

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal No.43/SCIC/2011

Shri G.D. Phadte,
898, Nila Niwas, Alto Torda,
Porvorim P.O. 403 521.

...Appellant

V/s

1. The Public Information Officer,
Administrator of Comunidades,
North Zone, Mapusa-Goa

....Respondent no.1

2. The First Appellate Authority,
Additional Collector-II(North),
Panaji-Goa.

... Respondent No.2

Appellant present

Adv. Shri K.H. Bhosale for Respondent No.2

Respondent No.2 absent

JUDGEMENT

(05-10-2011)

1. The Appellant, Shri G.D. Phadte, has filed the present appeal praying that the P.I.O. be directed to furnish the information, that penalty be imposed and disciplinary action be initiated.

2. The gist of Appellants case is as under:

That the Appellant, vide application dated 20/09/2010, sought certain information under Right to information Act (R.T.I. Act for short) from the Public Information Officer (P.I.O.)/ Respondent No.1. That the P.I.O./Respondent No.1 failed to provide the requested information. Hence the appellant preferred the appeal before the First Appellate Authority (F.A.A.). That the F.A.A. failed to dispose the Appeal as provided in section 19(6) of the R.T.I. Act. Being aggrieved the Appellant has preferred the present Appeal.

3. In pursuance of the notice Adv. Shri K.H. Bhosale appeared and filed the written submission which is on record. In short it is the case of the Respondent No.1 that on receipt of the application the assistance of the Registrar/Attorney of the said Comunidade was sought under section 5(4) of R.T.I. Act vide letter dated 28/09/2010

as the requested information was with the said Comunidade. That as the office of the Comunidade was sealed upon the orders of the Collector of North Goa, Panaji on 22/10/2010 and as such no information was received from the said Registrar/Attorney of the Comunidade de Serula on the subject matter and hence no information could be furnished to the Appellant. That these facts were brought to the notice of the F.A.A. and as such matter was disposed off. It is further the case of the Respondent no.1 that the P.I.O./Respondent has not denied the information with any malafide intention on the contrary he has shown his positive ness by seeking the information from the Secretary/Attorney of comunidade of Serula and as such comes under the protection of section 21 of R.T.I Act 2005.

4. Heard the arguments. The appellant argued in person and the learned Adv. Shri K.H. Bhosale argued on behalf of the Respondent No.1 Appellant also filed written arguments.

During the course of his arguments the learned Adv. Shri Bhosale submitted that the records are in the comunidade and that the comunidade is sealed.

In reply the Appellant submitted that no information is furnished and that there is delay in furnishing information.

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, vide application dated 20/09/2010, the Appellant sought certain information from the P.I.O./Respondent No.1 by letter dated 28/09/2010, the P.I.O./Respondent No.1 sought the information under section 5(4) of the R.T.I. Act and copy of the said letter was sent to the appellant . It appears that information was not furnished and hence the appellant preferred the First

Appeal. By order dated 11/04/2011, the F.A.A. ordered as under: -

“ In view of the above, the Respondent is hereby directed to dispose of the Appellants application dated 20/09/2010, in its right perspective by furnishing the information, including the inspection sought by the Appellant as per the records available with his office and if need arise to obtain the same from the office of the Serula Comunidade keeping in mind the recent development, within 15 days from the receipt of this order.”

The grievance of the appellant is that no information has been furnished so far and that order of F.A.A. is also not complied with.

6. It is seen that Appeal was filed on 19/11/2010. Under R.T.I. the Appeal ought to have been disposed within 30 days or within 45 days with reasons. It appears that the same is disposed by order dated 11/04/2011. No doubt there is delay. F.A.A. is not covered by the penal provision. In any case F.A.A. to see that time scheduled is maintained. In any case the said order dated 14/01/2011, stands the same is not challenged. The Respondents No.1 has to comply with the same. It is also submitted that the Comunidade is not sealed and that phase is over.

7. The Appellant submits that there is delay Apparently there is delay. However to my mind the Respondent no.1 /P.I.O. as well as Escrivao/Attorney. Comunidade de Serula, Bardez Goa, should be given an opportunity to explain about the same in the factual backdrop of this case.

8. In view of all the above, the Respondent No.1 to furnish the information as available with his office and also to obtain the same from the office of Serula Comunidade. Regarding the delay parties are to be heard on the same. Hence I pass the following order:

ORDER

The Appeal is allowed. The Respondent No.1 is directed to furnish the information to the Appellant vide his application dated 20/09/2010, as per the records available with his office and also obtain the same from the office of Serula comunidade within 30 days from the receipt of this order and report compliance.

Inspection be given on a mutually agreed date.

Issue notice under section 20(1) of Right to information Act to Respondent No.1/P.I.O. and Escrivao/Attorney Comunidade de Serula, Bardez-Goa, to show cause why penalty action should not be taken against them for causing delay in furnishing information, Reply, if any, should reach the commission on or before 28/11/2011. The P.I.O./Respondent No.1 and Escrivao/Attorney Comunidade-de Serula, Bardez-Goa, shall appear for hearing.

Further inquiry posted on 28/11/2011 at 10.30 a.m.
Copy of order be sent to the Escrivao/Attorney of Comunidade de Serula, Bardez-Goa .

Appeal is accordingly disposed off.
Pronounced in the Commission on this 5th day of October 2011.

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