

GOA INFORMATION COMMISSION

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

Appeal No. 192/SCIC/2008

Anupama Mirashi,
Avinash Niwas,
Giri, Bardez – Goa.

..... Appellant/Complainant.

V/s.

1. Public Information Officer,
Corporation of City of Panaji,
Panaji - Goa.
2. First Appellate Authority,
The Director,
Directorate of Municipal Administration,
Panaji - Goa.

..... Respondents/Opponents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner

(Per A. Venkataratnam)

Dated: 06/02/2009.

Adv. Ryan Menezes present for Appellant.

Respondent No. 1 absent.

Mrs. Angadi, authorized representative for Respondent No. 2.

ORDER

This second appeal arises out of the non-implementation of the order dated 22/10/2008 of the Respondent No. 2 as the First Appellate Authority under the Right to Information Act, 2005 (RTI Act for short). By her request dated 12/08/2008, the Appellant has initially requested the Respondent No. 1 herein, who is the Public Information Officer, for certain information on 5 points. As the information was not given in time allowed under section 7 of the RTI Act, the first appeal was filed before Respondent No. 2 for deemed refusal of information. Thereupon, the First Appellate Authority came to pass the impugned order and directed the Public Information Officer to make available information to the

...2/-

Appellant within 7 days in response to the request dated 12/8/2008. Still it appears that the information is not provided to the Appellant and hence, this second appeal.

2. Though strictly speaking, the Appellant is not aggrieved by the First Appellate Authority's order, he had made this appeal because of non-implementation of the order by the First Appellate Authority. There is no specific provision for implementation of the orders by the First Appellate Authority or even of this Commission. This Commission has adopted the method of enforcing its orders by entertaining complaints under section 18 of the RTI Act if the information is not given by the Public Information Officer for whatever reasons and accordingly I assume jurisdiction to enquire into the circumstances leading to the inability of the Public Information Officer to give the information or implement the orders of the First Appellate Authority. Accordingly, I convert this second appeal into a complaint and proceed further.

3. Notices were issued to the Public Information Officer to appear in person and not to depart without leave of this Commission. He was also directed to show cause why the prayer of the Appellant/Complainant to impose penalty on the Public Information Officer should not be allowed. The notice was served on Respondent/Opponent No. 1 who has authorized Shri. Octaviano Dias, Superintendent/APIO of the Corporation of the City of Panaji, "to depose and appear before the Goa State Information Commission, Panaji in the all cases pertaining to the Corporation of the City of Panaji on 02.12.2008." This order was issued under section 64(4) of the Corporation of the City of Panaji (Act) 2002. I am not aware what these powers are under the Corporation Act. Though the order No.603/2008 dated 2/12/2008 referred above appears to have

been issued by the Commissioner, Public Information Officer herein under some powers vested in him, it cannot be treated as an authorization letter to represent him in this case because (i) it is a general authorization in respect of all cases of the CCP; (ii) it is a delegation of his responsibility and finally it restricts the authorization to only one specific hearing on 2/12/2008. Further I had served notice on him to appear in person. I am, therefore, firmly of the opinion that the Public Information Officer has absented himself for the hearings deliberately for whatever reasons. The case, therefore, proceeded ex-parte against him.

4. When the matter was taken up for subsequent hearings on 16/12/2008, 30/12/2008 and finally on 29/01/2009 neither the Public Information Officer nor any representative appeared before me nor any reply furnished to the second appeal nor any information was provided to the Appellant even belatedly and in any case as ordered by the First Appellate Authority. I am, therefore, not in a position to understand the difficulties of either not giving information or for not complying with the orders of the First Appellate Authority. Shri Dias on behalf of the Public Information Officer admitted before the First Appellate Authority during the hearing of the first appeal, that the information requested is readily available. This is mentioned in the order of the First Appellate Authority. This, therefore, is a fit case for issue of show cause notice to Shri. Melvyn Vaz for deliberately refusing the request for information under the RTI Act. He should show why a penalty calculated @ Rs.250/- per day for refusal of giving information which is due on 11/09/2008 till the information is issued should not be imposed on him. As already 148 days of delay has occurred till today, the Public Information Officer should explain why the maximum punishment of Rs.25,000/- should not be

imposed on him. Meanwhile, he should give the information immediately within the next 10 days and appear to explain the cause about the imposition of the penalty on 24/02/2009 at 11.00 a.m.

Pronounced in the open court on this 6th day of February, 2009.

Sd/-
(A. Venkataratnam)
State Chief Information Commissioner

