

**GOA STATE INFORMATION COMMISSION**

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

Appeal No. 81/SIC/2008

Shri Dinesh Vaghela  
2<sup>nd</sup> Floor, Navagauri Apt.  
Opp. ICICI ATM, Alto Porvorim  
Bardez-Goa

.... Appellant

V/s.

1. The Public Information Officer  
The Block Development Officer  
Mapusa  
Bardez – Goa

.... Respondent No. 1

2. The First Appellate Authority  
The Deputy Director of Panchayat  
Junta House  
Panaji – Goa

.... Respondent No. 2

**CORAM:**

**Shri G. G. Kambli**  
**State Information Commission**

**(Per G. G. Kambli)**

**Dated: 17.10.2008**

**Appellant in person.**

**Respondent No. 1 in person.**

**Respondent No. 2 absent.**

**J U D G M E N T**

A request dated 09.05.2008 was made by the Appellant to the Respondent No. 1, the Public Information Officer under section 6 of the Right to Information Act, 2005 (for short "The Act") for providing information on 6 points mentioned therein. The Respondent No. 1 by his letter dated 02.06.2008 informed the Appellant that the information sought on point No. 1 is very huge and time consuming and requested the Appellant to go through the office files during office hours and mark the copies which the Appellant would like to obtain. As regards the information sought at

...2/-

point No. 2 and 3, the Respondent No. 1 informed that the report is not ready. As regards point No. 4 the Respondent No. 1 informed that no documents are available and on point No. 5 it was informed that no documents are available and the Public Information Officer of Pilerne Marra Panchayat has been requested to do the needful.

2. Having not satisfied with the reply of the Respondent No. 1, the Appellant preferred an appeal under sub-section (1) of section 19 of the Act before the Respondent No. 2. The Respondent No. 1 filed a reply before the Respondent No. 2. The Respondent No. 2 thereafter passed an order on 30.06.2008 which was pronounced in the open Court in the presence of the Appellant as well as the representative of the Respondent No. 1. The Respondent No. 2 allowed the appeal of the Appellant and directed the Respondent No. 1 to provide the information on point No. 1. The Respondent No. 2 also directed the Appellant to provide the documents sought by the Appellant at point No. 2, 3 and 4. Similarly, the Respondent No. 2 directed the Respondent No. 1 to give the correct date of order which was communicated by him.

3. In pursuance of the said order of the Respondent No. 2, the Respondent No. 1 by his letter dated 29.07.2008 informed the Appellant that the information sought by the Appellant pertains to 33 Village Panchayats in Bardez block which is bulky and require more time to search and find out from the official records of the 33 Village Panchayats since the register for complaints of illegal constructions has not been maintained and updated since May 2003 and hence, it requires major time to prepare the same information for which the Respondent No. 1 requested the Appellant to wait until the information is collected and register is updated. Regarding point No. 2, the Respondent No. 1 informed that the report has not been prepared. On point No. 3, the Respondent No. 1 informed that no order was passed on the application dated 02.04.2008. On point No. 4, the Respondent No. 1 informed that no report was prepared. On point No. 5, the Respondent No. 1 informed that no payment was made to the taxicab and, therefore, no

voucher was obtained. As regards point No. 6, the Respondent No. 1 informed that the copy of the order was delivered to the Village Panchayat of Pilerne Marra on 06.12.2007.

4. As the Appellant did not receive the information from the Respondent No. 1 in time and as some of the information was incomplete and misleading according to the Appellant, the Appellant has filed the present second appeal under section 19(3) read with section 18(2) of the Act. The Appellant has taken various grounds in his memo of appeal and stated that the Respondent No. 1 has deliberately and with malafide intention withheld the disclosure of the information sought by the Appellant. The Appellant has prayed in his memo of appeal for a direction to the Respondent No. 1 to provide the complete information to the Appellant as requested vide his letter dated 09.05.2008; that the Respondent No. 1 be penalised in accordance with the provisions of the Act; that the Appellant be awarded compensation for the physical and mental torture suffered at the instance of the Respondent No. 1 and disciplinary proceedings be recommended against the Respondent No. 1 as mandated u/s. 20(2) of the Act.

5. The notices were issued to the Respondent No. 1 as well as to the Respondent No. 2 with a copy to the Appellant. The Respondent No. 1 was also directed to show cause as to why the prayers of the Appellant for the imposition of the penalty u/s. 20 of the Act shall not be allowed. The Respondent No. 1 made a grievance in his reply that the Appellant filed the first appeal before the Respondent No. 2 inspite of the information furnished to the Appellant. However, in para five of the reply the Respondent No. 1 submitted that the required information in detail was provided to the Appellant in view of the order of the Respondent No. 2. The Respondent No. 1 further stated that the order dated 30.06.2008 of the Respondent No. 2 was received by him on 17.07.2008 which was inwarded in his office on 22.07.2008. The Appellant argued the matter orally as well as filed the written submissions. The Respondent No. 1 submitted that he has nothing more to add besides his reply. The Respondent No. 2 chose to remain absent throughout.

6. It will be seen from the above that the Appellant sought information pertaining to the illegal constructions and illegal commercial activities for the last three years as per the point at (a) to (d). It is interesting to note that the case of the Respondent No. 1 is that the Respondent No. 1 has provided complete information and has also provided the information in compliance with the order dated 30.06.2008 of the First Appellate Authority, i.e. Respondent No. 2. This statement of the Respondent No. 1 is totally false and misleading. On perusal of the first reply dated 02.06.2008, the Respondent No. 1 informed the Appellant that the information sought by the Appellant was very huge and requested the Appellant to go through the files during office hours and mark the copies which the Appellant wanted to obtain. Even in subsequent reply dated 29.07.2008 the Respondent No. 1 requested the Appellant to wait until the information is collected and register is updated. In the said reply, the Respondent No. 1 had also informed that the register of complaints of illegal constructions has not been maintained and updated since May 2003. Therefore, I fail to understand as to how the Respondent No. 1 can make categorical statements that he has provided the information to the Appellant as per his request.

7. Till the date of the last hearing, the Respondent No. 1 did not provide any information to the Appellant on point No. 1. On the contrary, the Respondent No. 1 has asked the Appellant to go through the office files and mark the copies, which the Appellant wanted to obtain. The Respondent No. 1 should note that the Appellant did not seek the inspection of the records or the files pertaining to the illegal constructions and illegal activities maintained by the Respondent No. 1. Even before the Respondent No. 2, the Respondent No. 1 had made a false statement in his reply stating that the information was provided to the Appellant as per his request when in fact, nothing has been provided to the Appellant on point No. 1. It is not the case of the Respondent No. 1 that the information sought by the Appellant is not available or exempted. If the register of illegal constructions is not updated since May 2003, the citizens cannot be blamed or put to hardships in getting

the information. In fact, it is the duty of the Head of Office to see that the records are maintained up-to-date.

8. The Appellant in his reply has submitted that he has not sought a copy of the register of illegal constructions but the information which is available with the Respondent No. 1. I fully agree with the Appellant that the Appellant did not seek a copy of the register of illegal constructions. The Respondent No. 1 has to provide the information from his office records and he cannot ask the citizens to do the work of the Public Information Officer which otherwise is required to be done by the Public Information Officer with the assistance of his Staff. It was wrong on the part of the Respondent No. 1 to ask the Appellant to inspect the office files when no such request was made. The other statement of the Respondent No. 1 made in his subsequent letter dated 29.07.2008 asking the Appellant to wait until the information is collected and register is updated is a shocking statement. The Respondent No. 1 being the Public Information Officer is duty bound to comply with the mandatory provisions contained in section 7 of the Act and provide the information within the stipulated period. He cannot ask the citizens to wait for the information for indefinite period on account of the omissions on the part of the office of the Respondent No. 1 being the Head of Office not maintaining the office records up-to-date. It is the Respondent No. 1 who is to be blamed for not keeping the records of the office up-to-date and not the citizens. Section 7 of the Act does not empower the Public Information Officer to extend the time limit at his whims and fancies in providing the information to the citizens. The Public Information Officer should strictly adhere to the provisions of section 7(1) of the Act. The Respondent No. 1 has totally ignored and neglected the mandatory provisions of section 7 of the Act.

9. At point No. 2 and 4, the Appellant sought copies of the inspection report of the inspection carried on 30.04.02008 by the Respondent No. 1 of the Naugauri Apts as well as RG Stone Urology & Laporoscopy Hospital at Alto Porvorim. The Respondent No. 1 has replied that the reports were not

ready on point No. 2. As regards point No. 4, the Respondent No. 1 replied that no documents are available. Since no reports have been prepared, the Public Information Officer is not expected to provide copies of the non-existing documents as far as information on point No. 2 is concerned. If the reports are not prepared by the Respondent No. 1, the remedy lies somewhere else and not before this Commission. The Appellant sought a copy of the order passed by the Respondent No. 1 on his letter dated 02.04.2008 whereas in the subsequent reply dated 29.07.2008 which was received subsequent to the order of the Respondent No. 2, the Respondent No. 1 has informed that no order was passed on the application of the Appellant dated 02.04.2008. This clearly shows that the reply given by the Respondent No. 1 was misleading. In the first reply itself the Respondent No. 1 could have clarified that no order was passed instead of informing the Appellant that the report was not ready when in fact the Appellant did not seek any copy of the report at point No. 2.

10. At point No. 5, the Appellant sought a copy of the receipt towards the payment of the taxi fare in respect of the inspection carried out on 04.04.2008 and 30.04.2008 to which the Respondent No. 1 had informed that no document is available. Whereas in the subsequent reply, the Respondent No. 1 had informed that no payment was made to taxi cab. In the reply filed before the First Appellate Authority, the Respondent No. 1 clarified that the information provided at point No. 5 was in respect of the information pertaining to point No. 6 and as regards point No. 6, the Respondent No. 1 in the said reply stated that the same was transferred to the Public Information Officer, i.e Secretary of Pilerne Marra Village Panchayat to furnish the required information. Whereas in compliance with the order of the First Appellate Authority, the Respondent No. 1 has informed that the copy of the order was delivered to Village Panchayat Pilerne Marra on 06.12.2007. The Appellant pointed out that the Respondent No. 1 was holding this information and, therefore, has deliberately withheld its disclosure and gave a vague reply. I fail to understand as to why the Respondent No. 1 could not provide the information to the Appellant at the initial stage itself in his reply

dated 02.06.2008. The Appellant had sought to know the date on which the order dated 04.12.2007 in Miscellaneous Application No. 77/07 was delivered to the office of the Village Panchayat Pilerne Marra. The order has been passed by the Respondent No. 1 and, therefore, the records of the Respondent No. 1 should show as to when the said order was delivered to the Village Panchayat Pilerne Marra. It is not known whether the entire records pertaining to the Miscellaneous Application No. 77/07 were transferred to the Village Panchayat Pilerne Marra by the Respondent No. 1 after passing the order. Being so, it was wrong on the part of Respondent No. 1 to transfer this part of the application to the Village Panchayat Pilerne Marra if the records are with the office of the Respondent No. 1. Hence, the Respondent No. 1 did not provide the correct information on point No. 6 to the Appellant and tried to give vague and misleading reply vide his letter dated 02.06.2008.

11. The Appellant in his written submissions has made serious allegations against the Respondent No. 1 stating that the Respondent No. 1 is adamant and bent upon to harass the Appellant. The Appellant also relied upon the order dated 11.09.2008 passed by the Commission in penalty case No. 3/2008 in Appeal No. 23/SIC/2008 whereby the Appellant was warned but according to the Appellant the Respondent No. 1 has not improved and continues to harass the citizens.

The Appellant has also submitted that he is handicapped as he has undergone hip joint replacement and he is also an asthma patient. He has to climb to the office of the Respondent several times in order to obtain the information. Similarly, he has to attend the office of Dy. Director of Panchayats on number of occasions where renovation work was going on and he has to suffer on account of the dust and paint smell. The Appellant also submitted that he has been put to much physical harassment as well as mental torture and has to spend lot of time and money to pursue his application as well as the appeal before the First Appellate Authority. The Appellant, therefore, prayed for a compensation of Rs. 5 lakhs.

12. It will be seen from the above that the Respondent No. 1 has not acted diligently and has totally violated the provisions of the Act. He has given a go by to the mandatory provisions contained in section 7(1) of the Act. The Respondent No. 1 cannot ask the citizens to wait till the records are updated when it is the duty of the Head of Office to keep his office records up-to-date. The Respondent No. 1 has also not specified the period within which he will provide the information to the Appellant on point No. 1. It is already 161 days as on the date of order after making the application by the Appellant seeking information. The time limit for providing the information is only 30 days. The Respondent No. 1 has also not clarified as to how many pages the information will run. He has also not explained what will be the quantum of information when the Respondent No. 1 says that the information sought is bulky. Hence, it is difficult to accept the plea of the Respondent No. 1 that the information is bulky and time consuming. It is also pertinent to note here that the Respondent No. 1 did not make any of his grievances before the Respondent No. 2 that the register of complaints of illegal constructions is not updated since May 2003. It is for the first time that the Respondent No. 1 has informed the Appellant that the register of complaints of illegal constructions is not updated since May 2003 with which the Appellant is not at all concerned as the Appellant has not sought any copy of the register but only the information from the records available with the Respondent No. 1. It is also not the case of the Respondent No. 1 that the information sought by the Appellant on point No. 1 is exempted under any of the provisions of the Act.

13. The Respondent No. 1 was asked to show cause as to why the prayer of the Appellant regarding imposition of the penalties should not be granted. The Respondent No. 1 inspite of the opportunity did not submit any reply. It means that the Respondent No. 1 has no defence to justify the delay except by making a mere statement that the information sought by the Appellant on point No. 1 is bulky and time consuming. The Appellant has also stated that the order of the First Appellate Authority was received by him on 17.07.2008 but he is also not denying the fact that the order was pronounced



in the open Court when his representative was also present. Therefore, the order dated 30.06.2008 of the First Appellate Authority, i.e. Respondent No. 2 was within the knowledge of the Respondent No. 1. The Respondent No. 1 makes another interesting statement that the said order which was received by him on 17.07.2008 was inwards on 22.07.2008. This shows as to how the office of the Respondent No. 1 and the Respondent No. 1 function. It is not understood as to why five days are required to inward the order in the Inward Register. This clearly indicates that the matters pertaining to Right to Information Act, though time bound are not given any importance and they are totally neglected and the Respondent No. 1 being Head of Office has also failed to exercise proper supervision and control and he himself is exposing the functioning of his office stating that the order received on 17.07.2008 was inwards on 22.07.2008.

14. As stated earlier, the Respondent No. 1 has also not provided the correct information initially on point No. 3, 5 and 6. The Respondent No. 1 was also warned in the past to be careful and diligent in dealing with the matters under the Act and to ensure the disposal of the application within time limit specified in the Act. The Respondent No. 1 was also given number of opportunities and lenient view was taken by the Commission. Despite, the Respondent No. 1 has not shown any improvement as in the present case. In spite of such a long delay of 161 days the Respondent No. 1 has not provided information to the Appellant on point No. 1. The Respondent No. 1 has also not produced any documents to show that he has made an attempt and collected a part of the information sought by the Appellant. The Appellant has sought the information for the last three years and not an old record where the information is to be searched. The Respondent No. 1 has stated that he has to collect the information from the 33 Panchayats. The Appellant has not sought the information of the Panchayats. The request of the Appellant is very clear and specific as regards to the complaints received by the Respondent No.1 from the public.

The request of the Appellant is not for the complaints received by the Panchayats about the illegal constructions and or illegal commercial activities. The complaints received by the Respondent No. 1 should be available in the records of Respondent No. 1 and there is no need for Respondent No. 1 to collect this information from the 33 Village Panchayats. Therefore, the statement of the Respondent No. 1 that he has to collect the information from 33 Panchayats cannot be accepted.

15. Thus there has been an inordinate unexplained delay in providing the information on point No. 1 to the Appellant and, therefore, I do not see any grounds for rejecting the prayer of the Appellant for imposition of the penalty on the Respondent No. 1. The total delay comes to 131 days after excluding 30 days. Even after this long delay, the Respondent No. 1 has not provided the information which shows that the Respondent No. 1 is not sincere in disclosing the information. However, I defer the order on penalty till the complete and correct information is provided.

16. I am also satisfied that the Appellant has been put to much inconveniences and hardships and he has been made to run from pillar to post to secure the information which he is otherwise entitled to under the Act. The Respondent No. 1 has not denied that the Appellant is a handicapped person. Hence, I am of the view that a compensation of Rs. 2,000/- (Rupees two thousand only) will meet the ends of justice though the Appellant has claimed Rs. 5 lakhs as compensation. I, therefore, order the Director of Panchayats who is the public authority to pay the compensation of Rs. 2,000/- (Rupees two thousand only) to the Appellant within a period of two months in terms of section 19(8) of the Act.

17. In view of the above, I pass the following order:

### **ORDER**

The appeal is partly allowed. The Respondent No. 1 is directed to

provide the information to the Appellant on point No. 1 within two weeks from the date of this order and submit the compliance report on 06.11.2008 at 11:00am. I defer my decision on the imposition of the penalty till the compliance of this order and complete information is provided to the Appellant. I also award compensation of Rs. 2,000/- (Rupees two thousand only) to the Appellant in terms of section 19(8) of the Act to be paid by the Directorate of Panchayats as he is the Public Authority. A copy of this judgment and order be forwarded to the Directorate of Panchayats for taking necessary steps for the payment of the compensation.

Pronounced in the open Court on this 17<sup>th</sup> day of October 2008.

**Sd/-**  
**(G. G. KAMBLI)**  
**STATE INFORMATION COMMISSIONER**

