

**GOA STATE INFORMATION COMMISSION**

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

Appeal No. 176/SIC/2008

Shri Krishna J. Shetye  
H. No. 143, Ribandar  
Tiswadi-Goa

...Appellant

V/s.

1. The Public Information Officer  
Dy. Director of Panchayats  
Panaji-Goa

...Respondent No. 1

2. The First Appellate Authority  
The Director  
Directorate of Panchayats  
Panaji – Goa

...Respondent No. 2

**CORAM:**

**Shri G. G. Kambli**  
**State Information Commissioner**

**(Per G. G. Kambli)**

**Dated: 05.12.2008**

Appellant represented by his power of attorney holder Shri. Kashinath Shetye.

Both the Respondents are represented by Shri. Nilesh Sawant, LDC from the Directorate of Panchayats.

**J U D G M E N T**

The Appellant assails the order dated 6/10/2008 of the Respondent No. 2 passed in Appeal No.DP/RTA/14/2008, under sub-section (3) of section 19 of the Right to Information Act, 2005 (for short the Act).

2. In brief, the facts of the case are that the Appellant herein approached the Respondent No. 1 with his request dated 4<sup>th</sup> August, 2008 seeking certified list of appeal, certified copies of stay orders, certified copies of files annual property returns, certified copies of disposed off appeals and certified copies of log books, of Shri. Melvin Vaz, Additional Director of Panchayats (South and North). The Appellant also requested that this information be given to him within 48 hrs. in terms of section 7(1) and section 7(4) of the Act, as it pertains to life and liberty of the Appellant. The Appellant also requested for the inspection of the said records.

3. The Respondent No. 1 vide letter dated 04.08.2008 transferred the application to the Public Information Officer of the Department of Personnel, Secretariat, Porvorim-Goa for providing the information on point No. 4 relating to annual property returns of Shri Melwyn Vaz under intimation to the Appellant. This shows that the Respondent No. 1 transferred the said application to the Public Information Officer on the same day, i.e. the date of the receipt of the request from the Appellant.

4. Subsequently, the Respondent No. 1 vide letter dated 28/8/2008 informed the Appellant that the Appellant may collect the information by paying the necessary fees during office hours. So far as the inspection of records is concerned, the Respondent No. 1 had informed the Appellant that he may carry out the inspection of files of the North on Tuesday or Wednesday and in respect of the South on Monday and Thursday at the Block Development Officer's office Salcete, Margao.

5. The Appellant also filed an appeal before the First Appellate Authority on 25/8/2008 alleging that he did not receive any response from the Respondent No. 1 within the time limit. The First Appellate Authority by his order dated 6/10/2008 held that the information sought by the Appellant does not concern to the life and liberty of the Appellant and therefore, the provisions of section 7(1) proviso are not attracted to the present case. The Respondent No. 2 also held that the Appellant had filed an appeal before the First Appellate Authority on 25/8/2008 before the expiry of 30 days provided in the Act. The Respondent No. 2 also came to the conclusion that the Respondent No. 1 has responded the application of the Appellant within

the time limit laid down in the Act and therefore, the Respondent No. 2 disposed off the appeal accordingly. Having not satisfied with the said order of the Respondent No. 2, the Appellant has filed the present second appeal.

6. The notices were issued to the parties and both the Respondents have filed their detailed replies. The Appellant was represented by his Power of Attorney Shri. Kashinath Shetye who argued the matter.

7. The Appellant in his original request dated 4/8/2008 has made certain allegations against Shri. Melvin Vaz, Commissioner of City of Corporation of Panaji for the demolition of his stall. Whereas the information sought by the Appellant is in respect of the appeals handled by the Additional Director of Panchayats Shri. Melvin Vaz (South and North) and also the stay orders and the appeals disposed off etc. by Melvin Vaz, Additional Director of Panchayats. Shri. Melvin Vaz also happens to hold the additional charge of the Commissioner of City of Corporation of Panaji as per the reply filed by the Respondent No. 2.

8. On careful perusal of the request of the Appellant, it is seen that at no stretch of imagination, one can say that the information sought by the Appellant concerns to life or liberty of the Appellant. The appeals filed by the various persons before the Additional Director of Panchayats, the appeals disposed off, stay orders granted, cannot be said to be the matters concern the life or liberty of the Appellant. Similarly, the annual property returns of Shri. Melvin Vaz cannot be said to be the matters relating to life or liberty of the Appellant and so also the copies of the log books.

9. The proviso to sub-section (1) of section 7 of the Act contemplates that where the information sought for concerns the life or liberty of a person the same shall be provided within 48 hours from the receipt of the request. Merely making the request to provide the information within 48 hours is not sufficient. The applicant has to make out a case before the Public Information Officer that the information sought concerns the life or liberty of a person. In the present case, the information sought by the Appellant cannot be called as the information pertaining to the life or liberty of the Appellant. Therefore, I am in full agreement with the findings of the

Respondent No. 2 that the provisions of proviso to sub-section (1) of section 7 are not at all attracted.

10. Having come to the conclusion that the information sought by the Appellant does not concern the life or liberty of the Appellant, the normal period for providing the information is 30 days. The Respondent No. 1 has sent a letter dated 26.08.2008 requesting the Appellant to collect the information as well as to carry out the inspection of the files. The application of the Appellant is dated 04.08.2008 and the intimation was sent to the Appellant by the Respondent No.1 on 26.08.2008 which is within the time limit of 30 days laid down in section 7 of the Act. Further, as observed by the First Appellate Authority, the Appellant has filed an appeal before the Respondent No. 2 on 25.08.2008 before the expiry of 30 days and, therefore, the said appeal was premature.

11. The Appellant challenges the order of the Respondent No. 2 mainly on the ground that the Appellant was not given an opportunity of being heard thereby the Respondent No. 2 has violated the principles of natural justice. On perusal of the roznama/proceeding sheet of the First Appellate Authority, it is seen that the appeal filed by the Appellant was listed for hearing on 22.09.2008. On 22.09.2008 the Power of Attorney holder of the Appellant was present. Similarly, the Public Information Officer was also present. However, the Respondent No. 2 could not take up the matter as he was busy with High Court matter. Hence, the hearing was adjourned to 26.09.2008. On 26.09.2008 the Appellant remained present. The Respondent No. 1 was directed to file reply and the matter was posted for reply and arguments on 06.10.2008 at 03:30pm. The Power of Attorney holder of the Appellant took note of this date of the hearing.

12. However, on 06.10.2008 the Appellant chose to remain absent. The Respondent N. 1 filed reply and the Respondent No. 2 disposed off the appeal based on the records available before him. In the reply, the Respondent No. 2 stated that the appeals filed u/s 19(1) of the Act requires to be disposed off within the statutory period of 30 days and, therefore, he disposed off the same within the time limit. Thus, it is very clear that the

Appellant was given an opportunity of the hearing. The Appellant attended the first two hearings but chose to remain absent when the matter was fixed for arguments. Therefore, it does not lie in the mouth of the Appellant to say that no opportunity was given and the Respondent No. 2 has violated the principles of natural justice.

13. That apart, this Commission in a number of cases has held that though no separate rules are prescribed for the disposal of the appeals by the First Appellate Authority, the First Appellate Authority shall follow as far as possible the Goa State Information Commission (Appeal Procedure) Rules, 2005. As per rule 7(2) of the said Rules, the appearance of the Appellant before the Commission is not compulsory but optional. Therefore, the Commission has held that the First Appellate Authority cannot dismiss the appeals for the default of the appearance of the Appellant. This being the position, there has been no violation of principles of natural justice. It is not the case of the Appellant that he has sought time on 06.10.2008 and that the Respondent No. 2 rejected his request.

14. It is observed that the Appellant has sought the inspection of the various files pertaining to appeals filed by various persons. These appeals are filed by third parties. The appeals, replies or statements are filed by third parties and, therefore, before disclosing any information from the appeal files or allowing the inspection of these appeal files, the Respondent No. 1 should follow the procedure laid down in section 11 of the Act.

15. I have also observed that the Respondent No. 1 while transferring the application to the Public Information Officer of the Department of Personnel has requested to furnish the information to the Appellant on point No. 4. This is not in consonance with the provisions of sub-section (3) of section 6 of the Act. The Public Information Officer cannot express any view or take any decision while transferring the application. It is for the concerned Public Information Officer who should take the decision on the application as per the provisions of the Act.

16. I have also observed that the Respondent No. 1 while intimating the Appellant to collect the information has not calculated the fees payable by

the Appellant towards the supply of information as required by sub-section (3) of section 7 of the Act. The Respondent No. 1 shall ensure the compliance of the provisions of sub-section (3) of section 7 of the Act.

17. In view of the above, I pass the following order:

**ORDER**

Appeal is dismissed. Pronounced in the open court on this 5<sup>th</sup> day of December, 2008.

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