

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

Appeal No. 134/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
Mamlatdar of Bicholim Taluka
Bicholim-Goa Respondent No. 1

2. Shri Arvind V. Bugde
First Appellate 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.

J U D G M E N T

This is a second appeal filed under sub-section (3) of section 19 of the Right to Information Act, 2005 (for short "The Act") as the Respondent No. 2 failed to dispose off the appeal within the time limit specified in sub-section (6) of section 19 of the Act.

2. The case of the Appellant is that the Appellant vide his request bearing No. 6/6 dated 07.05.2008 sought the information from the Respondent No. 1 to provide certified copies of the memorandum dated 22.05.2007 issued by the

Mamlatdar of Bicholim and or the Administrator of Devasthan of Bicholim taluka. The Respondent No. 1 did not communicate the decision on the application of the Appellant within the time limit laid down in sub-section (1) of section 7 of the Act and, therefore, the Appellant presumed that his request is deemed to have been refused by the Respondent No. 1. The Appellant, therefore, filed the first appeal before the Respondent No. 2 under section 19(1) of the Act on 2nd July, 2008 against the deemed refusal of his request by the Respondent No. 1. The Respondent No. 2 did not take any action or even not bothered to issue the notice of the hearing within the time limit specified in sub-section (6) of section 19 of the Act. As the Respondent No. 2 failed to dispose off the first appeal filed by the Appellant within the statutory period laid down in sub-section (6) of section 19 of the Act, the Appellant has filed the second appeal before this Commission on the various grounds as stated in the memo of appeal.

3. The notices were issued to the Respondents. The Respondent No. 1 filed the reply. The Respondent No. 2 neither filed any reply nor remained present. During the first hearing of this appeal held on 06.10.2008, the Respondent No. 1 was directed to produce the Inward and Outward registers of the office of the Mamlatdar as well as of the Devasthan section for the year 2007 and also a copy of the enquiry report submitted by the then Mamlatdar Shri Pundalik V. Khorjuvekar on the next date of the hearing which was fixed on 17.11.2008. On 17.11.2008 the Appellant prayed for time to enable him to peruse the records and hence hearing was adjourned to 04.12.2008. On 04.12.2008, the Respondent No. 1 filed the additional reply.

4. In his reply dated 06.10.2008, the Respondent No. 1 submitted that as per the documents furnished by the then Devasthan Clerk Shri Sadanand P. Gad, and as per the

directions of the Respondent No. 2 contained in the memorandum dated 24.07.2008, the Appellant was informed that the documents are ready and he may collect the same on payment of prescribed fee vide letter dated 08.08.2008. Further, in the additional reply filed on 04.12.2008, the Respondent No. 1 stated that vide memorandum dated 23.05.2008, the then Devasthan Clerk Shri Sadanand P. Gad, was directed to furnish the information within two days. In compliance thereof, the then Devasthan Clerk Shri Sadanand P. Gad, vide his letter dated 23.05.2008 had informed that the information will be kept ready within two days. Similarly, an endorsement is also made on the said letter by Shri Sadanand Gad that the Appellant has been information under certificate of posting but no certificate of posting is produced. The Respondent No. 1 also submitted that Shri Gad had also given the detailed list of the applications made by the Appellant and status report. The application in question is figuring at Sr. No. 77 whereby the then Devasthan Clerk has stated that the information was ready. This shows that the information was available and the Devasthan Clerk had informed the Respondent No. 1 that the information was ready and, therefore, the Respondent No. 1 could have provided the information to the Appellant within the time limit specified in section 7(1) of the Act. Further, the Respondent No. 1 waited till 08.08.2008 and informed the Appellant to collect the information on payment of the prescribed fee. Here again, the Respondent No. 1 has not followed the provisions of subsection (3) of section 7 of the Act according to which the Public Information Officer has to calculate the fees and inform the information seeker the amount of fees payable by the applicant. In the present case, the Respondent No. 1 has not calculated and informed the amount of fees payable by the Appellant towards the supply of the information.

5. The Respondent No. 1 was directed to show cause why the penalty as prayed for by the Appellant should not be allowed under section 20 of the Act. Though the Respondent No. 1 has filed two replies, first dated 06.10.2008 and second dated 04.12.2008, the Respondent No. 1 has not explained this inordinate delay. On the contrary, the Respondent No. 1 has stated that the information was provided within the time limit and there was only some delay on the account of the lethargic attitude of the Devasthan Clerk. The Devasthan Clerk in his letter dated 27.05.2008 has clearly indicated that the information was kept ready. The endorsement made on the letter dated 03.05.2008 that the applicant was informed under certificate of posting cannot be accepted. The Respondent No.1 ought to have known whether the Appellant was informed or not. No intimation can go through the Devasthan Clerk to the Appellant. It is difficult to believe that the Respondent No. 1 has solely relied upon the Devasthan clerk. The Respondent No. 1 has not communicated the steps taken by him to ensure that the information sought by the Appellant is provided within the statutory period laid down in section 7(1) of the Act. On the contrary, even though the Devasthan Clerk has brought to the notice of the Respondent No.1 that the information was ready, the Respondent No. 1 did not taken any action to furnish the same to the Appellant and informed only on 08.08.2008, that too, as per the memorandum dated 24.07.2008 of the Respondent No. 2. A copy of the said memorandum is also not produced before this Commission either by the Respondent No. 1 or Respondent No. 2.

6. The Respondent No. 2 also did not dispose off the appeal within the time limit specified in section 19(6) of the Act. The Appellant has alleged that the Respondent No. 2 has even not bothered to fix the appeal for hearing and this allegation of the Appellant goes unchallenged as the Respondent No. 2 did not file any reply nor appeared before this Commission. Therefore,

both the Respondents have not acted diligently and in the spirit of the Act and defeated the very objects of the Act. The Respondent No. 1, therefore, is responsible and liable for the imposition of the penalty in terms of the provisions of section 20 of the Act.

7. Further, the Appellant has been put to much hardships and difficulties. Hence, this is a fit case for awarding compensation to the Appellant under section 19(8) of the Act. In the result, I pass the following order:

ORDER

The appeal is allowed. The Respondent No. 1 is directed to provide the information as sought by the Appellant within one week from the date of this order and file the compliance report on the next date of the hearing which is fixed on 30.12.2008 at 11:00am. The decision for the imposition of the penalty and awarding of the compensation is deferred till the complete information is provided to the Appellant.

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

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

