

GOA INFORMATION COMMISSION

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

Appeal No. 59/SCIC/2008

Shri. Kashinath Shetye,
Bambino Building, Alto Fondvem,
Ribandar, Tiswadi – Goa.

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Appellant.

V/s.

1. Public Information Officer,
Corporation of the City of Panaji,
Panaji - Goa.
2. First Appellate Authority,
The Director,
Municipal Administration/Urban Development,
Panaji – Goa.

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Respondents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner

(Per A. Venkataratnam)

Dated: 29/09/2008.

Appellant in person.

Adv. Shivan Desai for Respondent No. 1. Respondent No. 2 is absent.

ORDER

The Appellant by his application dated 05/05/2008 requested for certain information on 8 points from the Respondent No. 1. No reply was given within 30 days as required under the Right to Information Act, 2005, (RTI Act for short). The first appeal was filed by the Appellant on 16/06/2008 before the Respondent No. 2 who passed an order on 14/07/2008 to make available all records within 10 days of his order. At the time of the hearing of the first appeal, some additional request was made like inspection of the files. Even so, the certified copies of the licenses for "shops no. 20 and 21, Magnum Center", requested by the Appellant, were not given by the Respondent No. 1 inspite of the appellate order of Respondent No. 2. The occupancy certificate copy also was not given for the building. However, a reply was given on 25/06/2008 after the first Appeal was filed, on the remaining points. The Appellant has, therefore, moved the present second appeal on 25/08/2008. Sometime before the second appeal is filed and the partial information was given, another letter was sent by the Respondent No. 1 on 7/8/2008 informing the Appellant that the "licenses issued to the shop No. 20 and

...2/-

21 is not available in the file records and hence, cannot be issued”.

2. Notices were issued. The Respondents No. 1 and 2 have filed their statements. Besides, the matter was argued by the Advocate for the Respondent No. 1. The written statement before this Commission on 26/08/2008 at para No. 6, the Respondent No. 1 submitted that “on account of computerization of records in the office of Corporation, the relevant licence copies were removed from the file..... the licence copies have not been replenished.” At para No. 7 he offered “to permit the Appellant to inspect the compute files in respect of the said licences”.

3. The Appellant has submitted another rejoinder dated 23/09/2008 that the Public Information Officer has denied the inspection of records when he approached him and also has denied to give the certified copies of the license in front of Adv. Shahish Mhambre.

4. It is clear that the Respondent No. 1 has not taken diligent steps to give the information requested firstly within the time limit and even after an appeal was filed before Respondent No. 2. The information given, though belatedly, is also incomplete in the sense that the photocopies of licences and occupancy certificate were not given to him. Only sometime, thereafter, as an after thought he has stated that the licences are not available in the file and now in response of the notice of this Commission after the second appeal is filed, he submitted that they are removed during the computerization and now they are available in the computer. If they were not available at the time of the incomplete reply, the Respondent No. 1 could have stated so in as many words at the first available opportunity. The contradictory replies have to be viewed in the context of the allegation of the Appellant that the licenses were removed from the file deliberately and were torn. He also alleged by a statement dated 8/9/2008 that when he refused “to compromise the matter through V. V. Sawant, Municipal Engineer, the handcart of his brother was demolished”. Though there is no material to prove the allegations of the Appellant, the very conduct of the Respondent No. 1 in furnishing the information in time and giving contradictory replies to the Appellant as well as in his submission before this Commission shows that the Respondent No. 1 has not discharged his obligation of providing correct and complete information as required under section 4 of the RTI Act.

Further the burden of proving that he (Public Information Officer) had acted reasonably and diligently lies on the Public Information Officer as per second proviso to section 20(1) of the RTI Act. The whole course of the events also shows that the certificates of the licenses were malafidely denied to the Appellant. It is difficult to understand what is meant by the files are available in the computer and not given to the Appellant. In the first instance, the physical record need not be removed for computerizing the records. Even if a particular document is scanned and digitised, the copies should have been returned to the file. No document is fed into a computer in a physical form. Only digital information is fed into a computer. Consequently, even if by mistake, the license copies are destroyed and not "replenished" to the original file as stated by the Respondent No. 1, nothing prevented the Respondent No. 1 from taking a print out from the computer and giving it to the Appellant. The very same Public Information Officer has also given wrong information to another applicant in another Complaint No. 77/2007 decided by this Commission. There is, therefore, enough reason to start penalty proceedings against the Respondent No. 1.

5. The Respondent No. 1 is directed to furnish the copies of the licenses certificates of the shops No. 20 and 21 of the Magnum Center as well as occupancy certificate for that building. This should be done in the next 10 days. He should also explain why action should not be taken against him to impose penalty of Rs.250/- per day for the delay from 5/6/2008 till the date of the supplying of this information.

6. In the circumstances, the Appellant has to be also compensated for the loss and detriment suffered by him. He should be paid a compensation of Rs.5000/- within next 10 days from the Municipal funds. The Municipal Council is free to recover this money from person found responsible for this loss and lapse caused.

7. The case should come for further hearing on penalty proceedings and compliance of furnishing the information to the Appellant on 15/10/2008 at 11.00 a.m.

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

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

