

# **GOA STATE INFORMATION COMMISSION**

Ground Floor, Shrama Shakti Bhavan, Patto Plaza, Panaji – Goa.

CORAM: Smt. Leena Mehendale, State Chief Information Commissioner

**Appeal No.17/SIC/2012**

**Decided on 27/10/2014**

Shri. Bandhagit Nadaf  
R/o. H. No. 9, 3<sup>rd</sup> floor,  
Karma Paes Avenue,  
F.I. Gomes,  
Vasco-da-Gama.  
V/s

.....Appellant

1. Dy. Collector (I.A.)/The Public Information Officer,  
Collectorate of South Goa,  
Margao, Goa.
2. Collector(I)/First Appellate Authority,  
South Goa, Govt. of Goa,  
Collectorate Building,  
Margao, Goa.

.....Respondents.

## **ORDER (Open Court)**

**RTI application filed on** : 02/07/2011  
**PIO reply dated** : NIL  
**First Appeal filed on** : 26/09/2011  
**FAA Order dated** : 28/11/2011  
**Second Appeal filed on** : 16/01/2012

1. This second appeal arises out of RTI application dated 02/07/2011 made before the PIO/Dy. Collector (I.A), Collectorate of South Goa, Margao, Goa regarding violation of lease agreement by Dev. Damodar Trust and for inspection of the file regarding action taken for breach of lease agreement.
2. The RTI application states a brief history claiming that on 14/12/1987 the lease agreement was executed between Government of Goa and Shri. Dev Damodar Charitable Trust through which the plot of land admeasuring 3,964 sq.mts. at Vasco-Da-Gama was granted on lease for the purpose of construction of Auditorium for Cultural purposes and as town hall.

**Contd----2/-**

3. RTI question asked is
  - i) Is the Government of Goa aware..... ? If so, what action do you propose to take ?
  - ii) If the Government is not aware, will the Government take action upon proof of such breach by terminating the lease agreement?
  - iii) Personal inspection of the process file.
4. In the Second appeal memo it is claimed that Deemed PIO Smt. Sandhya Kamat failed to furnish complete and detailed information. It is not stated as to what was the reply of the Deemed PIO. The same has not been filed with the second appeal memo.
5. The First Appellate Authority has stated on 28/11/2011 as follows:

*“The Deputy Collector (LA)/PIO South, has now transferred the said application to the revenue section of the Collectorate. It will be imperative for the concerned PIO of the Collectorate to go into the contents of the Points 1 & 2 of the RTI application and furnish the required information to the appellant, free of cost, if the same is available & existing, with him immediately, failing which he should inform the Appellant accordingly”.*
6. Second appeal was filed on the ground that no information was given by the PIO of the Revenue Branch of the Collectorate till the date of filing second appeal on 16/01/2012.
7. Notice was issued to Smt. Sandhya Kamat, the Deemed PIO who filed her reply before SCIC on 16/04/2012 and a copy was received by the appellant. He has not filed any rejoinder. The Deemed PIO clarified the reasons of delay and also pointed to the fact that RTI application was further transferred to another PIO as is noted in the order of the FAA. This reply shows that the appellant needed to make a change in the cause title.
8. The appellant remained continuously absent after 1/10/2012 onwards and a last chance notice was sent to him on 17/9/2014 and he continued to remain absent on the last date of hearing on 27/10/2014.
9. At this stage it is pertinent to comments on the contents of the RTI application.

10. Question No. 1 which begins with the Wording “is the Government of Goa aware -----“ is not a properly framed question under RTI act. “Being aware” or not is not a matter of information, even though it is a matter of diligence. Hence it is not covered under sec.2 (f). It also imposes a presumption on the Government that the said leasee namely Dev Damodar Charitable Trust is using the lease land for purposes other than those mentioned in the Lease Agreement. Unless such a claim is investigated, such presumption cannot be imposed on government. Under RTI, only such information as defined under sec. 2(f) can be supplied.

11. Coming to second question, there can be innumerable applications made to the Government to claim that a particular land is being used illegally. A simple statement made to that effect cannot be taken by Government as finality for further action nor can Government Office proceed to check legality of each such claim. Thus the second question is important but not under RTI Act. Good governance is the mandate of any Govt. irrespective of the RTI Act. If the appellant proceeds straight away to present proof of breach of lease conditions, then Government is bound to look into the matter. Asking under RTI “*whether the Government will take action on presenting proof of breach*” also imposes a presumption of inefficiency which cannot be done the RTI Act. If the appellant is sure of breach, he should straight away proceed to file such proof of illegality and only then ask RTI question if proper action is not taken within reasonable time.

I therefore consider it fit to dismiss the second appeal on merit.

**--- O R D E R---**

Appeal is dismissed. Order declared in Open Court. Inform the parties.

**Sd/-**  
**(Leena Mehendale)**  
Goa State Chief Information Commissioner,  
Goa State Information Commission  
Panaji-Goa.