

GOA STATE INFORMATION COMMISSION
Ground Floor, "Shrama Shakti Bhavan," Patto Plaza, Panaji.

Appeal No. 131/SIC/2008

Shri Subodh Shiwaji Sawant
B-2, Shanti-Campus, Near Mehul Talkies
Mulund West
MUMBAI- 400 080 ... Appellant

V/s.

1. Shri Pramod D. Bhat
The Public Information Officer
In the Office of the Honorable Mamlatdar of
Bicholim Taluka, Bicholim-Goa. Respondent No. 1

2. Shri Arvind V. Bugde
The Honorable First Appellant Authority
The Dy. Collector and S.D.O. Bicholim Sub-Division
Bicholim-Goa ... Respondent No. 2

G. G. Kambli
State Information Commissioner

(Per G. G. Kambli)

Dated: 18.12.2008

Appellant in person.
Respondent No. 1 in person.
Respondent No. 2 absent.

ORDER

This is a second appeal filed by the Appellant under sub-section (3) of section 19 of the Right to Information Act, 2005 (for short "The Act") against both the Respondents.

2. The case of the Appellant is that the Appellant approached the Respondent No. 1 with a request dated 07.05.2008 bearing reference No. 35/8 seeking certified copies of the letter bearing reference No. MAM/BICH/DEV/SEPT/NAROA/44/05/3899. The Respondent No. 1 did not respond to the said request of the Appellant within the time limit of 30 days laid down in section 7 of the Act and, therefore, the Appellant preferred the first

appeal before the Respondent No. 2 against the deemed refusal, on 2nd July 2008. The Appellant alleges that the Respondent No. 2 also did not dispose off his appeal within the time limit laid down in section 19(6) of the Act and, therefore, the Appellant is forced to file the present second appeal before this Commission on various grounds as set out in the memo of appeal.

3. Upon issuing the notices the Respondent No. 1 filed the reply. The Respondent No. 2 remained absent although he was served. In the reply filed by the Respondent No. 1, the Respondent No. 1 has stated that Shri Sadanand P. Gad, ex-Devasthan Clerk had informed the Respondent No. 1 that the information sought by the Appellant are not available. Accordingly, as per the directions of the Respondent No. 2 vide memorandum dated 24.07.2008, the Appellant was informed as per the letter dated 08.08.2008. During the hearing, the Respondent No. 1 was directed to remain present alongwith the file of the enquiry conducted by the then Mamlatdar, Shri Pundalik v. Khorjuvekar. Thereafter, the Respondent No. 1 filed additional reply stating that after the termination of the services of Shri Sadanand P. Gad, ex-Devasthan Clerk, search was carried out and the documents sought by the Appellant are traced and the same will be supplied to the Appellant. The Respondent No. 1 has produced a copy of the memorandum dated 23.05.2008 whereby the Respondent No. 1 had directed Shri Sadanand P. Gad, ex-Devasthan Clerk to furnish the information sought by the Appellant within two days. Shri Sadanand P. Gad vide his letter dated 23.05.2008 informed the Mamlatdar that the information sought by the Appellant would be furnished within a period of two days. It is also seen from the endorsement made on the said letter by Shri Sadanand P. Gad that the Appellant was already informed under certificate of posting. The Respondent No. 1 in his additional reply has submitted that the said Shri Gad, ex-Devasthan Clerk did not

produce this certificate of posting. However, as per the list submitted by Mr. Sadanand P. Gad in his letter dated 27.05.2008, at serial No. 71 the said Devasthan Clerk has put a remark that the applicant may verify the date.

4. Thus, it is evident from the above that the Respondent No. 1 did not furnish the information to the Appellant within 30 days as provided under sub-section (1) of section 7 of the Act. On the contrary, the Respondent No. 1 sent a reply dated 08.08.2008, after 93 days stating that the information is not available without proper verification of the records and solely relying on the Devasthan Clerk. The Respondent No. 1 has not explained such an inordinate delay in sending the said reply to the Appellant. Therefore, the Respondent no. 1 has also not acted diligently.

5. It is pertinent to note that it is only when the Commission directed the Respondent No. 1 to produce the file pertaining to the enquiry conducted by the then Mamlatdar of Bicholim, Shri Pundalik V. Khorjuvekar, the Respondent No. 1 made efforts to verify these documents and has now come before the Commission stating that the information sought by the Appellant is available and will be supplied to the Appellant. The Respondent No. 1 also failed to verify whether the then Devasthan Clerk, Shri Gad has sent any information to the Appellant under certificate of posting.

6. In the present case, the Respondent No. 1 sought the assistance of the Devasthan Clerk Shri Sadanand P. Gad who was dealing with the Devasthan matters. Shri Sadanand P. Gad the then Devasthan Clerk misguided and furnished false information to the Respondent No. 1 and, therefore, a notice has to be issued to Shri Sadanand P. Gad the then Devasthan Clerk through the Respondent No. 1 to show cause as to why Shri Sadanand P. Gad, ex- Devasthan Clerk should not be treated as

Public Information Officer for the contravention of the provisions of the Act and why penalty should not be imposed on him under section 20(1) of the Act.

7. The Respondent No. 1 was also directed by this Commission vide notice dated 19.09.2008 to show cause as to why the prayer of the Appellant for the imposition of the penalty under section 20 of the Act shall not be allowed. The Respondent No. 1 has not at all given the justification for such a long delay of 93 days in sending the letter dated 08.08.2008 when the information was sought by the Appellant on 07.05.2008. Being so, the Respondent No. 1 is also liable for imposition of the penalty under section 20 of the Act. In the present case, it is observed that neither the Respondent No. 1 nor the Respondent No. 2 responded to the request of the Appellant and also the appeal filed before the Respondent No. 2 thereby causing unnecessary harassment and determent to the Appellant. It is not only in this case the Respondents have not acted diligently but also there are number of appeals filed by the Appellant before this Commission where both the Respondents have remained silent on the application of the Appellant. Therefore, this is a fit case for awarding compensation to the Appellant under section 19(8) of the Act.

8. In the result, the following order is passed:

ORDER

The appeal is allowed. The Respondent No. 1 is directed to provide the information to the Appellant within one week from the date of this order and file the compliance report on the next date of the hearing. The imposition of the penalty on the Respondent No. 1 is deferred till the complete information is provided to the Appellant.

2. A notice be issued to Shri Sadanand P. Gad, ex-Devasthan Clerk through the Respondent No. 1 to show cause as to why he should not be treated as a Public Information Officer in terms of the provisions of sub-section (4) and (5) of section 5 of the Act, and also why penalty should not be imposed on him under section 20 of the Act on the next date of hearing which is fixed on 08.01.2009 at 11:00am.

Pronounced in the open court on this 18th day of December 2008.

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

