

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.108/SIC/2010

Engr. Rabindra A. L. Dias,
Dr. Pires Colony, Block 'B',
Cujira, St. Cruz, Tiswadi – Goa.

... Appellant

V/s.

1. The Public Information Officer,
O/o. the Margao Municipal Council,
Margao, Salcete, Goa
 2. The First Appellate Authority,
O/o. the Director of Municipal Administration
Panaji, Goa
- ... Respondents

Appellant present.

Respondent No.1 and 2 absent.

Adv. S. G. Naik for respondent No.1 present.

J U D G M E N T
(25/04/2012)

1. The Appellant, Shri (Engr.) Rabindra A. L. Dias, has filed the present appeal praying that the Commission be pleased to take cognizance of the purported submissions made on behalf of the respondent No.1, who knowingly has given incorrect, incomplete and misleading information; that the respondent No.1 has not abided as per Sec.7(1) and 19(9) of the R.T.I. Act, 2005; that cognizance be taken that the Junior Engineer, was representing respondent No.1 without authority and that respondent No.1 directed Junior Engineer to act on his behalf without authority; that the respondent No.2 had not abided as per Sec.19(9) of the R.T.I. Act; that respondent No.1 and 2 be penalized and the appellant be compensated.

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

That the appellant, vide letter dated 29/1/2010, 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 as the respondent No.1 had not complied with the request of the appellant, within the stipulated period as per Sec.7(1) under R.T.I. Act 2005, the appellant preferred an appeal to the First Appellate Authority (F.A.A.)/respondent No.2. That it is evident that the respondent No.1 did not abide as per Sec.7(3) of the R.T.I. Act. That the P.I.O. was represented by a Junior Engineer without authority which was objected by the appellant before the course of hearing, scheduled on 9/4/2010 which was set aside by F.A.A. It is the case of the appellant that the respondent No.1 had not furnished the information sought within the stipulated time of 30 days and is aggrieved by the same. Hence the present appeal on the grounds as set out in the memo of appeal.

3. The respondents resist the appeal and the reply of respondent No.1 is on record. In short it is the case of the respondent No.1 that the appellant has been harassing the respondent No.1 by raising irrelevant, vague and general queries. That the survey plan bearing chalta No.6, 7 and 9 of the P.T. Sheet No.242 are available with the City Survey Office, as also the Form B/D of the said chalta numbers are available with the City Survey Office. That similarly queries raised at Sr. No.8, 9 and 10, 16, 44, 45, 47 and 48 etc are vague and general. That the information sought by the appellant pertains to construction license issued in 1987. That the office of respondent No.1 was renovated some time back and all the records were shifted from one place to another from time to time and it took some time to place the office records at proper place, hence there was delay in tracing the old files and furnishing the information. That the available information was furnished to the appellant by letter dated 13/12/2010, without charging fees to him and yet the appellant is harassing the respondent No.1 for no cause. That from the appeal it appears that the appellant is more interested in compensation rather than getting the information.

That the appellant does not disclose the prejudice caused to him on account of delay in furnishing the information to him. According to the respondent No.1 the appeal be dismissed.

It is the case of respondent No.2 that the appellant preferred the appeal and the same was heard on 9/4/2010 and the order was passed on 9/4/2010.

4. Heard the arguments. The written arguments of the respondent No.1 are also on record.

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 the appellant vide application dated 29/1/2010 sought certain information consisting of 50 items/points from Sr. No.1 to 50. It appears that the information was not furnished and hence the appellant preferred an appeal before the First Appellate Authority/respondent No.2. By order dated 9/4/2010 the F.A.A. passed the order as under :-

“The representative of the respondent submitted that the concerned file was not traceable earlier. Now the file is traced. Therefore the information sought by the appellant vide letter dated 29/1/2010 shall be made available within 10 days from the date of order i.e. 9/4/2010 without charging fees.”

Since information was not furnished the appellant has preferred the present appeal.

6. Both in the reply and written arguments it is the case of the respondent No.1 that available information is furnished by letter dated 13/12/2010 without charging fees to him. It is also the case

of the respondent No.1 that points at Sr. No.8, 9 and 10, 16, 44, 45, 47, 48 are vague and general.

I have perused the application and particularly the said queries. Under R.T.I. the request should be specific. In any case the appellant can clarify and the respondent No.1 can seek clarification to these queries/items/points and thereafter can furnish the information. Another aspect is, under R.T.I., the information held by the Public Authority in the material form is to be furnished. According to the Public Information Officer/respondent No.1, he has furnished the information. Therefore the information which is available and also after seeking clarification be furnished. Needless to say that some information is furnished.

7. Now it is to be seen regarding delay. According to the appellant there is delay. This is disputed by Advocate for respondent No.1. It is seen that request for information is 29/1/2010. It is seen that information is furnished on 13/12/2010. Apparently there is some delay. However, the respondent No.1/P.I.O. should be given an opportunity to explain about the same in the factual backdrop of this case.

8. It was contended by the appellant that Junior Engineer represented the P.I.O. without letter of authority. Under R.T.I. it is obligatory on the part of P.I.O. to appear. However if any person appears on his behalf then at least a proper authority letter is to be given. The authorities should bear the same in mind in future.

9. In view of all the above, I am of the opinion that respondent No.1(P.I.O.) should seek clarification from the appellant and then furnish the available information. The P.I.O. to furnish the information which is not furnished so far. Hence I pass the following order :-

ORDER

The appeal is allowed. The respondent No.1 is directed to furnish the information in respect of points at Sr. No.8, 9 and 10, 16, 44, 45, 47, 48 etc of the application of the appellant dated 29/01/2010 within 20 days from the receipt of this order.

Needless to add that respondent No.1 to seek clarification from the appellant and the appellant to furnish the same. The information that is not furnished is to be furnished as available with the Public Authority.

Issue notice U/s.20(1) of the R.T.I. 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 the information. The explanation, if any, should reach the Commission on or before 20/6/2012. The respondent No.1/Public Information Officer shall appear for hearing.

Further inquiry posted on 20/6/2012 at 10.30 a.m.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 25th day of April, 2012.

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