

**GOA STATE INFORMATION COMMISSION**  
Ground Floor, “Shrama Shakti Bhavan,” Patto Plaza, Panaji.

Appeal No. 82/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 in person.**

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

This is a second appeal filed by the Appellant under sub-section (3) of section 19 r/w. section 18(2) of the Right To Information Act, 2005 (hereinafter referred to as “The Act”).

2. The facts of the case, in brief, are that the Appellant herein approached the Respondent No. 1 vide his request dated 22.02.2008 u/s. 6 of the Act seeking certain information. As the Appellant did not receive any response from the Respondent No. 1 within the specified time limit of 30 days as provided under sub-section (1) of section 7 of the Act, preferred an appeal before the Respondent No.

2, the First Appellate Authority. The First Appellant Authority after hearing the Appellant as well as the Respondent No. 1 allowed the appeal and directed the Respondent No. 1 to furnish the information to the Appellant as per the para four of the appeal memo vide order dated 30.06.2008. In the said order, the Respondent No. 2 also made observations that the Respondent No. 1 should take due care in future to reply to the application within time and to inform the applicant in writing as to when he should collect the information and not to furnish a mere reply after the expiry of 30 days as was in the present case.

3. The Appellant states that the Respondent No. 1 wrote one more letter on 30.07.2008 without providing any information but only the repetition of the earlier letter received by the Appellant on 25.04.2008. The Appellant also states that the Appellant received the letter dated 02.04.2008 of the Respondent No. 1 on 25.04.2008 which, according to the Appellant was posted on 24.04.2008 and that too after filing the first appeal before the Respondent No. 2.

4. The Appellant has filed the present appeal, on the ground inter alia that the Respondent No. 1 has deliberately and with malafide intention withheld the disclosure of the information; that the Respondent No. 1 disobeyed the order of the First Appellate Authority, i.e. Respondent No. 2 herein; that the Respondent No. 1 has not acted diligently and that the information provided by the Respondent No. 1 is incomplete and misleading. Hence, the Appellant prayed that the Respondent No. 1 be directed to provide the complete information and the penalties be imposed against the Respondent No. 1 and disciplinary proceedings be also recommended.

5. The notice was issued to Respondent No. 1 as well as to Respondent No. 2. The Respondent No. 1 was directed to show cause as to why the prayers of the Appellant for imposition of the penalty and to recommend the disciplinary action should not be granted. The Respondent No. 1 filed his reply. In the reply, the Respondent No. 1 denied the allegations made by the Appellant. According to the Respondent No. 1, the Respondent No. 1 has complied with the order of the First Appellate Authority and also provided the information as available in the office record. In the reply, the Respondent No. 1 stated that the order of the First Appellate Authority dated 30.06.2008 was received by the Respondent No.1 on 17.07.2008 and the same was inwarded in the office of the Respondent No. 1 on

22.07.2008. The Appellant also filed his written submissions. The Appellant as well as the Respondent No. 1 also argued the matter orally.

6. I have gone through the appeal memo, reply filed by the Respondent No.1, the written submissions filed by the Appellant and also considered the arguments advanced by the Appellant as well as by the Respondent No. 1.

7. The Appellant sought the information vide his application dated 22.02.2008. The time limit for providing the information to the Appellant expired on 23.03.2008 in terms of sub-section (1) of section 7 of the Act. The Appellant has stated that he received the reply to his application from the Respondent No. 1 only on 25.04.2008 though the said letter was dated 02.04.2008 which was posted on 24.04.2008. This has not been denied by the Respondent No. 1. This shows that the Respondent No. 1 took twenty two days just for posting the letter and that too, after filing the first appeal by the Appellant thereby forcing the Appellant to file the first appeal. The Respondent No. 1, therefore, has ignored the provisions of sub-section (1) of section 7 of the Act. The Respondent No. 2, i.e. the First Appellate Authority has also warned the Respondent No. 1 to be careful in future. This Commission has also warned the Respondent No. 1 in earlier cases (Penalty Case No. 03/2008 in Appeal No. 23/SIC/2008) to ensure that the applications received under the Act are dealt with and disposed off within the time limit laid down in the Act. It appears that the Respondent No. 1 has not improved and continues to give a go-by to the mandatory provisions of the Act. The conduct and attitude of the Respondent No. 1 is not in the spirit of the Act. The posting of letter dated 02.04.2008 on 24.04.2008 itself speaks volumes which gives an impression that the letter in question was ante dated.

8. The First Appellant Authority has 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 and, therefore, the Respondent No. 1 had full knowledge of the order passed by the Respondent No. 2. The Respondent No. 1, therefore, is precluded from saying that the Respondent No. 1 received the order of the First Appellate authority on 17.07.2008. It is also pertinent to note here that the Respondent No. 1 has himself admitted of having received the order of the Respondent No. 2 i.e. First Appellate Authority on 17.07.2008 and the same was

in-warded in the office of the Respondent No. 1 on 22.07.2008 as per the statement of the Respondent No. 1. Thus, it is enough to show as to how the office of the Respondent No. 1 as well as the Respondent is functioning in dealing with the matters under the Act casually. I fail to understand as to why five days are required just to in-ward the order in the Inward Register. As stated above, the letter dated 02.04.2008 was posted on 24.04.2008 after twenty two days and the order received by the Respondent No. 1 was in-warded on 22.07.2008 after five days. All these clearly show as to how the office of the Respondent No. 1 is functioning. Therefore, I directed the Director of Panchayat to enquire into the matter of posting of letter dated 02.04.2008 on 24.04.2008 and in-warding of order on 22.07.2008 which was received on 17.07.2008.

9. Coming now to the merits of the case, at point No. 1 the Appellant has sought a copy of the report and observations made during the inspection carried out by the Panchayat on 16.11.2007. The Respondent No. 1 replied that the inspection was carried out by the Panchayat and, therefore, copy be obtained from the Village Panchayat Marra Pilerne. It was also clarified that neither the office of the Respondent No. 1 nor his immediate has prepared any report. In fact, the Respondent No. 1 ought to have transferred this part of the application of the Appellant to the Public Information Officer of Village Panchayat Marra Pilerne.

10. At point No. 2, the Appellant sought copies of the documents furnished by Mrs. Sanyogita Kashinath Shetye pursuant to the order dated 16.04.2007 passed by the Respondent No. 1 to which the Respondent No. 1 replied that no further action was taken in view of the withdrawal of the memorandum by the Dy. Director of Panchayat, North. In the subsequent reply dated 30.07.2008, the Respondent No. 1 has given the list of the documents produced by Mrs. Sanyogita K. Shetye and Mr. Kashinath Shetye. He also reiterated that no further action was taken in view of the memorandum dated 30.01.2007 and subsequent complaint dated 11.05.2007.

11. Turning now to point No. 3 the Appellant sought to know whether the documents mentioned in the order dated 16.04.2007 are required to carry out the constructions and commercial activities. The Respondent No. 1 replied in the negative. At point No. 4, the Appellant sought a copy of the order which has been passed in appeal No. 3/2008 after the order dated 09.02.2008. The reply given by

the Respondent No. 1 was that no order dated 09.02.2008 was passed. In the subsequent reply dated 30.07.2008, the Respondent No. 1 has forwarded a copy of the memorandum dated 19.02.2008. Thus, the information provided by the Respondent No. 1 to the point No. 4 was incomplete. The Appellant did not seek a copy of the order dated 09.02.2008 passed in appeal No. 3/2008 but a copy of the order passed by the Respondent No. 1 subsequent to the order dated 09.02.2008. Hence, the original reply dated 02.04.2008 was vague and misleading.

12. At point No. 5 the Appellant wanted to know the date on which the copy of the order dated 09.02.2008 passed in appeal No. 3/2008 was delivered to the Panchayat and the date on which the Panchayat has received the same. The Respondent No. 1 had replied that the point is not at all applicable since no order was passed by the office of the Respondent No. 1. In a subsequent reply dated 30.07.2008, the Respondent No. 1 has also reiterated the same. The Respondent No. 1 has not specifically stated that the Respondent No. 1 did not pass any order dated 09.02.2008 in appeal No. 3/2008 when the request of the Appellant was specifically pertaining to the appeal No. 3/2008.

13. As stated above, the First Appellate Authority has passed an order on 30.06.2008, which was pronounced in the open Court in the presence of the representative of the Respondent No. 1. Even to comply with the directions of the First Appellate Authority, the Respondent No.1 took 30 days. The Respondent No. 1 was directed to show cause as to why the prayers of the Appellant for imposition of the penalty should not be granted. The Respondent No. 1 has not explained the delay. Initially, the Respondent No. 1 took 62 days to reply the application of the Appellant and subsequently, even after passing the order by the First Appellate Authority, the Respondent No.1 took another thirty days to send the reply. Even though the Respondent No. 1 was directed to show cause, the Respondent No. 1 did not file any reply. The Respondent No. 1 has failed to justify or explain the delay in providing replies to the Appellant. It will be seen from the above that the Respondent No. 1 has not provided the correct and complete information on the point No. 4 to the Appellant. Similarly, the Respondent No. 1 has also not clearly mentioned that the Respondent No. 1 has not passed any order dated 09.02.2008 in appeal No. 3/2008. Similarly, the Respondent No. 1 could have transferred the application of the Appellant to the Public Information Officer of Village Panchayat

Marra Pilerne under section 6(3) of the Act, which the Respondent No. 1 has failed to do so.

14. So far as information pertaining to other points is concerned, I feel that the Respondent No. 1 has not provided the information except on point No. 5. The Respondent No. 1 is directed to clarify whether he has passed any order dated 09.02.2008 in appeal No. 3/2008 to the Appellant. Similarly, the Respondent No. 1 is directed to transfer the application of the Appellant on point No. 1 to the Public Information Officer of Village Panchayat Marra Pilerne for taking appropriate action.

15. As discussed above, the Commission has taken a lenient view against the Respondent No. 1 in the past. The Respondent No. 1 has not shown any improvement and continues to ignore the statutory provisions of the RTI Act. There has been a delay of 32 days even to send the first reply to the Appellant. The order of the First Appellant Authority was also not promptly complied with and he took thirty days. Therefore, this is a fit case in imposing the penalty on the Respondent No. 1. Even if the first reply dated 02.04.2008 is taken into consideration which was posted on 24.04.2008, there has been a delay of 32 days and the penalty @ Rs. 250/- per day comes to Rs.8000/-.

16. In view of what has been discussed above, I pass the following order:

### **ORDER**

The appeal is partly allowed. The Respondent No. 1 is directed to clarify the information on point No. 5 as per para 14 of this judgment within a week's time. The Respondent No. 1 shall also forward a copy of the application of the Appellant to the Public Information Officer of Village Panchayat Marra Pilerne within five days from the date of this order if not done so far. So far as the imposition of penalty is concerned, I impose a penalty of Rs. 4000/- and give one more opportunity to the Respondent No. 1 to improve and strictly adhere to the provisions of section 7(1) of the Right To Information Act, 2005 in disposing off the applications received under the Act. Hence, the penalty of Rs. 4000/- imposed on Shri Shiv Prasad Naik, Block Development Officer of Bardez who is the Public

Information Officer, shall be paid by him in two monthly installments for the month of November 2008 and December 2008. In case Shri Shiv Prasad Naik, i.e. Respondent No. 1 herein fails to pay the penalty, the Director of Accounts, Panaji is authorized to deduct the same from the salary of Shri Shiv Prasad Naik, Block Development Officer, Bardez for the month of January, 2009 and credit it under the appropriate budget head.

A copy of the order be also forwarded to the Director of Panchayats as per para 8 of this judgment and order.

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

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