

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.50/SIC/2011

Shri Gajanan D. Phadte,
898, Nila Niwas,
Alto Torda,
Porvorim P.O. – 403 521

... Appellant

V/s.

1. The Public Information Officer,
Administrator of Comunidades,
North Zone,
Mapusa-Goa
2. The First Appellate Authority,
Additional Collector II (North)
Panaji - Goa

... Respondent

Appellant present.

Respondent No.1 and 2 absent.

Adv. K. H. Bhosale for respondent No.1 present.

J U D G M E N T
(29/06/2012)

1. The Appellant, Shri Gajanan D. Phadte, has filed the present appeal praying that the P.I.O. be directed to furnish the information sought and that penalty be imposed on P.I.O. and compensation be awarded to the appellant.

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

That the appellant, vide application dated 29/11/2010, 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 the P.I.O. did not provide

information and hence appellant preferred appeal before the First Appellate Authority(F.A.A)/respondent No.2. That F.A.A/respondent No.2 failed to dispose of first appeal within prescribed time limit as per Sec.19(6) of the R.T.I. Act with speaking order besides providing copy free of cost. Being aggrieved the appellant has preferred the present appeal.

3. The respondent No.1 resists the appeal and the submission of respondent No.1 is on record. It is the case of respondent No.1 that the appellant/applicant filed an application for information dated 29/11/2010 which pertains to the landed property of Comunidade of Serula. That the Office of Comunidade of Serula being under seal w.e.f. 22/10/2010 the required information is not available and hence could not be provided. According to the respondent No.1 appeal is liable to be dismissed.

4. Heard the appellant and Adv. K. H. Bhosale for respondent No.1. Both sides have filed written submissions.

5. I have carefully gone through the records of the case and also considered 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 vide application dated 29/11/2010, the appellant sought certain information from the respondent No.1. It appears from record that no information was furnished. The respondent No.1 on his part did not furnish copy of reply if at all reply was sent. Being not satisfied the appellant preferred appeal before F.A.A. Note on copy of memo of appeal states that disposed on 24/1/2011 but no order. However according to the appellant the respondent No.2 failed to dispose of first appeal within prescribed time limit. In short it appears that no information was furnished.

6. It is the case of respondent No.1 in his written submission that the office of Comunidade of Serula was under seal w.e.f.22/10/2010 as the required information is not available and hence could not be provided. It is to be noted that under R.T.I. information that is available is to be furnished. In case information is not available, the P.I.O. must respond stating so in his reply and that too within 30 days. This has not been done in the present case.

7. It is seen from the written submissions filed by the appellant that administration of Comunidade of Serula was handed over to its Managing Committee as per decision dated 22/3/2011 of the Hon'ble High Court of Bombay at Goa in Writ Petition No.108/2011. In any case it is observed in other case also Comunidade of Serula is no more sealed. So the information can very well be provided. In case the information is with Comunidade of Serula P.I.O. who is administrator under his power can obtain the same.

Admittedly there is delay. However in the factual backdrop of this case, it appears that the same occurred due to non appreciation of the provisions of R.T.I. Act by the P.I.O. and hence the delay is condoned. However the information is to be furnished free of charge. In case information is not furnished within time, then the appellant is at liberty to press for penalty U/s.20 of the R.T.I. Act

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

ORDER

The appeal is allowed. The respondent No.1/P.I.O. is hereby directed to furnish to the appellant the information

sought by him vide his application dated 29/11/2010 within 20 days from the date of receipt of this order.

The respondent No.1/P.I.O. to give the inspection of the records on a mutually agreed date. The entire process is to be completed within 20 days.

The appeal is, accordingly, disposed off.

Pronounced in the Commission on this 29th day of June, 2012.

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