

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 85/SCIC/2011

Mr. Sachin D. Kalokhe,
H. No. 268, Maushe Bhat,
Haliwadd, Penha-de-Franca,
Britona,
Bardez - Goa Appellant

V/s.

- 1) The Secretary,
Public Information Officer,
Village Panchayat of Penha-de-Franca,
Bardez - Goa ... Respondent No. 1.
- 2) First Appellate Authority,
Block Development Officer (I),
Bardez,
Mapusa - Goa Respondent No. 2.

Appellant in person.
Respondent No. 1 in person.

J U D G M E N T
(16.08.2011)

1. The Appellant, Shri Sachin D. Kalokhe, has filed the present Appeal praying that Respondent No. 1 be directed to furnish the correct information to the Appellant as requested in application dated 17.01.2011; that Respondent No.1 and 2 be penalized; to compensate the Appellant for causing hardships, monetary loss, mental tension, stress and agony to the Appellant; to penalize Respondent No. 1 for making mockery of rule of law and not abiding the section of RTI Act by initiating disciplinary action against the Respondent No. 1 and 2 and other relief as mentioned in the Memo of Appeal.

2. The brief facts leading to the present Appeal are as under:-
That the Appellant vide application dated 17.01.2011 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (PIO)/Respondent No. 1. That the Appellant did not receive any information/reply to the said

application dated 17.01.2011 from Respondent No. 1 within one month and hence, the Appellant preferred the Appeal before the First Appellate Authority (FAA)/Respondent No. 2 who, after hearing the parties, passed the Order on 23.03.2011. It is the case of the Appellant that the said Order is vague, incorrect, not specific, not exact, not perfect and not complete. That the Respondent No. 2 directed the Respondent No. 1 to search the records of Village Panchayat and to hand over the information to the Appellant, if any, within 10 days and if not the reply should go to the Appellant regarding unavailability of the information with specific reasons for it. Being aggrieved by the said order the Appellant has preferred the present appeal on the grounds as mentioned in the Memo of Appeal.

3. The Respondents resist the appeal and the reply of Respondent No. 1 is on record. It is the case of Respondent no. 1 that the Respondent No. 1 has taken charge as Secretary of the Village Panchayat Penha-de-Franca in the month of June, 2011 and after going through the records available in the Panchayat, the Respondent No. 1 states that the original application dated 17.01.2011 of the Appellant was vague and unclear. That it gave no idea about the nature of information sought by the Appellant. However, the application was more of general nature calling for legal information already available in the laws. That in order to assist the Appellant the Panchayat vide its notice dated 15.02.2011 advised the Appellant to attend on 17.02.2011 at 11:00a.m. for clarification of certain points. The Appellant duly acknowledged the notice of even date but preferred to skip hearings and avoid to give clarifications which was important to ascertain and furnish information. That it is evident that the Appellant has not come with bonafide intention and to clarify so that information could be furnished. That it appears that the Appellant is not interested to get the information but his aim is to disrupt public administration by making the Staff of Village Panchayat to be preoccupied in the matter by filing frivolous application. On merits it is the case of Respondent No. 1 that the panchayat has

received the application. that the Appellant with malafide intention preferred to deny clarifications as sought by the notice dated 15.02.2011 by attending in person. It is the case of Respondent No. 1 that every citizen is disposed with rights correlated with obligations and the obligation is that the person approaching for information ought to have been specific, clear and lawful. That the Order of Respondent No. 2 is passed on merits. That by letter dated 13.03.2011 the Respondent denies the case of the Appellant as set out in the Memo of Appeal. According to the Respondent the Appellant has not come before the Commission with clean hands and, therefore, the Appeal is liable to be dismissed in limine.

4. Heard the arguments. The Appellant argued in person and the Opponent also argued in person.

According to the Appellant no information is furnished so far. He next submitted that there is delay in furnishing the information. He also referred to the order of FAA as well as reply furnished.

During the course of his arguments the Opponent submitted that the questions are of general nature and not specific and clear. He also referred to the letter calling the Appellant to clarify but the Appellant did not clarify.

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 relief prayed is to be granted or not?

It is seen that by application dated 17.01.2011 the Appellant sought certain information. The information consisted of nine points, i.e. Sr. No. 1 to 9. The information refers to illegal construction in Survey No. 190/16 and other related things. It appears that the Appellant did not receive any information within 30 days hence he preferred the Appeal before the First Appellate Authority/Respondent No. 2. By Order dated 23.03.2011 the FAA observed as under:-

“It is very clear that the respondent has failed to reply or furnish the desired information. Therefore I hereby order the Respondent to search the records of Village Panchayat and hand over the information to the Appellant if any within 10 days. If not then reply should go to the Appellant regarding unavailability of the information with specific reasons for it.”

It is seen that by letter dated 30.03.2011 the Secretary, Village Panchayat Penha-de-Franca furnished the information. According to the Appellant the said information is vague, misleading, etc.

6. According to the Respondent No. 1 the information was of general nature and that by letter dated 15.02.2011 the appellant was called for clarification on some points. However he did not turn up. I have perused the said letter which is on record.

I have also perused the application of the Appellant. In my opinion the same needs some clarity. The records are not on the basis of survey number. Therefore some clarification regarding name, etc, is required to be furnished.

7. Now it is to be seen whether there is delay. According to the Appellant there is delay. Whereas according to the Respondent there is no delay.

The application is dated 17.02.2011 and the reply is furnished on 30.03.2011, i.e. after the order passed by FAA/Respondent No. 2. Apparently there is some delay. Respondent has also produced letter dated 15.02.2011 which is on record. In any case to my mind the PIO should be given an opportunity to explain about the same.

8. In view of the above, I am of the opinion that applicant/Appellant to furnish the clarification regarding name of the person/persons, etc. as required by PIO and then PIO to furnish the information. Regarding delay the Respondent No. 1 is to be heard on the same. Hence, I pass the following Order:-

ORDER

The Appeal is allowed. The Appellant to furnish the clarification regarding names, etc. within 5 days from the date of receipt of the order and thereafter the Respondent No. 1 to furnish the information within 20 days from the date of receipt of the clarifications from the Appellant.

Issue notice under section 20(1) of the RTI Act, 2005 to the Respondent No. 1 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 04.10.2011. The Public Information Officer/Respondent No. 1 shall appear for hearing.

Further inquiry posted on 04.10.2011 at 10:30 a.m.

The Appeal is accordingly disposed off.

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

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

