

GOA INFORMATION COMMISSION

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

Appeal No. 61/2008

Shri. Manhoar Parrikar,
Hon'ble Leader of Opposition,
Goa State Assembly Complex,
Porvorim, Bardez - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
Mr. N. B. Subhedar,
The Under Secretary, Legislature,
Goa Legislative Assembly Complex,
Porvorim, Bardez – Goa.
2. First Appellate Authority,
Mr. R. Kothandaraman,
The Secretary,
Goa Legislative Assembly Complex,
Porvorim, Bardez – Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 22/10/2008.

Adv. D. Lawande for the Appellant.

Both Respondents in person.

ORDER

The brief point in this case is whether the Respondent No. 2 is justified in rejecting the first appeal of the Appellant by order dated April 18, 2008 (hereinafter called the impugned order) under the Right to Information Act, 2005 (RTI Act for short). Earlier, the request for certain information by the Appellant dated 13/2/2008 was rejected by the Respondent No. 1 by his letter dated 10/03/2008. The letter was received by the Appellant on the same day and being aggrieved by it, a first appeal was filed by the Appellant before Respondent No. 2 on 10/04/2008. The period of limitation allowed under section 19(1) of the RTI Act is 30 days from the date of receipt of the decision of the Public Information Officer. The date of filing of the first appeal on 10/04/2008 is the 31st day from the date of the Public Information Officer's letter of rejection. The first Appellate Authority by his order/letter dated 18/04/2008 rejected the appeal as time barred without giving the Appellant an opportunity for personal hearing.

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2. The notices having been issued, learned Adv. Shri. D. Lawande appeared on behalf of the Appellant. Both the Respondents remained present in person. The Respondent No. 2 argued the matter himself.

3. Admittedly, the Respondent No. 2 herein did not afford any opportunity to the Appellant of personal hearing before rejecting the appeal. The Respondent no. 2 as a first Appellate Authority, exercises quasi-judicial functions under the RTI Act and as the decisions of the Respondent No. 2 are appealable, it is expected that the first Appellate Authority shall afford an opportunity of being heard to the Appellant before passing the final order keeping in view the principles of natural justice.

4. This Commission in many cases have held that the first Appellate Authority shall follow the same procedure as is applicable to this Commission under the Goa State Information Commission (Appeal Procedure) Rules, 2006 while deciding the second appeals as far as possible in the matter of providing personal hearing to the Appellant. Being so, the order of the Respondent No. 2 dated 18/04/2008 is in violation of the principles of the natural justice and the same deserves to be quashed and set aside on this ground alone.

5. We are, therefore, not discussing the other grounds taken by the Appellant as well as arguments advanced by the learned Advocate for the Appellant and the Respondent No. 2. The order of the Respondent No. 1 dated 10/03/2008 also deserves to be quashed and set aside as the Respondent No. 1 has not applied his mind independently under the RTI Act.

6. We, therefore, hereby quash and set aside the order dated 18/4/2008 of the Respondent No. 2 and the order/letter dated 10/3/2008 of the Respondent No. 1. We direct the Respondent No. 2 to decide the appeal afresh after giving an opportunity of being heard to the Appellant within a period of 4 weeks.

Pronounced in the open court on this 22nd day of October, 2008.

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

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

