

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

Appeal No. 132/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
In the Office of
The Mamlatdar of Bicholim Taluka
Bicholim-Goa

....Respondent No. 1

2. Shri Arvind V. Bugde
The First Appellant Authority
The Dy. Collector and S.D.O. Bicholim Sub-Division
Bicholim-Goa

... Respondent No. 2

CORAM:

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.

Judgment

This is a second appeal filed by the Appellant under sub-section (3) of section 19 of the Right to Information Act, 2005 (for short “The Act”) as the Respondent No. 1 failed to dispose off the application dated 07/05/2008 of the Appellant seeking information within the stipulated period of 30 days as specified in sub-section (1) of section 7 of the Act and the Respondent No. 2 also failed to dispose off the first Appeal within the time limit laid down in sub-section (6) of section 19 of the Act.

2. In brief, the fact of the case are that the Appellant vide his application bearing reference No. 12/8 dated 07/05/2008 requested the Respondent No. 1

to provide the certified copies of the circular bearing No. MAM/BICH/DEV/2006/5118 dated 16/10/2006 issued by the Mamlatdar of Bicholim and or the Administrator of Devasthan of Bicholim Taluka. The Appellant did not receive any response from the Respondent No. 1 within the specified time limit and therefore the Appellant presumed that the application is deemed to have been refused. The Appellant therefore filed the first Appeal under section 19(1) of the Act before the Respondent No. 2 on 02/07/2008. The Respondent No. 2 did not disposed off the Appeal within the period specified in sub-section (6) of section 19 of the Act nor even issued a notice of hearing. The Appellant therefore is compelled to approach this Commission by way of this second appeal.

3. The notices were issued to both the Respondents. The Respondent No. 1 filed the reply. The Respondent No. 2 neither filed the reply nor remained present. The Respondent No. 1 was also directed by the Commission to produce inward and outward register of the office of the Mamlatdar of Bicholim and of the Devasthan section for the period from 01/10/2006 to 30/11/2006 on the next date of the hearing, which was fixed on 17/11/2008. On 17/11/2008, the Respondent No. 1 submitted that he would like to file additional reply. Accordingly, the hearing was adjourned to 04/12/2008. On 04/12/2008 the Respondent No. 1 filed the additional reply.

4. In the reply dated 06/10/2008, the Respondent No. 1 submitted that as per the information furnished by Shri Sadanand Gad the then Devasthan Clerk, the Appellant was informed vide letter dated 08/08/2008 that the documents sought by the Appellant are not available in the Devasthan section. The Respondent No. 1 also submitted that this letter was issued as per the direction of the Respondent No. 2 contained in the memorandum dated 24/07/2008. However, a copy of the memorandum is not produced before this Commission by the Respondent No. 1 nor by the Respondent No. 2.

5. In the additional reply filed on 04/12/2008 the Respondent No. 1 stated that vide memorandum dated 23/05/2008 Shri Sadanand Gad the then Devasthan Clerk was directed to furnish the certified copies of the document sought by the Appellant within two days. In response thereof,

Shri Sadanand Gad the then Devasthan Clerk informed that he would submit the information within two days. Further, the said Devasthan Clerk made an endorsement on the said letter stating that the Appellant has already informed under certificate of posting but could not produce the certificate.

6. The Respondent No. 1 also submitted that the then Devasthan Clerk Shri Gad thereafter submitted detailed list dated 27/05/2008 and at Sr. No. 51 of the said list, the said Devasthan Clerk stated that the information is ready and the Applicant may collect it. However, the said Clerk Shri Gad did not furnish the information. The Respondent No. 1 also submitted that on the basis of the submission made by the then Devasthan Clerk Shri Gad on 30/07/2008, the Appellant was informed that the records are not available. However, the said submission dated 30/07/2008 of the Devasthan Clerk have not been produced by Respondent No. 1 before this Commission. The Respondent No.1 further stated that the documents, the copies of which are sought by the Appellant is found registered in the outward register but the copies of the same are not available.

7. It will be seen from the above that the Respondent No. 1 sent the reply to the Appellant on 08/08/2008 stating that the documents are not available after 93 days from the date of making the request by the Appellant as against the statutory period of 30 days specified in section 7(1) of the Act. The Respondent No. 1 has not explained this inordinate delay. In fact, the then Devasthan Clerk in response to his memorandum dated 23/05/2008 has made a submission to the Respondent No. 1 that the information would be ready within two days implies that the information was available. Further, in the detailed list submitted by the then Devasthan Clerk on 27/05/2008 the said Devasthan Clerk at Sr. No. 51 stated that the information is ready and the Appellant could collect it. Therefore, the Respondent No.1 should have acted immediately and provided the information to the Appellant. It is not understood as to why the Respondent No. 1 has to wait till 08/08/2008 when the then Devasthan Clerk has already submitted him that information was kept ready. The Respondent No. 1 has miserably failed to verify whether the information has been kept ready by the then Devasthan Clerk. It is also not understood on what basis the Respondent No. 1 has informed the Appellant

that the information sought by him are not available. It is also pertinent to note that the Respondent No. 1 has not taken even a pain to verify whether the document sought by the Appellant is available in the record inasmuch as the Appellant has given clear reference number and date of the circular, which shows that the Respondent No. 1 has not acted diligently.

8. It is also to be noted that the then Devasthan Clerk Shri Gad is equally responsible for providing misleading and false information to the Respondent No.1. On one stage Shri Gad has informed that he has already informed the Appellant under certificate of posting but certificate of posting is not made available to the Respondent No.1. Further in the list submitted by the Devasthan Clerk at Sr. No. 51 the then Devasthan Clerk submitted that information was kept ready and the Appellant could collect it. However, Shri Gad did not put up this information to the Respondent No.1 for issuing the same to the Appellant. Respondent No. 1 has sought the assistance of the Devasthan Clerk Shri Gad who was incharge of the Devasthan section. However, Shri Gad did not provide the same thereby causing a delay and also giving misleading and false information. Shri Gad is, therefore, hereby directed to show cause as to why he should not be treated as a Public Information Officer in terms of provisions of sub-section (4) and (5) of section 5 of the Act and why penalty should not be imposed on him under section 20 of the Act.

9. The Respondent No.1 was also directed to show cause as to why the prayer of the Appellant for imposition of penalty should not be granted. The Respondent No.1 has not explained the said show cause notice and also the delay and on contrary provides misleading and false information to the Appellant without proper verification. The Respondent No. 1 has acted in a just casual manner and therefore, is liable for the imposition of penalty. The Respondent No. 1 says in its second reply though the circular is found registered in the outward register, copies of the same are not available in the office records.

10. The Respondent No. 2 has also not acted on the Appeal filed before him under section 19(1) of the Act. The Respondent No. 2 did not appear before

this Commission nor filed any reply and therefore the allegation made by the Appellant against the Respondent No. 2 go undefended by the Respondent No. 2. The Respondent No. 2 have not provided the copy of the memorandum issued by him to the Respondent No.1. The Appellant, therefore, has been put to much hardships by both the Respondents in not responding the request of the Appellant within the stipulated period more so because the Appellant is coming all the way from Mumbai. I am, therefore, satisfied that this is a fit case for awarding compensation to the Appellant.

11. In view of the above, I pass the following order.

O R D E R

Appeal is allowed. Respondent No. 1 is directed to obtain the copies of the circular from the other sources where it was issued and then provide the copies thereof to the Appellant within two weeks from the date of the order. The Respondent No. 1 is also directed to file FIR to the concerned Police station for missing the records from his office within the period of one month from the date of the order. The decision on the imposition of the penalty and for awarding compensation is deferred till the compliance of this order. Shri Gad the then Devasthan Clerk is hereby directed to show cause as to why he should not be treated as Public information Officer in terms of the provisions of sub-section (4) and (5) of section 5 of the Act and penalty should not be imposed on him under section 20 of the Act, on 08/01/2009 at 11.00 a.m.

Pronounced in the open court on this 18/12/2008.

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

