

GOA INFORMATION COMMISSION

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Appeal No. 54/2008

Shri. Allan Falleiro,
H. No. 400, Toleband,
Loutolim, Salcete – Goa. 403718

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Appellant.

V/s.

Public Information Officer,
The Hydrographic Surveyor,
Captain of Ports Department,
Panaji – Goa.

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Respondent.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner
&
Shri G. G. Kambli
State Information Commissioner

(Per A. Venkataratnam)

Dated: 29/09/2008.

Appellant in person.

Adv. K. L. Bhagat for Respondent.

ORDER

The Appellant has taken objection to the appearance of the Government Counsel, Shri. K. L. Bhagat to plead on behalf of both the Respondent on Government expenses. We find that there is no bar on the appearance of the pleaders on behalf of the Public Information Officers and the first Appellate Authority as per the Right to Information Act, 2005 (for short the RTI Act). Whether the Public Information Officer and first Appellate Authority, who are Government servants, should be represented at Government cost by a Government Counsel or not, is for the appropriate Government to take a decision which is taken already in this case by virtue of the Law Department's allocation of the case to Mr. K. L. Bhagat. We, therefore, reject the objection raised by the Appellant.

2. The request for information made by the Appellant initially to the Public Information Officer of the Department of Personnel on 31/01/2008 was transferred to the present Respondent, the Public Information Officer of Captain of Ports Department who has replied to the Appellant. The first appeal filed by him to the Captain of Ports was also allowed directing the

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Public Information Officer to give "complete information". The contention presently made out in the second appeal by the Appellant is that the information supplied by the Public Information Officer of Captain of Ports is misleading and incomplete. He has, however, not stated how it is misleading and how it is incomplete. The order dated 12/06/2008 by the first Appellate Authority is equally blank as to what is "complete information", to be furnished by the Public Information Officer. Hence, a close look at the application for information and the reply of the Respondent No. 1 are necessary.

3. The first request is for the duties and functions to be carried out by the Captain A. P. Mascarenhas. The Asst. Public Information Officer by his letter dated 13/04/2008 has given the list of duties of the Captain of Ports. The contention of the Appellant through his written statement/argument is that this Annexure – I containing the duties of the Captain of Ports is generated by the Public Information Officer and not notified by any Government authority. The reply of the Public Information Officer is a direct consequence of the Appellant's request for information. The information as available in the records is given by the Asst. Public Information Officer. The question of insisting on the Government notification for every record does not arise. The objection/grievance of the Appellant is without any basis. The next question is about the powers of the Captain of Ports which is also given at Annexure – II by the Asst. Public Information Officer. This is a Government notification and the Appellant has no grievance on this. The third and fourth points are regarding the powers, duties and functions as laid down by Government notifications containing these details are enclosed as Annexures. We do not know how this information is incorrect or incomplete. No doubt the Appellant has asked for the powers and the functions of Captain A. P. Mascarenhas as notified by the Government of Goa. However, the Government does not specify the powers and functions of all individual officers by name. The powers and functions are attached to the post of the Government Department to which a certain officer is appointed for a certain period of time. By virtue of his appointment to the post, the official automatically is vested with all the powers, functions, duties and responsibilities attached to that post unless specified otherwise in a legislation. Therefore, we do not find anything wrong with the information supplied by the Asst. Public Information Officer. We have already noted

that the Asst. Public Information Officer is not an appropriate authority to give information to the citizens under the RTI Act. Many Departments are following this procedure which is not correct. The Captain of Ports Department also should send the replies to the citizens under the RTI Act signed and issued by the Public Information Officer. If for any reason, the Public Information Officer cannot sign the letter because of his absence from Headquarters, on tour or leave or other exigencies, any other official should be appointed in his place for discharging the duties of the Public Information Officer. In such a case, he automatically becomes the Public Information Officer and can sign the letter as such.

3. With the above reasoning, we find that there is no merit in the appeal and is hereby dismissed.

Announced in the open court on this 29th day of September, 2008.

Sd/-
(A. Venkataratnam)
State Chief Information Commissioner

Sd/-
(G. G. Kambli)
State Information Commissioner