

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 48/SIC/2011

Shri G. D. Phadte,
898, Nila Niwas, alto Torda,
Porvorim,
P. O. – 403 521

.... Appellant

V/s.

1) Public Information Officer,
Administrator of Comunidades,
North Zone,
Mapusa - Goa

... Respondent No.1.

2) First Appellate Authority,
Additional Collector-II (North),
Panaji – Goa

... Respondent No. 2.

Appellant in person.

Adv. Shri K. H. Bhosale for Respondent No.1.

J U D G M E N T
(29.06.2012)

1. The Appellant, Shri G. D. Phadte, has filed the present Appeal praying that the Respondent No. 1/P.I.O. be directed to provide information sought in the RTI request; that penalty be imposed and fine and compensation for detriment on P.I.O. for denying information and recommend disciplinary action for dereliction in duty to exercise quasi-judicial functions.

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

That the Appellant, vide application dated 29.12.2010, 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 A.P.I.O. gave false, incorrect or misleading reply. Hence the Appellant preferred an appeal before the First Appellate Authority/Respondent No. 2. That the Advocate for P.I.O./Respondent No.1 filed reply that information under points (A), (B) and (C) cannot be provided at present and under (D) inspection of records also. That the F.A.A./Respondent No.2 dismissed the

First Appeal on surmises inconsistent with R.T.I. Act. Being aggrieved the Appellant has preferred the present Appeal.

3. The Respondent No. 1 has filed the submission which is on record. In short it is the case of Respondent No. 1 that the alleged statement of the Appellant at para No. 1 of his application dated 09.12.2010 prima facie denied being incorrect and misleading. That the reply given under letter dated 28.12.2010 is factual. That the office of the Comunidade of Serula was sealed on 22.10.2010 upon the orders of the Collector, North Goa and as such the records could not be sought. That the malafide intentions of the Appellant/applicant became crystal clear when he produced the copies of the documents i.e. information of which he had sought under point No. 1(A), (B) and (C) in the Appeal No. RTI/AC-II/58/2010 APL dated 03.01.2011 before First Appellate Authority. That the F.A.A. directed the Appellant to produce the proof that the said documents been obtained from the office of this Respondent, however, Appellant distinctly failed to do so. Respondent No. 1 also refers to the remark of F.A.A. That after sealing the office of the Comunidade of Serula, the Collector North Goa appointed Administrator to Comunidade of Serula and subsequently he was also given the charge of the office of the Administrator of Comunidades North Zone.

According to the Respondent No.1 the Appeal is liable to be dismissed.

4. Written arguments of the Appellant are on record. Also heard the oral submissions of the Appellant and Adv. Shri K. H. Bhosale for the Respondent No. 1.

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 09.12.2010 sought certain information that is Sr. No. 1(A), (B), (C) and (D). By reply dated 28.12.2010 the Acting Secretary/A.P.I.O. informed the Appellant that the relevant information is not available with their office and the same cannot be furnished. It was also informed that the office of Comunidade of Serula

has been sealed upon order issued by the Collector North Goa. Being aggrieved the Appellant preferred an appeal before the F.A.A./Respondent No. 2. The F.A.A./Respondent No. 2 by order dated 02.02.2011 dismissed the Appeal.

6. It is seen from records as well as written arguments of Appellant that the Comunidade of Serula was sealed on 22.10.2010. The Administration of Comunidade of Serula was handed over to its Managing Committee as per decision dated 22.03.2011 of the Hon'ble High Court of Bombay at Goa in W.P. No. 108 of 2011. This is seen from written arguments of Appellant in para 7 and 8.

The application seeking information is dated 09.12.2010. The reply is dated 28.12.2010. Considering this it cannot be said that reply is false.

I have perused the Xerox copy of Certificate dated 19.11.1999, receipt (Xerox copy) dated 19.07.1998 and 19.11.1999. All are attested Xerox copies. The Notarial Stamp bears the dated 23.09.2010. That means the same were given prior to 22.10.2010 i.e. when Comunidade was sealed.

I have also perused the R.T.I. application dated 21.10.2010 and also copy of the plaint etc. Respondent No. 1/P.I.O. in this appeal is defendant No. 2. What is furnished is from the Office of Respondent No. 1 as they had received the copy of plaint.

On this factual backdrop it cannot safely be said that information that was furnished was false and the benefit is to be given to the Respondent No.1/P.I.O.

7. Now the Comunidade of Serula is no more sealed.

Being so the application can be safely dealt with. Considering the date of Application and reply there is no delay as such.

The P.I.O. to deal with the application and furnish the information to the Appellant. Needless to add that under the law in force the Respondent No. 1 can certainly provide the information. Inspection as sought also can be given.

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

ORDER

The Appeal is allowed. The Respondent No.1/P.I.O. is directed to furnish the information to the Appellant as sought by him vide his application dated 09.12.2010 within 20 days from the date of receipt of this Order.

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**

