

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 190/SCIC/2010

Mr. Arun D. Naik,
Fitter,
River Navigation Dept.,
Betim,
Bardez - Goa

.... Appellant

V/s.

1) Captain of Ports,
First Appellate Authority,
Office of the Captain of Ports,
Panaji - Goa

.... Respondent No. 1.

2) Public Information Officer,
Administrative-cum-Accounts Officer,
River Navigation Department,
Betim - Goa

.... Respondent No. 2.

Appellant in person.

Respondent No. 2 in person.

J U D G M E N T
(26.09.2011)

1. The Appellant, Shri Arun D. Naik, has filed the present Appeal praying that records and proceedings before Respondent No. 1 and Respondent No. 2 be called for; that the Respondent No. 2 be directed to furnish the information sought by the Appellant free of charge; that Respondent No. 1 and Respondent No. 2 be individually held under disciplinary action for deliberately giving wrong, incomplete and misleading information and obstruct the access of the information as sought by this Appellant; that penalty be imposed on Respondent no.1 and Respondent No. 2 and that the Appellant to be compensated by way of money for the harassment, mental torture caused to him thus making the Appellant to struggle for his own income/pending dues of overtime arrears for the last more than eight years as the information was not furnished to this Appellant in time.

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

That the Appellant is an employee of Respondent No. 1 and Respondent No. 2 working in River Navigation Department, Marine Workshop at Betim,

Bardez-Goa since April 1990 till date on permanent post. That the Appellant, vide application dated 11.05.2010, sought certain information under Right to Information Act, 2005 ('RTI Act' for short) from the Public Information Officer (PIO)/Respondent No. 2. That by reply dated 02.06.2010 the Respondent No. 2 informed the Appellant that the file in the matter has been misplaced in the Accounts section of the Department and is being traced. It was also informed that the details as called for will be made available no sooner the file is traced. That being aggrieved by the inaction of the Respondent No. 2 the Appellant preferred Appeal before the First Appellate Authority (FAA)/Respondent No. 1. That Respondent No. 1 heard the matter and after hearing the arguments Respondent No. 1 orally gave directions to the PIO/Respondent No. 2 to furnish the information/certified copies of documents to the Appellant within 8 days. That on 13.07.2010 the Appellant was asked to receive an order passed by the Respondent No. 1 in the subject matter since the said order was assumed to be mere an ex parte order. That inspite of the order the Respondent No. 2 knowingly and with malafide intention furnished incorrect and misleading information to the Appellant on 29.07.2010. That the same was in respect of one Mr. Joaquim S. D'Souza and not of the Appellant. Being aggrieved by the Order of FAA the Appellant has preferred the present Appeal on the grounds as set out in the Memo of Appeal.

3. The Respondents resist the Appeal and their replies are on record. In short it is the case of Respondent No. 1 that he heard the Appeal and PIO was directed to trace the file and submit information to the Appellant.

It is the case of Respondent No. 2 that reply to the application of the Appellant dated 11.05.2010 was given within time limit by letter dated 02.06.2010. That the reply was given on the basis of the information supplied by the subordinate authority, i.e. Accounts Section of the Department who is dealing with the matters. Respondent No. 2 denies that it is a vague reply. That memo was issued to the concerned Section Officer to trace the missing file on priority for taking the necessary action. That by letter dated 19.07.2010 it was informed by the Accounts Section that the file has been traced out and copy of the notings was furnished to PIO. That the said copy of the notings was forwarded to the Appellant

vide letter dated 29.07.2010. Respondent No. 2 denies that misleading/incorrect information was furnished to the Appellant. It is the case of the Respondent No. 2 that the information available as on date was available to the Appellant and that it was collective information of many employees. It is further the case of Respondent No. 2 that it felt that the Appellant does not require information but he wants action in the matter and the action in the matter is being taken by the concerned authority and the same is under process. According to Respondent No. 2 Appeal is liable to be dismissed.

4. Heard the Appellant as well as Respondent No. 2. Detail written arguments of the Appellant are on record.

During the course of arguments Appellant submits that the Respondent No. 2 has deliberately furnished incorrect, incomplete and misleading information whereas according to Respondent No. 2 actual information as available has been furnished.

5. Since information is furnished no intervention of this Commission is required.

6. The main grievance of the Appellant is information that is furnished is incomplete, incorrect and misleading. According to Respondent No. 2 whatever information is available has been correctly furnished.

It is pertinent to note here that purpose of the RTI Act is per se to furnish information. Of course, the 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 Opponent's claim. The information seeker must feel that he got the true and correct information otherwise purpose of RTI Act would be defeated. It is to be noted here that mandate of RTI 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 and incomplete. The object 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 RTI Act.

7. In view of all this since information is furnished no intervention of this Commission is required. The Appellant should be given an opportunity to prove that 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 incomplete, incorrect, misleading, etc.

Further inquiry posted on 28.10.2011 at 10:30a.m.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 26th day of September, 2011.

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

