

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 81/SCIC/2009

Mr. Mahesh Kamat,
Shivnery Cooperative Housing Society,
Comba,
Margao - Goa Appellant.

V/s.

- 1) Public Information Officer,
Kadamba Transport Corporation Ltd.,
Paraiso de Goa Building,
Porvorim – Goa Respondent No. 1
- 2) First Appellate Authority,
Managing Director,
Kadamba Transport Corporation Ltd.,
Paraiso de Goa Building,
Porvorim – Goa ... Respondent No. 2.

Appellant in person.

Adv. Shri P. Agarwal for Respondent No. 1.

J U D G M E N T
(03.05.2012)

1. The Appellant, Shri Mahesh P. Kamat, has filed the present Appeal praying that the information as requested by the Appellant be furnished to him; that the information be provided free of charge; that the penalty be imposed as per law for denying the information to the Appellant and that compensation be given to the Appellant.

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

That the Appellant, vide an application dated 24.04.2009, 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 Assistant P.I.O., vide letter No. 147 dated 26.05.2009 informed that the desired information is ready for collection and further offered inspection on 09.06.2009. That the Appellant confirmed from the A.P.I.O. that the collection of documents is also fixed on 09.06.2009 and that PI.O. who is on

leave due to loss of his mother shall resume on that date. That the Appellant appeared for collection and inspection of records on 09.06.2009 but no information was furnished. The Appellant was informed by A.P.I.O. vide letter No. 190 dated 09.06.2009 that all information is not ready and therefore the compliance is deferred and fixed on 11.06.2009. That the Appellant appeared on 11.06.2009 at 11:30 hrs only to face exhaustive cross-examination from P.I.O. under the guise of seeking clarifications till 02:00p.m. and at the fag end much reluctantly offered limited information unilaterally recording mutual acceptance for compliance within 30 days. That the P.I.O. failed to dispose of the request for information within 30 days of receipt of request. Being not satisfied the Appellant filed First Appeal before First Appellate Authority/Respondent No. 2 which the Appellate Authority failed to pass appropriate orders till date. That the P.I.O. did not provide the desired copies of information as assured by him during the visits of the Appellant to the office of P.I.O. on 09.06.2009, 11.06.2009 and 18.08.2009 nor the Appellate Authority decided the Appeal and hence failed to comply the provisions of the Act. That the P.I.O., vide order No. 22 dated 27.06.2009 required the Applicant to collect the information. That the Appellant was out of station till 16.08.2009 and attended the Office of the P.I.O. on 18th August to collect the information which was again denied to him on the ground that the Appeal dated 26.06.2009 is not decided by the Appellate Authority. Being aggrieved the Appellant has preferred the present Appeal on various grounds as set out in the Memo of Appeal.

3. The case of the Respondent is fully set out in the ‘counter Statement by Respondent’ which is on record. In short it is the case of the Respondent No. 1 that the Appeal is misconceived and bad in law. That the Appeal filed by the Appellant is gross abuse and misuse of R.T.I. Act. That the information sought by the Appellant does not come within the definition of “information” and is not one which is a matter of records of the Respondent and/or required to be or which can be furnished by the Respondent. That the purported appeal does not satisfy the mandate of Section 18 and 19 of the RTI Act. The grounds set out in the appeal are not as per mandate of the Act. But there is no refusal of any information available with the Respondent. That the Respondent provided and furnished the information

available and wherever the Respondent has found that the information as not specific opportunity was given to the Appellant to inspect the records and files and specify and prioritize the information, which should be furnished to him as per the provisions of the Act. That the Appellant is a chronic applicant and has filed multiple applications under R.T.I. asking voluminous information misusing the powers given to the citizens to have benefit under the Act in public interest. It is further the case of the Respondent that the Appellant was an ex-employee of Kadamba Transport Corporation Ltd. (K.T.C.L.) and has been given compulsory retirement by K.T.C.L. by following due procedure established by law. That the applicant in order to take revenge from K.T.C.L. has taken the R.T.I. as a tool of vendetta against the department and malign its Staff, particularly senior officials by putting frivolous multiple applications. That the Appellant has personal interest, rather than public, in seeking the information. That the Appellant has filed about 30-40 applications to the P.I.O. of K.T.C.L for seeking irrelevant information under R.T.I. within a span of 2 years. All these applications were filed by the Appellant after the decision of compulsory retirement was taken by K.T.C.L. That in many such applications filed by the Appellant the Appellant has been seeking more or less similar information repeatedly amounting to misuse of the beneficial provisions of the R.T.I. Act solely with a view to harass the public Authority. That in some of the applications made by the Appellant, either the Complainant has failed to deposit money and collect information or has failed to appear for the inspection of the records for which he has sought information. That the present application was filed on 24.04.2009 during the tenure of Respondent's predecessor, Shri A. S. Shirvoiker who was holding the charge of P.I.O. and who has recently retired from the services of K.T.C.L. on 30.11.2011. That the Respondent has taken charge as P.I.O. on 05.04.2010 vide Order No. KTC/ADMN/1-2/2010-2011/4 dated 05.04.2010. That the present Appeal was filed during the tenure of Respondent's predecessor. That the grounds mentioned are untenable in law. The Respondent also relies on the Order dated 29.01.2010 passed by First Appellate Authority. According to the Respondent appeal is liable to be dismissed.

4. Heard the arguments. The Appellant argued in person and the learned Adv. Shri P. Agrawal argued on behalf of the Respondent No. 1. Both sides

explained the facts of the case in detail. Both sides advanced elaborate arguments. Written arguments of the Appellant are on record. One more application of the Appellant is 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 by application dated 24.04.2009 the Appellant sought certain information consisting of 10 points i.e. Sr. No. 1 to 10. It is seen from the application that the same was received on 28.04.2009. By letter dated 26.05.2009 the A.P.I.O. informed the Appellant that inspection of records can be availed at the office on 09.06.2009 at 11:00 hrs for item at Sr. No. 1, 3, 5, 7, 8 and 9 and that desired documents against Appellant's letter at Sr. No. 2, 4, 6 and 10 have been kept ready and to collect the same on making payment. It is seen that the Appellant appeared on the said date 09.06.2009 as can be seen from the letter dated 09.06.2009 from the A.P.I.O. The said letter also mentions that since all the information are not available, inspection deferred and fixed on 11.06.2009 at 10:30 hrs. On 11.06.2009 part of the information was furnished as can be seen from the 'MINUTES' dated 11.06.2009 on record. As per the same the Appellant received the following:-

- “1. Letter No. 984 dated 27.02.2009.
2. Attendance of Shri T. K. Powse dated 26.10.2006.
3. Leave encashment of Shri Sanjay Goel, IAS (4 documents).
4. Complete information in respect of item No. 4.”

There is endorsement of the Appellant on the same in token of having received the same.

According to the Appellant some information is not furnished and hence he preferred an appeal. Appellant contends that Appeal is not decided. However Respondent No.1 refers to First appellate Authority's order dated 29.01.2010. It is seen that the Appeal was filed on 26.06.2009. Normally under R.T.I. Appeal is to be decided within 30 days or by extended period of 15 days but with reasons. If the order is passed on 29.01.2010 then the same is much beyond the statutory period. The F.A.A. to take note of the same in future.

6. It is to be noted here that under RTI available information is to be given i.e. the information as held by the Public Authority. In the instant case some information i.e. item at Sr. No. 4, 6, 10, etc. has been furnished. It appears that some information is not furnished. To my mind the information that is available is to be furnished.

Appellant has sought inspection. The same is to be given to the Appellant on a mutually agreed date.

7. Now it is to be seen whether there is delay in furnishing the information. According to the Appellant there is delay whereas according to the Advocate for the Respondent there is no delay as such. It is seen that the application is dated 24.04.2009. By letter dated 26.05.2009 the Appellant was called for inspection on 09.06.2009 and ultimately part of the information was furnished on 11.06.2009. Apparently there is some delay. However the P.I.O. is to be given an opportunity to explain about the same in the factual backdrop of this case.

8. The Appellant has also filed an application wherein he states that he has filed several applications in the subject matter of compulsory retirement. He also mentions that P.I.O. furnished different type of information in the same subject matter.

It is held that filling of same application again and again is not in true spirit of the R.T.I. Act.

In any case the issue needs to be considered when information has been furnished and not at this stage.

9. In view of the above, I am of the opinion, that P.I.O./Respondent No. 1 to furnish the available information i.e. information which is not furnished so far and as mentioned in the prayer clause. Hence, I pass the following Order:-

ORDER

The Appeal is allowed. The Respondent No. 1/P.I.O. is hereby directed to furnish the available information (i.e. the information which is not furnished) as sought by the Appellant vide his application dated

24.04.2009 within 30 days from the receipt of this Order. The same be furnished free of charge.

The Respondent No. 1/P.I.O. to give inspection of records sought to the Appellant on a mutually agreed date but within 10 days from the receipt of this Order and thereafter on inspection the information be furnished. The whole process to be completed within 30 days.

Issue notice under Section 20(1) of the Right to Information Act, 2005 to the Public Information Officer/Respondent No. 1 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 02.07.2012. The Public Information Officer/Respondent No.1 shall appear for hearing.

Further inquiry posted on 02.07.2012 at 10:30a.m.

The Appeal is, accordingly, disposed off.

Pronounced in the Commission on this 03rd day of May, 2012.

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