

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal -131-SCIC-2011

Shri Bandhagit Nadaf,

No.9, 3rd floor, Karma Paes Avenue,
F-1, Gomes, Vasco-da-Gama-Goa.

...Complainant

V/s

1) The Public Information Officer,
Mormugao, Municipal Council,
Vasco-Da-Gama, Goa.

... Opponent No. 1

2) First Appellate Authority,
Directorate of Urban Development,
Collectorate Building, Panaji-Goa.

.... Opponent no.2

JUDGEMENT

(16-01-2012)

1. The Appellant, Shri Bandhagit Nadaf, has filed the present appeal praying that the information as requested by the complainant be furnished correctly and free of cost as per section 7(6); that penalty under section 20 be imposed on the P.I.O. Chief Officer, Mormugao, Municipal Council, Vasco, for knowingly denying the information to the Appellant /Complainant with malafide intention; that full compensation be granted and that Information and inspection of documents may be allowed as per rules.

2. The brief facts leading to the present appeal are as under;-

That the Appellant/Complainant, vide an application dated 24/12/2010, 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 P.I.O. failed to furnish complete and detailed Information. That P.I.O. failed to furnish the required information. Being aggrieved the Appellant preferred an appeal before the First Appellate Authority. By Order dated 29/04/2011, the First Appellate Authority directed the P.I.O./Chief Officer M.M.C., Vasco to furnish the information required by the Appellant within 10 days from the date of order i.e 29/04/2011, without charging fees. It is the case of the Appellant that no information was furnished in pursuance of the said order. Being aggrieved the Appellant has preferred the present appeal on various grounds as set out in the Memo of Appeal.

3. The Respondent resists the appeal and their reply is on record. In short it is the case of the Respondent no1 that the complaint filed by the Complainant is not maintainable in law as well as on the facts, and the same has to be dismissed in limine. That the complaint is devoid of material

particulars required for complete adjudication of the controversy. That this commission has no jurisdiction to entertain the present complaint. That the complaint/appeal is barred by limitation. On merits it is the case of the Respondent no.1 that the appellant had moved an application dated 24/12/2010, 18/01/2011, under the R.T.I. act 2005 and had sought information on three major aspects of the Hon'ble High court order in writ petition no.148/97 related to illegal encroachment on the public footpath Vasco-da-Gama, Goa. That whatever information was available with the respondent was provided to the Appellant and that no further information was available with Respondent. That it is true that the Appellant has preferred the First Appeal dated 14/03/2011 before the first Appellate Authority/Respondent No.2. By order dated 29/04/2011, the F.A.A. directed the Respondent No.1 to furnish the information required by the Appellant within 15 days from the date of the order without charging fees. The Respondent no.1 denies that respondent did not comply with the order, since there was no more information available with the Respondent and that the respondent was unable to provide more information. It is the case of the Respondent No.1 that whatever information was available was provided to the appellant. The Respondent no.1 denies the grounds made out in the memo of appeal as false and incorrect. That the appellant/Complainant is not entitled for any reliefs as claimed by him in the complaint/appeal. According to the Respondent no.1 the appeal/complaint be dismissed.

It is the case of the respondent no.2 that the appeal was filed. He issued notice to both the parties and after hearing them the order was passed.

4. Heard the argument. The complainant argued in person and the learned Adv. Shri H. Khilji argued on behalf of the Respondent No1.

5. I have carefully gone through the records of the case and also considered the argument 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 24/12/2010 and 18/01/2011, the Appellant sought certain information., By reply dated 4/1/2011 and 16/2/2011, the Respondent No.1 furnished the information. Being not satisfied the Appellant preferred an appeal before the First Appellate Authority. By order dated 29/04/2010, the Appellant observed as under:-

“ The Appellant has sought information vide letter dated 18/01/2011 on three major aspects of the High Court order.

The Respondent has not furnished complete and detailed reply specific to the issues raised in the R.T.I. application.

The Respondent shall furnish complete and detailed information as per the office records to the Appellant within a period of 15 days from the date of order i.e 29/04/2010 without charging fees.”

From the records, it is seen that no information appears to have been furnish in pursuance of this order. This order has not been challenged and therefore the same stands. The Respondent No.1 will have to comply with the same.

6. The Appellant contends that there is delay in furnishing information. This is disputed by the Adv. for the Respondents No.1 According to the Adv. for the Respondent No.1 initial information is furnished in time and there is no delay as such. According to the Appellant there is delay in complying with the order of the First Appellate Authority. In any case to my mind the Respondent No.1/P.I.O. should be given an opportunity to explain about the same in the facts and circumstances of this case.

7. In view of the above, the Respondent No.1 will have to comply with the order of the F.A.A. Respondent No.2 The Respondent No.1 should be heard on the aspect of delay. Hence I pass the following orders:-

ORDER

The Appeal/Complaint is allowed. The Respondent No.1 is hereby directed to comply the order of the F.A.A./ Respondent No.2 and /or furnish to the Appellant the information sought by him vide application dated 24/12/2010 within 20 days from the receipt of this order.

Issue notice under section 20(1) of the Right to Information Act 2005, to the Respondent No.1/P.I.O. to show cause why penal action should not be taken against him for causing delay in furnishing information/Complying with the order of F.A.A./Respondent No.2. The explanation, if any should reach the Commission on or before 12/03/2012.The Respondent No.1/P.I.O. shall appear for hearing.

Further inquiry posted on 12/03/2012 at 10.30 a.m. Appeal/Complaint is accordingly disposed off.

Pronounced in the Commission on this 16th day of January, 2012.

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