

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 139/SCIC/2010

Shri Vaman G. Vernekar,
H. No. 577, Ravanfond,
Post Navelim,
Salcete - Goa

.... Appellant

V/s.

1) Asst. Public Information Officer,
Land Acquisition Officer,
P.W.D., Altinho,
Panaji - Goa

... Respondent No.1.

2) State Public Information Officer,
Dy. Director of Administration,
C/o. Principal Chief Engineer,
P.W.D., Altinho,
Panaji - Goa

... Respondent No. 2.

Appellant absent.
Respondent No.1 in person.
Respondent No. 2 in person.

J U D G M E N T
(06.07.2012)

1. The Appellant, Shri Vaman G. Vernekar, has filed the present Appeal praying that the P.I.O. be directed to furnish the information sought; that disciplinary action be initiated against Respondent No. 1 as per the provisions of the R.T.I. Act and that a token compensation be awarded for the mental agony undergone by Appellant during the R.T.I. matter.

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

That the Appellant, vide an application dated 02.12.2009, 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 information was not furnished within the stipulated period. Hence the Appellant preferred an Appeal before the First Appellate Authority ('F.A.A.') on 01.04.2010. That the F.A.A. disposed off the Appeal by order dated 23.04.2010 directing the A.S.P.I.O. to furnish the information within 7

days. That the order of F.A.A. is not complied with. That the A.S.P.I.O. and the P.I.O. have exhibited absolute laxity amounting to defiance of the order issued by the F.A.A. Being aggrieved the Appellant has preferred the present Appeal.

3. The Respondents resist the Appeal and the reply of the Respondents is on record. It is the case of Respondent No. 1 that the Appellant applied for certified copies of entire file i.e. File Number 10/553/2006-LAD-P.W.D. in Notification No. 23/38/2006-R.D for the first time on 09.12.2009. That the Applicant was telephonically informed that photocopy is not undertaken by their office as it includes photocopying of all the entire file. That their office is under the control of O/o. Superintending Surveyor of Works, Altinho Panaji and the same was informed about copies required in this case. That there is only one Xeroxing Machine for 3 offices as informed by the O/O. Superintending Surveyor of Works and hence it would take some time since the required copies are more. That in the meantime the Appellant was informed about the same and in between agreed about removing the photocopies of entire file on his own but did not turn up. That thereafter the Respondent No. 1 went on leave w.e.f. 08.03.2010 to 07.04.2010 further 19.04.2010 upto 28.06.2010. That permission was asked with O/o. Superintending Surveyor of Works to remove photocopies at outstation, however, no approval was received. That the Appellant approached to the Appellate Authority during the leave period. That as no officer was handed over the charge upto 8.6.2010 the order of First Appellate Authority could not be complied with. The Respondent No. 1 also mentioned that information is collected and would be furnished.

It is the case of Respondent No. 2 that the Appellant vide his application dated 02.12.2009 has addressed to the Respondent No. 1 requesting to furnish the certified copy of the entire file including Roznama in respect of land acquisition proceedings vide notification No. 22/38/2006-RD for construction of bypass road from Kundaim industrial estate via Tapobhumi and from Kundaim near temple to Mardol in Marcaim V.P. in Marcaim constituency. That the office of Respondent No. 2 states that the office of the Respondent No. 2 is unaware of the application dated 02.12.2009 of the Appellant since the Appellant has directly addressed his application to the Respondent No. 1 seeking information under R.T.I. Act,

2005. That the F.A.A. directed Respondent No. 1 to furnish the information within 7 days. According to Respondent No. 2 he should be dropped from the case.

4. It is seen from the records that the Appellant initially remained present, however, from 06.09.2010 to 05.01.2011 remained absent. On 25.01.2011 the Appellant remained present and submitted that information is furnished. Thereafter the Appellant remained absent. Various opportunities were given but he did not turn up. In any case I am proceeding on the basis of record.

5. Heard the Respondent No. 1 and perused the records.

It is seen that the Appellant vide application dated 02.12.2009 sought certain information from the Land Acquisition Officer, P.W.D. Cell Altinho Panaji Goa. The same was received on 09.12.2009. The same was not addressed to the P.I.O. The Appellant filed the Appeal since information was not furnished. It is to be noted here that the Appeal was filed on 01.04.2010 beyond the period of limitation. Of course explanation for delay was furnished. By Order dated 23.04.2010 the F.A.A. directed the A.S.P.I.O. Land Acquisition Officer, P.W.D., Altinho Panaji, shall furnish to the Appellant the certified copies of the relevant documents as sought by him vide his application dated 02.12.2009 on payment of necessary charges within a period of seven days from the date of receipt of the order.

During the course of arguments the Respondents state that information is furnished. Appellant too had stated that information has been furnished.

6. Now coming to the aspect of delay. Admittedly there is delay in furnishing the information. It is seen that Land Acquisition Officer, P.W.D. (Cell) Alintho Panaji was on leave for some time as per reply of Respondent No. 1. It is seen that Appellant was telephonically informed and he had agreed to remove photocopies of the entire file on his own but did not turn up.

Under Section 20(1) of the R.T.I. Act the Information Commission must satisfy itself that P.I.O. has without reasonable cause:- (i) refused to receive an application; (ii) not furnished information within the specified

time frame; (iii) malafidely denied information; (iv) knowingly given incorrect, incomplete or misleading information and (v) destroyed information/obstructed giving of information.

In short penalty can be imposed only if there is no reasonable cause for not furnishing the information within the period of 30 days. The word 'reasonable' has to be examined in the manner, which a normal person would consider it reasonable.

Apart from the same the application is not properly addressed to the P.I.O. The information is furnished by A.P.I.O. Under R.T.I liability of penalty is on the P.I.O.

In view of all the above and in the peculiar facts and circumstances of this case the delay is to be condoned. However, P.I.O. is warned that in future such things will not be tolerated and he should be careful in future.

7. In view of the above since information is furnished no intervention of this Commission is required. Hence, I pass the following Order:-

ORDER

No intervention of this Commission is required as information is furnished. The Appeal is disposed off.

The Appeal is, accordingly, disposed off.

Pronounced in the Commission on this 06th day of July, 2012.

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

