

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

Appeal No. 137/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 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 although served.

**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") against the deemed refusal to pass an order by the Respondent No. 2 on the appeal filed by the Appellant under section 19(1) of the Act.

2. The case of the Appellant is that the Appellant vide his application bearing reference No. 26/8 dated 07.05.2008 requested the Respondent No. 1 to provide two certified copies of the letter dated 21.03.2007 which was submitted by Shri

Sitaram alias Anil Parshuram Divekar, Shri Chandrashekar B. Divekar, Shri Sammer S. Divekar, the purported President, Secretary and Treasurer of Shree Saptakoteshwar Devasthan, in the enquiry which was conducted by the then Mamlatdar Shri P. V. Khorjuvekar. The said letter was paginated/numbered as page Nos. C-631 to C-629 of the enquiry. As the Appellant did not receive any response from the Respondent No. 1, the Appellant preferred the first appeal before the Respondent N. 2 on 2<sup>nd</sup> July 2008. The Respondent No. 2 also did not dispose off the appeal within the time limit laid down in sub-section (6) of section 19 of the Act nor fixed the appeal for hearing within the time limit. The Appellant, therefore, has filed the present second appeal.

3. Upon issuing the notices to the parties, the Respondent No. 1 filed the reply. The Respondent No. 2 neither remained present nor filed any reply. During the first hearing held on 06.10.2008, the Commission directed the Respondent No. 1 to produce Inward and Outward register of the office of the Mamlatdar as well as the Devasthan section for the month of March to May 2007 and also the file pertaining to the enquiry conducted by the then Mamlatdar Shri P. V. Khorjuvekar on 17.11.2008. On 17.11.2008, the Appellant prayed for time for perusing the records and accordingly the hearing was adjourned to 04.12.2008. On 04.12.2008, the Respondent No. 1 filed additional reply.

4. In the first reply dated 06.10.2008, filed by the Respondent No. 1, it has been stated that the Appellant was informed vide letter dated 08.08.2008 on the directions of the Respondent No. 2 contained in the memorandum dated 24.07.2008. On perusing the letter dated 08.08.2008, the Respondent No. 1 had informed the Appellant that the documents sought by the Appellant are not available in the Devasthan section.

5. In the additional reply filed on 04.12.2008, the Respondent No. 1 stated that the Devasthan Clerk Shri Sadanand P. Gad was directed vide memorandum dated 23.05.2008 to put up the information within two days. The then Devasthan Clerk Shri Sadanand Gad vide his letter dated 23.05.2008 informed that the information would be submitted within two days. On the said letter, an endorsement was made by the Devasthan Clerk that the Appellant has been informed under certificate of posting but did not produce copy of the certificate of posting.

6. The Respondent No. 1 further submitted that the Devasthan Clerk Shri Sadanand Gad submitted the detailed list giving the status of each application filed by the Appellant seeking information and at serial No. 62, the Devasthan Clerk has stated that the applicant may verify the date. The Respondent No. 1 further submitted that after the termination of services of Shri Sadanand Gad, a search was carried out and the document was traced and the copy thereof would be supplied to the Appellant.

7. This clearly indicates that the Respondent No. 1 has provided false and misleading information vide his letter dated 08.08.2008 to the Appellant. The Respondent No. 1 ought to have verified before sending the said reply to the Appellant in as much as the Appellant has given the page numbers of the file where these documents are available. That apart, the reply has been sent to the Appellant after 93 days as against the statutory period of 30 days provided in section 7(1) of the Act.

8. The Respondent No. 1 was directed to show cause as to why the prayer of the Appellant for imposition of penalty under section 20 of the Act should not be allowed. The Respondent No. 1 did not give any explanation or justification for such a long inordinate delay in sending the reply and that too, without

proper verification of the records. Hence, the Respondent No. 1 is responsible and liable for action under section 20 of the Act. The Respondent No. 1 has relied upon the then Devasthan Clerk Shri Sadanand Gad and provided the false information to the Appellant belatedly.

9. In view of the above, the following order is passed:

### **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.

10. The decision on the imposition of the penalty on the Respondent No. 1 is deferred till the compliance of this order. Shri Sadanand P. Gad, the then Devasthan clerk is hereby directed to show cause as to why he should not be treated as a Public Information Officer in the terms of the provisions of sub-section (4) and (5) of section 5 of the Act and why the penalty should not be imposed on him under section 20 of the Act.

11. The case to come up for the next hearing on 08.01.2009 at 11:00am.

Pronounced in the open court on this 18<sup>th</sup> day of December 2008.

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

