

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

Appeal No. 140/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-GoaRespondent 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 Appellant herein requested the Respondent No. 1 vide his application dated 07.05.2008 to furnish certified copy of the letter dated 24.10.2005 which was submitted by shri 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 of Bicholim taluka. The said letter has been paginated/numbered as page No. C-84 in the enquiry held by the then Mamlatdar Shri P. V. Khorjuvekar.

3. The Respondent No. 1 failed to communicate the decision on the application of the Appellant within the time limit specified in section 7(1) of the Act and, therefore, the Appellant preferred the first appeal before the Respondent No. 2 under section 19(1) of the Act against the deemed refusal. The Respondent No. 2 also failed to pass any order on the appeal filed by the Appellant or even to fix the appeal for hearing within the time limit specified in sub-section (6) of section 19 of the Act. The Appellant, therefore, has filed the present second appeal.

4. The notices were issued to the parties. The Appellant as well as the Respondent No. 1 attended the hearing in person. The Respondent No. 1 filed the reply on 06.10.2008. The Respondent No. 2 neither remained present nor filed any reply. In the first reply dated 06.10.2008, the Respondent No. 1 submitted that as per the memorandum dated 24.07.2008 of the Respondent No. 2, the Appellant was informed vide letter dated 08.08.2008 to collect the copies of the documents on payment of prescribed fees. Thereafter, the Respondent No. 1 filed the additional reply on 04.12.2008. In the additional reply, the Respondent No. 1 submitted that the then Devasthan Clerk Shri Sadanand S. Gad was directed to furnish the information within two days vide memorandum dated 23.05.2008. In response, the then Devasthan Clerk Shri Sadanand Gad vide his letter dated 23.05.2008 informed that the information would be put up within two days. Further, the then Devasthan Clerk Shri Sadanand Gad submitted the detailed list giving the status of all the applications filed by the Appellant on 27.05.2008 and at

serial No. 53 of the said list, Shri Gad has mentioned that the information is ready and the Appellant may collect it.

5. Therefore, it is clear that the Devasthan Clerk Shri Sadanand Gad had informed the Respondent No. 1 that the information was ready and the Appellant could collect the same. However, the Respondent No. 1 did not take further action in the matter after 27.05.2008 and it is only on 08.08.2008, the Respondent No. 1 informed the Appellant that the information has been kept ready and the same can be collected on payment of the prescribed fees. Here again, the Respondent No. 1 has not complied with the provisions of subsection (3) of section 7 of the Act as the Respondent No. 1 has not indicated the amount of fees to be paid by the Appellant.

6. The Respondent No. 1 was also directed to show cause as to why the prayer of the Appellant for imposition of the penalty under section 20 of the Act should not be allowed. The Respondent No. 1 has not given any justification nor shown sufficient cause to that effect. Therefore, the Respondent No. 1 is liable and responsible for causing inordinate unexplained delay and thus liable for action under section 20 of the Act. He has not at all acted diligently and treated the matter in a casual manner though it was time bound.

7. The Respondent No. 2 too did not dispose off the first appeal within the specified time limit laid down in section 19(6) of the Act. The Respondent No. 2 has not even fixed the appeal for hearing. The copy of the memorandum dated 24.07.2008 issued by the Respondent No. 2 to the Respondent No. 1 is also not produced before this Commission. Hence, the Respondent No. 2 has also not acted diligently and in the spirit and within the objective of the Act. It is not only in this case the Respondent No. 2 did not pass any order or take any action on the appeal but there are other appeals filed by the Appellant

where neither the Respondent No. 1 nor the Respondent No. 2 has taken any action within the stipulated period laid down in the Act thereby putting the Appellant into harassment and inconveniences as well as to hardships more so because the Appellant is coming all the way from Mumbai. I am, therefore, satisfied that it is a fit case for awarding compensation to the Appellant. In the result, 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. The decision of awarding compensation and for imposition of penalty is deferred till the complete information is provided to the Appellant. Compliance report is to be filed 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

