

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 89/SCIC/2011

Shri G. D. Phadte,
898, Nila Niwas, Alto Torda,
Porvorim,
Goa – 403 601

.... Appellant

V/s.

1) Public Information Officer,
Secretary,
Pilerne-Marra Village Panchayat,
Bardez - Goa

... Respondent No.1.

2) Block Development Officer,
Bardez,
Mapusa – Goa

... Respondent No. 2.

Appellant in person.

Respondent No.1 alongwith Adv. N. Bhartiya.

J U D G M E N T
(25.06.2012)

1. The Appellant, Shri G. D. Phadte, has filed the present Appeal praying to direct the P.I.O. to provide the information and inspection sought free of charge; that penalty be imposed on the P.I.O. and that the Complainant be compensated.

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

That the Appellant, vide his application dated 27.12.2010, 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 P.I.O. failed to provide information within prescribed 30 days. Hence the Appellant filed the Appeal before the First Appellate Authority/Respondent No. 2. That the P.I.O. never intimated to collect information, however, F.A.A. erroneously held Appellant failed to collect information. That the F.A.A. also erroneously ordered to collect information by making necessary payment. That the same is in violation of Section 7(6) of R.T.I. Act. Being aggrieved the Appellant has filed the present Appeal.

3. The Respondent No. 1 resists the Appeal and the Written Statement of Respondent No. 1 is on record. In short it is the case of the Respondent No.1 that the Appellant had filed an application dated 27.12.2010 and that reply was given to the Appellant on 24.01.2011 which was dispatched on the same day. That the Pilerne Post Office generally takes long time in transmitting correspondence. That the letter dated 24.01.2011 gives factual information. That the requisitioned information was awaited from the official of the Town & Country Planning Department, Mapusa-Goa. That in the meanwhile, the Appellant filed an appeal on 28.01.2011 before the First Appellate Authority. That the F.A.A. passed the order on 07.03.2011 directing the Appellant to collect the information from P.I.O. making the necessary payment. That the Appellant did not follow the order of F.A.A. and preferred the present Appeal. That the latest position is that the P.I.O. has furnished all the information as applied by him. The P.I.O. received the requisitioned information from the Town & Country Planning Department on 16.06.2011 and he immediately intimated the Appellant to collect the necessary information vide his letter dated 17.06.2011. That the P.I.O. sent one more letter dated 22.06.2011 to the Appellant to collect information. That the appellant inspected the entire file and collected all the information on 30.06.2011 paying the necessary fees of Rs. 10/- and simultaneously made fresh request by making a remark on the office copy of P.I.O's letter dated 28.12.2010 and a copy of one unauthenticated plan furnished by a person who had made a complaint against the Appellant as on the file. That the aforesaid plan referred and requisitioned now, does not get covered under his application dated 27.12.2010. That the aforesaid documents are furnished to him without insisting for a fresh application. That the Respondent No.1 denies that he failed to furnish the information. That the information is already furnished. That there was no delay on the part of P.I.O. It is also the case of the Respondent No.1 that the matter cropped up due to a complaint in the matter against the appellant by one Shri Krishna alias Amit M. Goveker which was dropped/rejected by the Village Panchayat vide the First Respondent's letter dated 04.02.2011, letter dated 10.10.2010 from one Krishna alias Amit M. Goveker to the Sr. Town Planner, letter dated 09.12.2010 from the Town Planner to the Village Panchayat, letter dated 17.12.2010 from the Sarpanch of the Village

Panchayat to the Appellant with copies to others, letter dated 23.12.2010 from the Appellant to the Sarpanch are connected to the matter, copies of which are produced. That the Respondent No.1's bonafide and positive intentions in the matter are apparent. According to the Respondent No. 1 the Appeal is liable to be dismissed.

4. Heard the arguments. The Appellant argued in person and the learned Adv. N. Bhartiya argued on behalf of Respondent No. 1. The Appellant as well as Respondent No.1 filed written arguments which are on record.

5. I have carefully gone through the records of the case, considered the arguments advanced and also considered the written arguments on record. 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 27.12.2010, the Appellant sought certain information as under:-

“Minutes/proceedings of site inspection held on 24.12.2010 based on Letter No. VP/PM/F-46/2010-11/1879, dated 17.12.2010 of the Panchayat, site measurements noted by the representative of Town Planner and name and designation, persons remained present and/or participated in site inspection, copy of sketch/plan of site drawn as per measurements noted, adjacent P & T Road measurements noted and its sketch/map drawn, resolution taken by Panchayat in the matter.”

Inspection of records was also sought.

By reply dated 24.01.2011 the P.I.O. informed the Appellant that their office has no report from Mr. Navelkar, Town and Country Planning Department, Mapusa-Goa. It was also informed that as and when received from the said Office same will be provided to him in due course of time. There is endorsement on this reply “Received by Post on 7.2.2011.”

Being not satisfied the Appellant filed an appeal before the First Appellate Authority on 28.01.2011. By order dated 07.03.2011 the F.A.A./Respondent No. 2 observed as under:-

“..... Respondent produced the letter sent through under certificate of posting dt. 24.01.2011 vide No. 2044 but Appellant failed to collect the information. Therefore, I hereby order the Appellant to collect the information from P.I.O. thereby making the necessary payment within 7 days.”

It is the case of the Respondent No.1 in his written statement as well as written arguments that all the information has been furnished to the Appellant. The P.I.O. received the requisitioned information from the Town & Country Planning Department on 16.06.2011 and he immediately intimated the Appellant to collect the necessary information vide letter dated 17.06.2011. And another letter was sent on 22.06.2011 to the Appellant to collect the information. According to Respondent No. 1 Appellant inspected the entire file and collected all the information on 30.06.2011.

I have perused the records. Some letters, plans, etc. are produced alongwith the written statement. It is also contented by the Adv. for Respondent No. 1 that no panchanama was asked.

Appellant states that information is not furnished whereas according to Respondent No. 1 information is furnished. Respondent No. 1 has relied on certain letters which are also produced in another Appeal i.e. Appeal No. 154/SIC/2011.

In any case there is no harm if information is furnished as prayed for.

6. Coming to the aspect of delay. The Application is dated 27.12.2010 and the reply is dated 24.01.2011 i.e. the same was posted on that day. The Respondent No. 1 has produced Outward Register. The same shows it was posted on that day. The same is in time. However the endorsement on the letter produced shows that the Appellant received the same on 07.02.2011. May be by postal delay. However I must say that P.I.O. should endeavour to see that the reply/information is furnished in time i.e. as early as possible but within 30 days.

Another aspect is that the appellant was told that information was not available. Under R.T.I. the information that is available with the P.I.O. is to be furnished. It appears that certain documents were received from Town & Country Planning Department and subsequently they were furnished. The Respondent No. 1 also states that letter dated 24.01.2011 could not be sent earlier as he was on leave on account of death of his mother.

Even otherwise Penalty can be imposed only if there is no reasonable cause for not furnishing the information within the period of 30 days. Under Section 20 of the R.T.I. Act the Information Commission must satisfy itself that P.I.O. has without reasonable cause refused/not furnished information within specified time limit. The word 'reasonable' has to be examined in the manner, which a normal person would consider it reasonable. As per the scheme of R.T.I. Act, the right to seek information is not to be stretched to the extent that even if documents/file/information is not available for good reasons, still the same is to be procured and supply information.

In the instant case, however, the P.I.O. could inform the Appellant after the order of F.A.A. about the availability or not of the information which has not been done as can be seen from the records. In any case in the factual backdrop of this case, assuming there is delay, the reasons for the same meets the test of 'reasonable cause' under Section 20 of the R.T.I. Act.

7. In view of all the above and as observed above the information be furnished. Hence, I pass the following Order:-

ORDER

Appeal is partly 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 27.12.2010, within 20 days from the date of receipt of this order.

The inspection, if any, can be given on a mutually agreed date but within 20 days from the receipt of this order.

Needless to add the information be furnished free of cost.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this **25th day of June, 2012.**

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

