

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Appeal No. 284/SIC/2011**

Datta Shreepada Naik,  
2/1, Dattaprasad Building,  
M. G. Road,  
Panaji – Goa

... Appellant

V/s.

Shri A. P. Diniz,  
Town Planner,  
Town & Country Planning Department,  
Ponda – Goa

... Respondent.

**Appellant in person.**

**Respondent in person.**

**J U D G M E N T**  
**(02.04.2012)**

1. The Appellant, Shri Datta S. Naik, has filed the present Appeal praying that the Second Appeal filed by the Appellant be allowed and the Respondent be directed to pay the compensation of Rs.35,000/- (Rupees thirty five thousand only) to the Appellant and necessary penalty under Section 20 be imposed on the Respondent.

2. The case of the Appellant is as under:-

That on 15<sup>th</sup> November, 2011, the Appellant filed his first Appeal No. 1/2011 under Section 3.6.1(9) of Goa Land Development and Building construction Regulations, 2010, Panaji-Goa. That this Appeal was heard on scheduled date which was on 24.11.2011 at 12:00noon. That the Appellate Authority/Chief Town Planner passed his esteemed order on 6<sup>th</sup> December 2011 on the said Appeal. That the Chief Town Planner has given his verdict on two prayers of the Appellant in the First Appeal dated 15<sup>th</sup> November, 2011 namely prayer (1) and (2) but the Chief Town Planner has not touched or given any verdict on the third prayer of the Appellant which reads as under:-

“(3) The Respondent ought to be directed to pay the compensation of

Rs.35,000/- (Rupees thirty five thousand only) and which is to be paid by the Respondent solely from either the salary of the Respondent or the Provident Fund of the Respondent or the gratuity or pension of the Respondent, Mr. Diniz the Town Planner of Ponda because of his sadistic obstinacy of not granting the NOC which is rightfully deserved by the Appellant who is a 72 years old Senior Citizen.”

That the compensation is being asked because inspite of the Applicant's application dated 27.06.2011, the Respondent has purposely, sadistically and with the sole aim of harassing the Appellant not given the Appellant the NOC for which he had applied in June 2011. That as a Senior Citizen the Appellant prays that the Respondent must be asked to pay the said compensation of Rs.35,000/- to the Appellant so that this may be a lesson for the Town Planners of posterity that they must not take people for granted and treat them as if they are at their mercy and if they do so then they shall be punished. Hence, the present Appeal.

3. The Respondent has filed his statement which is on record. In short it is the case of the Respondent that F.A.A. had fixed hearing of First Appeal on 24.11.2011 and that P.I.O received the notice late and as such could not attend the hearing. That the Order passed by F.A.A. is ex party order. That the P.I.O. is not aware of the prayers in the Memo of Appeal. That after the Order the P.I.O. granted Technical Clearance Order and that no matter is pending with the P.I.O., Ponda. According to the Respondent the Appeal is not maintainable and liable to be dismissed.

4. Heard the Appellant as well as Respondent.

According to the Appellant all the time he met the Respondent he behaved sadistically. Hence the compensation so that in future people should know and behave properly.

During the course of his arguments the Respondent submitted that Technical Clearance given within 7 days. He submitted that Appeal is not maintainable and that question of compensation does not arise.

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 Application dated 27.08.2011. There is also another application dated 27.08.2011. It appears that the same were sent by post and the Respondent/P.I.O. received the same on 05.09.2011 as can be seen from A.D. card. The reply is dated 30.09.2011. The reply is in time.

Another application is dated 21.09.2011. Though it is addressed as ‘My third Application under R.T.I. ....’ the contents appear to be different. The reply is dated 02.11.2011. It is to be noted here the query that is raised does not come within the ambit of R.T.I. as future action which is not in any material form cannot be termed as information.

The Appeal preferred is under Section 3.6.1.(9) of Goa Land Development and Building Construction Regulations, 2010. The Appeal is not under Section 19 of the R.T.I. Act.

The present Appeal that is filed is only for compensation and that too because first Appellate Authority Chief Town Planner did not award compensation.

6. Now it is to be seen whether the Appellant is entitled for the compensation.

Section 19 (8) (b) lays down as under:-

“19. *Appeal*-- .....

(8) In its decision, the Central Information Commission or State Information Commission as the case may be, has the power to –

(a) .....

.....

(b) require the public Authority to compensate the Complainant for any loss or other detriment suffered;

The powers of this Commission as far as ‘compensation’ is concerned are limited.

Besides the Appeal is not under R.T.I. though it has been termed as Second Appeal under R.T.I. In any case the relief sought is beyond the purview of R.T.I. Act as for the compensation demanded.

7. I have carefully considered the records. It is seen that the Appellant had to run from pillar to post for the sake of Licence/N.O.C. He had to make so many applications to get his work done and that too from a public office. When it is proclaimed about work reaching to common man a citizen has still to undergo mental agony as well as stress. Nature teaches us by various examples that we should serve others. It is to serve others that trees bear fruits. So also the river flows to serve others. Similarly, Public Servant is meant to serve others. Wilfred Grenfell has said:- “The service we render to others is really the rent we pay for our room on this earth.”

The scriptures say that everyone is part and parcel of God and serving anyone implies serving God Himself.

Harassment to a citizen is socially abhorring and legally impermissible.

Unfortunately this Commission is unable to grant compensation in the factual matrix of this case.

Information and right to information are intended to be formidable tools in the hands of responsible citizens to bring in transparency and accountability. If the public employees discharge their regular duties properly many a problems are solved. Public Authorities in general should see that the problems of citizens are properly handled and lawfully dealt with. If this is done most of the problems of various authorities would be solved. The nation does not want a scenario where the wheels of administration move only when they approach the authorities. This creates lot of problems.

8. In any case in the instant case this Commission has no power to award compensation the way it is asked. This Commission is not vested with some inherent powers of Civil Court or power under Section 15 of C.P.C. Such a power must be conferred by law either specifically or by necessary implication. In the absence of the same it is not possible to grant the present prayer.

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

## **ORDER**

No intervention of this Commission is required as subject matter of this Appeal is beyond the purview of R.T.I. Act. The Appeal is disposed off.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 2<sup>nd</sup> day of April, 2012.

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