

GOA INFORMATION COMMISSION

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

Appeal No. 155/SCIC/2008

Shri. Prabhakar S. Yende,
C/o Mapusa Jana Jagruti Samiti,
H. No. 35, Ward No. 11,
Near Akshay Durga Co-op. Hsg. Society,
Khorlim, Mapusa – Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Chief Officer,
Mapusa Municipal Council,
Mapusa – Goa.
2. First Appellate Authority,
The Director,
Municipal Administration/Urban Development,
Panaji - Goa.

..... Respondents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner

(Per A. Venkataratnam)

Dated: 15/12/2008.

Appellant in person.

Both the Respondents absent.

ORDER

The Appellant made a request under the Right to Information Act, 2005 (RTI Act for short) on 6/3/2008 to the Respondent No. 1 for information on 4 points. This request was not disposed off by the Respondent No. 1 in the statutory time limit of 30 days. Thereafter, a first appeal was filed on 3/5/2008 against the deemed refusal and an order dated 6/6/2008 was passed by the First Appellate Authority, Respondent No. 2 directing the Public Information Officer, Respondent No. 1 to give the information within 10 days of the order. Only thereafter, i.e. on 12/6/2008, the Public Information Officer refused information referring to a decision in Writ Petition No.419/2007 passed by the Hon'ble High Court of Bombay in Celsa Pinto V/s. Milan Natekar and another.

2. The exact questions and answers are reproduced below: -

“(1) Please indicate the daily progress made on our application letter dated 7/2/2008 so far i.e. when did our application reach which

...2/-

officer, for how long did it stay with that officer and what action did he/she take on it during that period?

Ans.: It reaches on 07/02/2008 which has inward No. 9439. It is not clear from question which office the appellant referring about too, However as per the office procedure all the correspondence received are inward in the Inward Register by Inward Clerk, thereafter it goes to Head Clerk, who marks the correspondence to respective section. This correspondence first goes to Chief Officer and then to Chairperson. Subsequently it is distributed to respective section. In the oral judgment and Order passed by the Hon'ble High Court in Writ Petition NO. 419 of 2007, it is clearly mentioned that information has been defined by section 2(f) as follows:

"Section 2(f) Information means any materials in any form, including records, documents, memos, e-mails, opinion, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data materials held on any electronics form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force."

Further it is also stated in the Judgment and Order that the definition cannot include within its fold answer to the question "why" which would be the same thing as asking the reason for a justification for particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why certain things was done or not done in the sense of a justification because the citizen make a requisition about information. Justification are matter within the domain of adjudicating authorities and cannot properly be classified as information. In view of above decision question/information sought at Sr. 1 falls in ambit of what is said in judgment and Order passed by Hon'ble High Court as in question at Sr. 1 the applicant has asked how long did it stay with that officer and what action did he/she took on it during that period, which itself shows that the applicant is asking the reasons for certain things.

- (2) Please give the names and designations of the officials, if any, who delayed taking action on our application dated 7/2/2008.

Ans.: The question at Sr. 2 the appellant again asking justification for delay in taking action on his application which again a matter falls within the domain of adjudication of authorities and cannot properly be classified as information. Hence denied.

- (3) What action would be taken against these officials for the delay? By when would that action be taken?

Ans.: As this again as repetition of asking justification/reason why or when certain things will be done. Hence same is denied.

- (4) By when would our application be dealt with?

Ans.: In last question once again the applicant is asking when certain thing will be done, which does not fall under section 2(f) as the applicant did not ask for information in any form as prescribed under the section 2(f).

3. Not satisfied with these replies, the Appellant has filed this present second appeal on 15/09/2008. I have taken jurisdiction even though the First Appellate Authority did not decide the appeal after the information was refused.

4. Notices were issued. The Appellant appeared in person. The Public Information Officer has submitted his reply through the Asst. Public Information Officer asking for some more time which was granted. However, even though two more months have gone by after receiving the notice of the second appeal, no statement was filed by the Public Information Officer.

5. I have gone through the answers given by the Public Information Officer on 12/6/2008 giving reasons for refusal of information. The first question is about the daily progress made by the Chief Office on an earlier application dated 7/2/2008 filed by the Appellant. It is agreed by the Public Information Officer that such an application was received and was inwards as No. 9439 on the same day. It is also not denied that the application is lying in the Municipal Council from that day onwards till

now. The action taken on that application including action not taken is matter of Municipal records. No doubt, the Chief Officer has described elaborately the procedure involved in disposing the correspondence received in the Municipal Council. However, he has not disclosed whether the procedure was followed in this particular letter dated 7/2/2008. He has denied the information by quoting an order dated 3rd April, 2008 passed by the Hon'ble High Court of Bombay at Goa saying that the public authorities cannot expect to communicate the reasons why certain things are done or not done in the sense of justification. According to him, this is not information as defined under the RTI Act. It is true that the High Court judgment has interpreted the definition of information under section 2(f) as not to include asking the questions requiring adjudication. But it has not stated that the information as available on record of the public authority should not be given or need not be given. As observed by me, the progress of the letter dated 7/2/2008 from that day till today is a matter of Municipal record i.e. who has handled the disposal of this letter and what are the decisions taken by public authority. There is no element of adjudication in this. Even if no decision was taken that has to be replied to the Appellant, the Public Information Officer, therefore, is wrong in rejecting the information on this point. Question 2 requires the names of officials who are supposed to take action on the letter dated 7/2/2008. This also does not involve any adjudication. Questions 3 and 4 involve reasons or justification for delay in taking action and what is the action taken on the officials responsible for delaying the information. These obviously are covered under the judgment in the case of Celsa Pinto V/s. Milan Natekar and another. Hence, rejection by the Public Information Officer of replying to these 2 questions are justified.

5. In view of the reasons explained, the Respondent No. 1 should give the information on questions No. 1 and 2 within the next 10 days from the date of this order. The appeal, therefore, is partially allowed.

Announced in the open court on this 15th day of December, 2008.

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

