

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 166/SCIC/2010

Dr. D.J. De Souza,
C/o. Luz Lab,
Libania Bldg., New Market,
Margao – Goa

.... Appellant

V/s.

Chief Officer,
Margao Municipal Council,
Margao – Goa

.... Respondent

Appellant in person.
Adv. S. G. Naik for Respondent.

J U D G M E N T
(20.07.2012)

1. The Appellant, Shri (Dr.) D. J. De Souza, has filed the present appeal praying that the Chief Officer has knowingly disobeyed the order from Director of Municipal Administration dated 02.05.2007 till date; has allowed the illegal construction in illegal plot of land and has therefore helped the accused in violating the Section 184 of Goa Municipalities Act, 1968 and that the concerned official/s should be taken to task and necessary action and penalties due under R.T.I. Act should be imposed on them including action under Civil Services Rules.

2. The case of the Appellant is set out in the Memo of Appeal. In short it is the case of the Appellant that this appeal pertains to the order dated 02.05.2007 given by the Director of Municipal Administration and which was disobeyed by the Chief Officer, Margao Municipal Council; and the same was referred to the Director of Municipal Administration by his R.T.I. application dated 06.04.2010. That the order dated 02.05.2005 (2005) from the Director of Municipal Administration, had given 10 days to give details of the said illegal construction and action taken/proposed to be taken by the Margao Municipal to the Appellant. That no action was taken by the Chief

Officer of Margao Municipal Council till date and his R.T.I. Application dated 06.04.2010 was addressed by the P.I.O. of Directorate of Municipal Administration by his letter dated 12.04.2010. Hence, the Appeal.

3. The Respondent has filed the reply which is on record. It is the case of the Respondent that for want of requisite details the file could not be traced. That their office by letter dated 27.05.2010 had even requested the Appellant to contact the concerned Engineer for clarification, however, he did not turn up. Regarding queries 1 and 2 that their office has issued construction licence No. A/79-07-08 dated 21.09.2007 to Shri Nandakishore V. Dessai for construction of compound wall and Equipment Storeroom to commercial shop on the basis of the Development Permission No. SGPDA/P/3373/616/07-08 dated 30.05.2007 granted to him by the South Goa Planning and Development Authority. That as the construction is duly licenced by this office and is a legal one, no further action was found necessary against the same.

4. Initially the parties appeared. However later on Appellant did not remain present. Adv. S. G. Naik on behalf of Respondent/P.I.O. appeared. Written submissions of the Appellant are on record. So also the summary of the case is on record.

Adv. Shri S. G. Naik submitted that information is furnished.

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 relief prayed is to be granted or not?

The Appellant by application dated 06.04.2010, sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Director Municipal Administration/Urban Development, Panaji-Goa. The information sought is as under:-

(1) The order passed on 02.05.2007 is given vide Xerox copy.

What steps have been taken by the Chief Officer, Margao Municipal Council regarding the order passed on 2-5-2007 in case No. 21/2007/DMA; file No. 1/03/2007/DMA/262 dt. 2-5-2007.

(2) I have not received any communication till date regarding

the action taken by M.M.C. against the accused Nanda K. V. Dessai.

(3) What action do you propose to be taken against the Chief Officer MM for disobeying the order dated 2-5-2007?

By letter dated 12.04.2010 the P.I.O. Directorate of Municipal Administration transferred the same under Section 6(3) of the R.T.I. Act to the Chief Officer, Margao Municipal Council with a request to give the information in regard to question 1 and 2 pertaining to their office. It was also mentioned that reply was partly furnished by the office of D.M.A. By another letter dated 12.04.2010 the P.I.O. Directorate of Municipal Administration informed the Appellant that the information pertaining to query No. 1 and 2 has been transferred to the Chief Officer, Margao Municipal Council to reply. It was further informed as under:-

“In regard to your query No. 3 it is to inform you that as per the Right to Information Act 2005, you may prefer the 2nd Appeal before the State Information Commission, against disobeying the order dated 2-5-2007.”

6. I have perused the notice issued in Case No. 21/2007/DMA/File No. 1/03/2007/DMA/167 and order passed on 2-5-2007. Perusal of the same shows that the matter was not under R.T.I. But strangely and surprisingly the P.I.O. Directorate of Municipal Administration advised the Appellant to prefer 2nd Appeal against disobeying of the order dated 02.05.2007. This has been wrongly stated by P.I.O. Order dated 02.05.2007 is not under R.T.I. If so, this Commission cannot give any relief. Besides query No. 3 ought to have either been transferred or provided information. P.I.O. failed to do so instead gave wrong advice.

Normally the Appellant ought to have filed First Appeal. In the instant case application dated 06.04.2010 was not addressed to the P.I.O. but to the Director Municipal Administration.

7. In fact this appeal is not maintainable. Second Appeal lies against the decision of First Appellate Authority. The order dated 02.05.2007 appears to be in the capacity of Director of Municipal Administration/Urban Development. Action if any has to be taken by them only.

Second Appeal directly i.e. without First Appeal is not maintainable. However, in the instant case it is submitted that information is furnished.

The only thing is about delay. Since first appeal has not been filed it would not be proper to go for penalty proceedings.

However P.I.O. should bear in mind that information should be furnished in time. Otherwise it causes harassment to an information seeker which is legally not permissible. Besides, it is socially abhorring. The P.I.O. should strictly follow the provisions of the R.T.I. Act.

8. In view of the above, no intervention of this Commission is required as information is furnished. 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 20th day of July, 2012.

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

