appeal is allowed. Respondent No. 1 is hereby directed to furnish the information sought by the Appellant vide his application dated 29.04.2010 within twenty days from the receipt of this Order.

Issue notice under section 20(1) of the RTI Act to Respondent No. 1 to show cause why penalty action should not be taken against him for causing delay in furnishing the information. The explanation, if any, should reach this Commission on or before 09.08.2011.

PIO/Respondent No. 1 shall appear for hearing.

Further inquiry posted on 09.08.2011 at 10:30a.m.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 29th day of June, 2011.

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

