

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.173/SCIC/2011

The Secretary,
(Public Information Officer)
Village Panchayat of Candolim
Bardez-Goa

... Appellant.

V/s.

1. Mr. John Baptist Sequeira,
R/o.H.No.1040
Escrivao Vaddo,
Candolim, Bardez-Goa
2. Block Development Officer-I,
Bardez, Mapusa, Goa

... Respondents

Appellant absent. His Adv.Shri A. F. D'Souza present.
Respondent No.1 along with Adv. A. Mandrekar present.

J U D G M E N T
(30/03/2012)

1. The Appellant, Secretary/P.I.O. Village Panchayat Candolim has filed the present appeal praying that the impugned order be quashed and set aside and the appeal be allowed and other reliefs as mentioned in the memo of Appeal.

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

That the respondent No.1, Shri John Baptista Sequeira, filed an appeal bearing No.524/2011/3422 which came up for hearing on 22/7/2011 at 11.00 a.m. before the lower Court, on which date Adv. M. D'Souza and respondent No.1 were present in person.

That Adv. A. F. D'Souza is the advocate appointed by the Panchayat as its legal advisor and to represent the Panchayat. That the next date was given as 4/8/2011 as the Presiding officer had some meeting. That on 4/8/2011 as Adv. M. D'Souza had another matter in the Civil Court and attended the lower court a little late at about 11.20 a.m. and was shocked to learn that orders were already passed in the above appeal. That the respondent (appellant herein) was not even given an opportunity of filing written arguments. That the Lower Court has acted in the undue haste and contrary to the law in not even affording a proper hearing to the respondent(appellant). Being aggrieved by the said order dated 4/8/2011, the appellant has preferred the present appeal on various grounds as set out in the Memo of Appeal.

3. In pursuance of the notice issued, the respondent No.1 along with his Advocate Shri A. Mandrekar appeared. The respondent No.1 did not file any reply, however, advocate for the respondent No.1 advanced arguments.

4. Heard the learned Adv. A. F. D'Souza and the learned Adv. Shri A. Mandrekar.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the advocates for the parties.

It is not in dispute that the respondent No.1 filed an application seeking information. It is also not in dispute that First Appeal was preferred and the same was disposed by order dated 4/8/2011.

The only grievance of the advocate for appellant is that respondent i.e. appellant herein was not given an opportunity to file even written arguments and that the principle of Audi Alterem Partem have been trammled upon.

6. It is to be noted here that though Sec.19(1) of the R.T.I. Act does not mention about hearing yet principles of natural justice require the parties should be given a fair opportunity of being heard. The F.A.A./respondent No.2 ought to have given an opportunity to the appellant herein.

I am of the opinion that P.I.O. ought to have been given an opportunity of being heard. Only with this view and by consent of the parties, I am inclined to remand the matter back to the F.A.A. to decide the same afresh after giving an opportunity of hearing to the parties.

7. It is to be noted here that this appeal is not decided on merits but by consent of parties. This Commission earlier decided otherwise in matters preferred by P.I.O.s.

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

ORDER

The appeal is allowed. The order of the F.A.A. is set aside and the matter is remanded back to the F.A.A./respondent No.2 to decide the same afresh after giving the fair opportunity of hearing to both the parties.

Needless to add that the matter be disposed off within 30 days from the date of receipt of this order.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 30th day of March, 2012.

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