

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.83/SCIC/2010

Shri Mahesh D. Vaigankar,
R/o.304, Madhalawada,
Harmal, Pernem - Goa

... Appellant.

V/s.

1. The Public Information Officer,
US (GA-1), Secretariat,
Porvorim – Goa
2. The First Appellate Authority,
Joint Secretary (GA),
Secretariat, Porvorim – Goa
3. The Executive Engineer,
Works Division XIII,
(PIO) PWD, Mapusa-Goa
4. O.S.D. to Chief Minister
Office of Chief Minister
Government of Goa
Secretariat, Porvorim-Gos

... Respondents

Appellant absent. His representative S.D. Vaigankar

Respondent absent.

Adv. K. L. Bhagat for respondent No.1

J U D G M E N T
(03/01/2012)

1. The Appellant, Mahesh D. Vaigankar, has filed the present appeal praying that appeal be allowed and the respondent No.3 be directed to furnish the information as per order of First Appellate Authority(F.A.A.); that the respondent No.1 and 4 be directed to pay fine as applicable and that respondent No.1 and 3 may be recommended for disciplinary action under service rules applicable to them.

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

That the appellant, vide an application dated 17-9-2009, sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer(P.I.O.) office of Hon'ble Chief Minister, Government of Goa. That the appellant received letter dated 6/10/2009 from respondent No.4(O.S.D. to Chief Minister) informing that the respondent No.1(Under Secretary (GA-1), Secretariat, Porvorim) had been appointed as P.I.O. for the office of Chief Minister and hence the application in original forwarded to him for necessary action. That on 9/12/2009 the appellant filed the First Appeal dated 27/11/2009 to the First Appellate Authority (Respondent No.2). That after hearing the parties the F.A.A. passed the order on 22/12/2009. That on 22/12/2009 the appellant received the information for point No.1 and 2 of the application. Since information is not furnished to point No.3 to 20, the appellant has filed the present appeal.

3. The respondents resist the appeal and reply of respondent No.1 and 3 are on record. It is the case of respondent No.1. that the appellant vide application dated 17/9/2009 which was received on 25/9/2009 sought information in respect of letter dated 22/9/2008 of Shri Sadanand D. Vaigankar which was received in the office of the Chief Minister on 23/9/2008 in which information on 20 points was sought. That the said application dated 17/9/2009 was forwarded to the P.I.O. by OSD to C.M. vide his letter No.OSD/CM/2009/9712 dated 6/10/2009 under intimation to the appellant, which was received by P.I.O. on 7/10/2009. That the OSD to C.M. vide letter No.OSD/CM/2009 dated 3/3/2009 had forwarded the letter dated 22/9/2008 of Shri Sadanand D. Vaigankar to the Principal Chief Engineer, P.W.D. Altinho, Panaji-Goa under intimation to Shri Sadanand D. Vaigankar, as the information sought was pertaining to that Department. That since the matter was pertaining to the Executive Engineer, W.D. XIII (PWD), Mapusa, who is P.I.O. the said letter dated 17/9/2009 of Shri Mahesh D. Vaigankar was transferred to the said P.I.O. Vide letter No.36/6/2009/RTI/GAD-III dated 8/10/2009 under sec.6(3) of the R.T.I. Act, 2005, copy of which was endorsed and sent to the

appellant, informing him the status of the letter dated 22/9/2008 of Shri Sadanand Vaigankar, that it was transferred to the Principal Chief Engineer, P.W.D. Altinho, Panaji-Goa by the office of the C.M. vide letter dated 3/3/2009. That the appellant, however, preferred First Appeal in which he denied of having received the said letter dated 8/10/2009. That the said letter was sent to P.I.O./Exe. Engineer W.D. XIII by Regd. Post, however, it was sent to appellant by ordinary post. That the F.A.A. disposed off the appeal. That the contention of appellant about delay is not correct. That the letter sent was received by the appellant. That there was no malafide intention in sending the letter by ordinary post. That whatever information available was furnished and the remaining request was transferred to P.W.D. That the appellant is not entitled for any relief against the respondent No.1.

It is the case of respondent No.3 that the transfer of the letter to respondent No.3 is not correct. That respondent No.3 is in no way in position of having those details sought for and that respondent No.3 is not even aware of the said letter of Shri Sadanand D. Vaigankar. It is further the case of respondent No.3 that he as P.I.O. never refused to part with any information available in his office giving due respect to the provisions of the R.T.I. Act.

According to respondent No.3 his name be deleted from the present appeal.

4. Appellant remained absent. His representative Shri Sadanand D. Vaigankar remained present for some hearings, however, he too remained absent.

5. Heard Adv. K. L. Bhagat for respondent No.1 and also representative of appellant on one occasion.

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 17/9/2009, the appellant sought certain information from the P.I.O. O/o. Hon'ble Chief Minister, Government of Goa. The said application was received on 24/9/2009. The application consisted of 20 items i.e. No.1 to 20. By letter dated 6/10/2009 the OSD to Chief Minister informed the appellant that the Under Secretary (GA-I), Secretariat, Porvorim has been appointed as P.I.O. for the Office of the Chief Minister and hence his letter in original is being forwarded to him for necessary action.

By letter dated 8/10/2009 the P.I.O./Under Secretary (GA)/respondent No.1 transferred the said request/application dated 17/9/2009 to respondent No.3 and copy of the same was sent to the appellant as well as Principal Chief Engineer, P.W.D. Altinho, Panaji-Goa.

It appears that appellant in the meantime preferred an appeal before First Appellate Authority(F.A.A.) respondent No.2 herein. By order dated 22/12/2009 the F.A.A. observed as under :-

“.....
..... the respondent/P.I.O. should take in mind that the information furnished is under R.T.I. Act which is beneficial legislation for the citizen and should ensure that all the action in this matter is transparent hence forth P.I.O. shall furnish the information by Registered Post so that no inconvenience caused to the citizens.

Since the action of the P.I.O. is in good faith, the First Appellate Authority of P.I.O./Ex. Eng. W.D. XIII may condone the delay in filing of First Appeal by the present appellant if desires to do so.

As far as transferring of appeal by First Appellate Authority there is no such provision under Right to Information Act, 2005.

With this observation the appeal is disposed off as complied with.

.....”

It appears that the appellant did not file the appeal before the First Appellate Authority(F.A.A.) of P.I.O./respondent No.3. In stead he filed the present appeal.

7. It is seen that the application was transferred to respondent No.1. He furnished information in respect of item No.1 and 2 and then transferred the application to respondent No.3. Respondent No.3 in his reply states that he is in no way in position of having those details sought for and further states that in fact he is not even aware of the said letter of Shri Sadanand D. Vaigankar.

From the sequence mentioned above it appears that the application has not been transferred to the proper authority. The appellant on his part also did not file the appeal before F.A.A. of P.I.O./Respondent No.3 In any case, I am of the opinion that the application first should go to the proper authority who has the said information.

Without touching to the merits of the case, I am referring back the matter to the respondent No.1. The respondent No.1 to see and transfer the said application U/sec.6(3) of the R.T.I. Act to the authority with whom the information is and inform the appellant about the same and the appellant to follow the same. Parties concerned to take note of the statutory period prescribed under the Act.

8. In view of the above, I pass the following order :-

ORDER

Application dated 17/9/2009 of the appellant is sent back to the respondent No.1 and the respondent No.1 to transfer the same U/sec.6(3) of the R.T.I. Act within 5 days from the receipt of this order to the concerned Authority and inform the appellant and the appellant to deal with the same accordingly. The concerned authority having information to dispose the application on its receipt in accordance with the provisions of the R.T.I. Act.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 3rd day of January, 2012.

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

