

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.277/SIC/2011

Shri Rajesh K. Marathe,
R/o.Annapurna Niwas,
Vidyanagar, Near Saraswat Vidyalaya High School,
Khorlim, Mhapsa, Bardez, Goa ... Appellant

V/s.

The Public Information Officer,
Cuncolim Municipal Council,
Cuncolim - Goa ... Respondent

Appellant absent.
Adv. Apte for appellant present.
Respondent present.

J U D G M E N T
(24/07/2012)

1. The Appellant, Shri Rajesh K. Marathe, has filed the present appeal praying that the records be called and the appeal be allowed; that the respondent be directed to furnish the information sought forthwith in terms of the order passed by the First Appellate Authority, that costs of Rs.20,000/- be awarded and that penalty in terms of Section 20 of the R.T.I. Act be imposed on the respondent.

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

That the appellant, vide his letter dated 28/3/2011, sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer(P.I.O.)/respondent. That the respondent failed to furnish the information within the prescribed period. The appellant preferred an appeal before the First Appellate Authority (F.A.A.) That the F.A.A. issued notice to the respondent to remain present but he

failed to remain present. By order dated 9/9/2011 the F.A.A allowed the appeal and directed the respondent to furnish the information within 10 days from the date of the order without charging any fees. That in spite of the order dated 9/9/2011 the respondent has failed and neglected to furnish the required information. Being aggrieved by the same, the appellant has preferred the present appeal on various grounds as set out in the Memo of Appeal.

3. The respondent resists the appeal and the reply of respondent is on record. In short, it is the case of respondent that the delay in issuing the copies of the documents sought by the appellant was caused solely due to the fact that the information was with the council and a considerable time was consumed in collecting the files from the council. That the appellant was informed from time to time about the facts and was assured that the information/documents would be provided in due course of time as soon as all the information was collected. That the respondent has always been diligent in providing the information/documents meticulously and without any unreasonable delay, thus dutifully obeying the orders of the Appellate Authorities under R.T.I. That the delay was caused solely due to above reasons only in the present case. That the respondent has not caused any delay deliberately or intentionally and no prejudice has been caused to the appellant.

4. Heard both sides that is Adv. Shri A. Apte and the respondent. The written synopsis is also on record.

5. I have carefully gone through the records of the case and also considered the arguments advanced. The point that arises for my consideration is whether the information is furnished and whether the same is furnished in time?

It is seen that by application dated 28/3/2011 the appellant sought certain information consisting of 5 points i.e. Sr. No.1 to 5.

It appears that no information was furnished and hence the appellant preferred the appeal before F.A.A. By order dated 9/9/2011 the F.A.A observed as under :-

“Appellant has sought information vide letter dated 28/3/2011 as five aspects of purchase of garbage rickshaws.

The statutory period is over. Therefore the respondent shall furnish the information within a period of 10 days from the date of order i.e.9/9/2011 without charging fees”.

Since this order was not complied with the appellant landed in this Commission.

During the course of arguments Adv. Shri Apte submits that information is furnished. The respondent also states that information is furnished.

The only grievance of the appellant is that the information is furnished after a long delay.

6. Now it is to be seen whether there is delay in furnishing the information. It is seen that information is sought by application dated 28/3/2011 and the same is furnished according to the Adv. for appellant on 24/7/2012. Apparently there is delay. According to the respondent/P.I.O. the information was with the council and the same was to be collected. It is also the case of respondent that the appellant was informed about the same from time to time. If it is so then P.I.O. may not be responsible but council is responsible. In any case to my mind the respondent/P.I.O. should be given an opportunity to explain about the same in the factual matrix of this case.

6. In view of all the above no intervention of this Commission is required as information is furnished. The respondent/P.I.O. should be heard on the aspect of delay. Hence I pass the following order.

ORDER

The appeal is allowed. No intervention of this Commission is required as information is furnished.

Issue notice under Sec.20(1) of the Right to Information Act, 2005 to the respondent/P.I.O. to show cause as to 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 **30/08/2012**. The respondent/P.I.O. shall appear for hearing.

Further inquiry posted on **30/08/2012** at **10.30 a.m.**

The appeal is, accordingly, disposed off.

Pronounced in the Commission on this 24th day of July, 2012.

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