

GOA INFORMATION COMMISSION

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

Appeal No. 60/2008

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

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Appellant.

V/s.

1. Public Information Officer,
Goa State Pollution Control Board,
Patto, Panaji - Goa.
2. First Appellate Authority,
The Chairman,
Goa State Pollution Control Board,
Patto, Panaji - Goa.

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Respondents.

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. D. Lawande for both the Respondents.

ORDER

By this second appeal, the Appellant is challenging the order dated 21/07/2008 of the Respondent No. 2 herein the first Appellate Authority, hereinafter referred to as the "impugned order" passed under the Right to Information Act, 2005 (RTI Act for short). The brief point is whether the Goa State Pollution Control Board (GSPCB) is required by law to inspect individual machinery and equipment located in various Fabricators/Workshops/Sawmills/Carpentry workshops/Construction Companies in the State of Goa to verify whether the installed machinery is making noise in excess of the decibel level, if any, prescribed for them. Interestingly, neither the Appellant nor Respondents have submitted any notification/ Government orders prescribing the functions and duties of the GSPCB of its operation.

2. Notices were issued to the parties and the Appellant argued for himself whereas Adv. Lawande represented both the Respondents. It is the case of the Appellant that the Government of India has prescribed

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certain maximum noise levels for the equipment used in the factories/workshops. To this effect, he has submitted an unsigned photocopy of print out of a notification dated 17/05/2002 from the Government of India, Ministry of Environment and Forest amending the Rule No. 94 of the Environment (Protection) Second Amendment Rules, 2002. The said notification mentions the maximum noise levels for diesel generation sets (D. G. Sets) on or after 01/07/2003 which shall be 75dB(A) at 1 metre from the enclosure surface. It further prescribed certain other standards for other equipment as well as emission levels of gases for D. G. Sets upto 800 KW etc.

3. The short point is whether the Government of India has prescribed maximum noise levels for the equipments used in the Workshops/ Industries etc. and whether the GSPCB is the authority to check up whether the standards are followed by those establishments both at the time of their inception and subsequent operation. We are handicapped as no records were produced by any of the parties nor do we have any access to any legislation being implemented by the GSPCB. In the absence of the same, the presumption will go in favour of the GSPCB which has stated in clear terms that they are required only to monitor "ambient air quality". The ambient air quality is measured in certain areas by specialized instruments. The measurements are Area - specific and not equipment - specific. If this be the case, as it appears to us for the present, the Public Information Officer is justified in rejecting the request of Appellant seeking information regarding maximum decibels levels and norms prescribed for the equipments mentioned in the original request for information by the Appellant addressed to the Public Information Officer/ Respondent No. 1 on 7/05/2008. For the same reason, the impugned order cannot be faulted dismissing the first appeal of the Appellant simply because no such information is available on the records of the GSPCB.

4. Consequently, the second appeal fails and is hereby rejected.

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

