

GOA STATE INFORMATION COMMISSION

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

Appeal No. 138/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 (hereinafter referred to as "The Act"). In brief, the facts of the case are that the Appellant requested the Respondent No. 1 vide his application dated 07.05.2008 to provide two certified copies of the letter dated 11.07.2005 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 Saptakoteswar Devasthan, situated at Bicholim taluka in the enquiry which was conducted by the then Mamlatdar Shri P. V. Khorjuvekar. The said letter has been paginated/numbered as C-72 of the enquiry file. The

Respondent No. 1 failed to communicate his decision on the said application to the Appellant within the time limit of 30 days laid down in section 7(1) of the Act and, therefore, the Appellant presumed that his request is deemed to have been refused by the Respondent No. 1.

2. The Appellant, therefore, filed the first appeal before the Respondent No. 2 on 02.07.2008 against the deemed refusal. However, 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, therefore, filed the present second appeal before this Commission. The Respondent No. 1 filed the reply. The Respondent No. 2 neither appeared nor filed any reply.

3. During the first hearing held on 06.10.2008, the Respondent No. 1 was directed to remain present alongwith the file pertaining to the enquiry conducted by the then Mamlatdar Shri P. V. Khorjuvekar on the next date of the hearing which was fixed on 17.11.2008. On 17.11.2008, the Appellant requested for time to peruse the records of the Respondent No. 1 which was granted and the hearing was adjourned to 04.12.2008. On 04.12.2008, the Respondent No. 1 filed the additional reply. The Appellant made allegations stating that entry in the outward register is interpolated and, therefore, at the request of the Appellant matter was adjourned for further hearing on 18.12.2008 at 11:00am. On 18.12.2008, neither the Appellant nor the Respondents remained present. Hence, the Commission proceeded to decide the matter on merits as per the available records.

4. In the reply dated 06.10.2008, the Respondent No. 1 submitted that as per the memorandum dated 24.07.2008 and as per the information submitted by the then Devasthan Clerk Shri Sadanand Gad, the Appellant was informed vide letter dated 08.08.2008 to collect the information on payment of prescribed fees. In the additional reply filed on 04.12.2008, the Respondent No. 1 submitted that the then Devasthan Clerk Shri Gad was directed to put up the information sought by the Appellant within two days vide memorandum dated 23.05.2008. In response, the Devasthan Clerk has submitted vide letter dated 23.05.2008 that the information would be kept ready within two days. The Respondent No. 1 also pointed out the

endorsement made by the then Devasthan Clerk Shri Gad on the said letter which reads “Already informs the applicant Subhodh Sawant under certificate of posting”. The then Devasthan Clerk has also submitted the list of the applications made by the Appellant giving their status vide letter dated 27.05.2008. The application in question of the Appellant is at serial No. 52 of the list. As against this serial No. 52, Shri Gad has stated that the information ready and the applicant may collect it.

5. From the above, it is clear that the Respondent No. 1 did not take further action after 27.05.2008 to furnish the information to the Appellant although the Devasthan Clerk had made it clear that the information was ready. It is only on 08.08.2008, as per the memorandum dated 24.07.2008, the Respondent No. 1 issued the letter dated 08.08.2008 to the Appellant informing the Appellant to collect the information on payment of prescribed fees. The Respondent No. 1 did not calculate and indicate the amount of fees payable by the Appellant towards the supply of information as required under sub-section (3) of section 7 of the Act. Therefore, the letter issued by the Respondent No. 1 on 08.08.2008 was not in consonance with the provisions of section 7(3) of the Act.

6. The Respondent No. 1 was also directed to show cause as to why the prayer of the Appellant for the imposition of the penalty under section 20 of the Act should not be allowed. The Respondent No. 1 did not show any cause for inordinate delay of 93 days in sending the letter dated 08.08.2008 when the application seeking the information was made on 07.05.2008. No justification or reasons thereof has been given by the Respondent No. 1 for such an inordinate delay. The allegation made by the Appellant that the entry made in the Outward register is interpolated has not been proved by the Appellant as the Appellant remained absent on the date of the hearing which was fixed today.

7. Therefore, it is clear that the Respondent No. 1 did not furnish the information to the Appellant within the time limit of 30 days specified in section 7(1) of the Act nor given any justification for delay of 93 days in as much as the then Devasthan Clerk has informed the Respondent No. 1 on

27.05.2008 that the documents sought by the Appellant were kept ready. The Respondent No. 1 has also not produced the submission dated 30.07.2008 of the then Devasthan Clerk. Hence, the Respondent No. 1 is liable and responsible for the penalty as laid down in section 20 of the Act.

8. In the circumstances, 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. The decision on the imposition of the penalty is deferred till the complete information is provided to the Appellant. Next hearing is fixed on 08.01.2009 at 11:00am for filing the compliance report.

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

(G. G. KAMBLI)
STATE INFORMATION COMMISSIONER

GSIC/Appeal/138/SIC/2008
The Goa State Information
Commission,
“Shrama Shakti Bhavan,” Patto Plaza
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18.12.2008

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Sub: Appeal No. 138/SIC/2008.

Sir,

I am directed to forward herewith the copy of the Order dated 18.12.2008 passed by the Commission on the above Appeal for information and necessary action.

Yours faithfully,

(Pratap Singh Meena)
Secretary

Encl: Copy of order in four pages.