

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal No. 196/SCIC/2011

Shri Oswald Rodrigues,
H. No. 291, Ultima Parte,
Calata, Majorda,
Salcete - Goa

.... Appellant

V/s.

1) Public Information Officer,
Office of Village Panchayat
Majorda-Utorda-Calata,
Majorda,
Salcete – Goa

.... Respondent No.1

2) Block Development Officer,
Mormugao Block,
Vasco-da-Gama - Goa

.... Respondent No. 2.

Appellant in person.

Respondent No. 1 in person.

J U D G M E N T
(11.04.2012)

1. The Appellant, Shri Oswald Rodrigues, has filed the present Appeal praying as under:-

1. Decision under Right to Information is not received within specific period;
2. The valuable time of the Appellant wasted to run up and down to get the information;
3. That penalty be imposed under Section 20 of the RTI Act and Appellant be compensated;
4. Also to note the Proceeding Sheet attached herewith that the order passed without presence of the Appellant and Respondent.

2. The case of the Appellant as set out in the Memo of Appeal is as under:-

The Appellant states that the order passed by the Block Development Officer Mormugao Block, Vasco-da-Gama Goa Case No. 33/Under

R.T.I./B.D.O./MOR/2011-2012/1639 dated 04.08.211 sent through V.P. Peon, received by him on 3rd September 2011 and has prayed therein for setting aside. The Appellant states that the letter sent by P.I.O., V.P. Majorda-Utorda Calata, Majorda Salcete Goa dated 27.08.2011, stating that the order passed by the B.D.O. Mormugao on 27.08.2011, received by him through speed post dated 27.08.2011 without stamp from respective office, please note the difference of the dates of order.

Thus the Appellant has filed the present Appeal.

3. The Respondents resist the Appeal and their replies are on record. In short it is the case of the Respondent No. 1 that the Appeal filed by the Appellant is untenable in law, as the same is filed with malicious motives. The Appeal, therefore, deserves to be dismissed. That on request of the Appellant certified copies of the minutes of the meeting held on 16.05.2011 were kept ready to be delivered to the Appellant. Accordingly by letter dated 10.06.2011 the Appellant was requested to collect the certified copies of the said letter issued by the P.I.O. That the Appellant came to the Panchayat Office on 22.06.2011 to collect the certified copies of the said letter and after reading and going through the said minutes he refused to pay the certified copy charges as required, as the certified copy of the minutes is still with the office of the Panchayat. It is the case of the Respondent No.1 that as per order of the First Appellate Authority dated 04.08.2011 the Appellant was informed that the certified copies of the minutes of the meeting dated 16.05.2011 is kept ready and to collect the same vide letter dated 27.08.2011. According to the Respondent No. 1 appeal is liable to be dismissed.

It is the case of Respondent No. 2 that the Appeal filed by the Appellant is untenable in law, as the same is filed with malicious motives and the appeal, therefore, deserves to be dismissed. That the Respondent no.2 had passed an order in the appeal filed by the Appellant and directed the Respondent No.1 to furnish the information within a period of 3 days of the receipt of the order. Respondent No.2 states that if any delay is caused in communicating the order the same was as Respondent was AERO for 27-Cortalim Assembly Constituency and during this period AERO was busy in work of Rationalisation of Polling Stations and Election work is time bound activity and it should be given top priority so delay if any may be condoned.

That the Appeal is filed by malicious motives and that the same be dismissed.

4. Heard the Appellant and Respondent No. 1.

According to Appellant there is delay in receiving the letter from the P.I.O. He next contended that order of First Appellate Authority is received much late and the same is passed in the absence of parties.

During the course of his arguments Respondent No.1 submitted that the Appellant refused to accept the letter calling to collect the information. Even after the order of First Appellate Authority the Appellant did not collect the 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 information is furnished and whether the same is furnished in time.

It is seen that by letter dated 17.05.2011 the Appellant sought certain information from the Respondent No.1. It is seen that the said letter was received in the office of V.P. on 17.05.2011 as can be seen from the acknowledgement in token of having received the same. The information consisted of five points i.e. point No. A to E. By letter dated 10.06.2011 the Respondent No. 1/P.I.O. furnished the information in respect of point No. B to E. Regarding point No. A the Appellant was informed to collect the same on payment of necessary certified copy charges. It appears that the Appellant did not collect the same.

It is seen that on 28.06.2011 the Appellant preferred an appeal dated 28.06.2011 before the B.D.O., First Appellate Authority/Respondent No. 2. The First Appellate Authority/Respondent No. 2 passed the order dated 04.08.2011 as under:-

“The Appeal is allowed. Respondent Public Information Officer V.P. Majorda, Utorda Calata, is hereby directed to furnish detailed information sought by the Appellant pointwise vide his letter dated 17.5.2011, within three days from the receipt of this order.”

It is seen from the record that by letter dated 27.08.2011, the letter sent by speed post to the Appellant, the P.I.O. informed the Appellant that

the information kept ready i.e. certified copies of minutes of meeting dated 16.05.2011 and further requested to collect the same during office hours from V.P. Staff or P.I.O. Thereafter on 14.09.2011 the present Appeal is filed.

6. From all the above it is seen that first letter which was sent by P.I.O. was in time. On insistence of the Appellant this Commission checked the register to see whether the same was sent in time. It is a different matter that Appellant received the same on 18.06.2011. It appears that there was lack of interest on the part of Appellant in receiving information, which should have been his primary concern. It is to be noted here that under R.T.I. Act one can get the information and not the redressal of any grievance as R.T.I. is not a grievance redressal forum.

7. Now coming to the aspect of information. Item A refers to Minutes of General Body Meeting held on 16.05.2011. This was given to the Appellant. Appellant wanted copies of the original. Again the same were given to him. He in the Commission took the same then gave back. So there is no point in giving again. However, I leave it to the Appellant to take the same if he so desires.

Regarding Item B to E. P.I.O. replied as under:-

“The term information under R.T.I. Act 2005 does not include answer to the question.”

I partly agree with this. To my mind Item C, D and E is concerned, reply may be true. Normally Appellant cannot ask why, etc.

But as far as item B is concerned the P.I.O./Respondent No.1 can furnish information as to action taken on the said letter referred therein.

8. Appellant has contended about order of the F.A.A. According to him he was not informed. I have perused the Roznama dated 22.07.2011, 03.08.2011 and 04.08.2011. Though R.T.I. Act does not mention about hearing before F.A.A. yet principles of natural justice do require that parties be heard. F.A.A. to see that parties are heard.

Second grievance of the Appellant is about serving the copy. According to him copy of the order was not given to him but he had asked

for the same. Respondent No. 2/F.A.A. to see the same and see that copies are given to both at the same time.

9. Another contention of the Appellant is about delay. According to him he received the letter late i.e. on 18.06.2011 so there is delay of one day and the Respondent P.I.O. be penalized.

No doubt Section 20 of the R.T.I. Act provides for penalty.

Section 20 lays down as under:-

“20. Penalties. – (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information with the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

The Section uses the word “without any reasonable cause”. That means if there is no reasonable cause then only penalty can be levied. In the case before me as per the showing of the Appellant letter of 10.06.2011 he received on 18.06.2011. If it is so then this cannot be attributed to P.I.O. Therefore the same comes within the meaning of “reasonable cause.”

Apart from all this, since the Appellant did not receive the information as per the letter, from his side and consequently information has not been furnished it would not be proper to proceed against the P.I.O. under Section 20 of the R.T.I. Act as the issue had remained open-ended. Besides, delay of one day is on account of postal authority.

10. It is to be noted here that R.T.I. Act is for transparency, openness and accountability. The spirit behind the same is to furnish information – information correct to the core. It is for the citizens to take benefit of such sunshine legislation.

11. In view of all the above, I pass the following Order:-

ORDER

Appeal is partly allowed. The Respondent No. 1/P.I.O. is hereby directed to furnish the information to the Appellant in respect of Item/point B of his application dated 17.05.2011 i.e. to say **“action, if any, taken on the letter issued by Town and Country Planning Department, Margao Goa dated 06.05.2011**” within 15 days from the receipt of this Order.

Needless to add that item/point A has been furnished as mentioned hereinabove.

Appeal is accordingly disposed off.

Pronounced in the Commission on this 11th day of April, 2012.

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