

GOA INFORMATION COMMISSION

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

Appeal No. 200/SCIC/2008

Shri. Mahesh P. Kamat,
Shivnery Co-operative Housing Society,
Comba, Margao – Goa.

..... Appellant.

V/s.

1. Public Information Officer,
Kadamba Transport Corporation Ltd.,
Paraiso De Goa Building,
Porvorim, Bardez – Goa.
2. First Appellate Authority,
Kadamba Transport Corporation Ltd.,
Paraiso De Goa Building,
Porvorim, Bardez – Goa.

..... Respondents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner

(Per A. Venkataratnam)

Dated: 06/02/2009.

Appellant in person.

Adv. Amey Kakodkar for both the Respondents.

ORDER

The Appellant is aggrieved by the impugned order dated 20/10/2008 of the Respondent No. 2 herein. The Respondent No. 2 who is Managing Director of Kadamba Transport Corporation Limited (KTCL) was earlier the Public Information Officer at the time of answering the request for information of the Appellant. He, therefore, has correctly rejected the first appeal, at the same time asked the Appellant to exhaust the remedies available to him and to approach "necessary Appellate Authority". He did not, however, clarify who is this authority. The learned Adv. Amey Kakodkar on behalf of the Respondents contested the second appeal saying that as the First Appellate Authority has not decided the matter, the Commission cannot hear the second appeal. As I have already mentioned above, the First Appellate Authority himself was the Public Information Officer at the time of replying to the request of the Appellant. Obviously, therefore, he could not sit in judgment of his own letter-cum-order furnishing the information. He has also not mentioned as

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to who is First Appellate Authority in this case. The learned Adv. Kakodkar at the same time has mentioned that the Board of Directors and the Chairman of the KTCL cannot hear any appeals from the Public Information Officer's order, their duties being limited to the presiding over the Board meetings and giving policy directives. Therefore, the preliminary objection of the Advocate for the Respondents about the jurisdiction of this Commission is rejected. It cannot be that the Appellant is left in the lurch simply because there is no First Appellate Authority in a public authority.

2. He has, thereafter, raised another preliminary objection that the first appeal is not preferred in time. The original request for information was filed by the Appellant on 18/02/2008 for which he received the reply from the Public Information Officer on 31/03/2008. The reply by the Public Information Officer itself is not on record. However, the Appellant has produced the letter sent by the Personnel Manager to the Officer on Special Duty and countersigned by the Public Information Officer i.e. present Respondent No. 2 furnishing the reply. Even if the reply by the Public Information Officer is taken to have been given on 31/03/2008, the first appeal should have been filed on 30th April, 2008 whereas it has come on record that the first appeal was filed on 19/09/2008. It is the case of the learned Advocate that the limitation for filing first appeal under section 19(1) of the Right to Information Act, 2005 (for short the RTI Act) has to be followed necessarily by any citizen. Though the First Appellate Authority has a discretion to condone the delay, it does so only on specific request by the citizen with a prayer for condonation of delay. As no such prayer has been made by the Appellant, first appeal filed by the Appellant belatedly does not lie. On the other hand, there is also another proviso under section 7(8) of the RTI Act, period of limitation as well as particulars of the First Appellate Authority have to be informed to the citizen in case request for information is rejected. This is also not a case of rejection of information but is the case of giving insufficient information according to the Appellant. Besides, the actual letter given by the Public Information Officer itself is not on record. The Public Information Officer is an interface between the members of the public and public authority. Though the Public Information Officer does not have all the information requested by the citizen in his possession, it is his duty to

collect information from wherever it is available from within the public authority and furnish it to the citizen under his own hand and seal. There is no need to give the copies of the internal correspondence of the public authority to the citizen unless specifically requested. In this context, the countersignature by the Public Information Officer on the letters furnished to him as replies to the RTI queries is not correct. He has to give his own reply and keep the internal correspondence for his own record.

3. Coming back to the present preliminary objection, I find that the limitation period for the filing the first appeal is not sacrosanct considering that no disputes are settled nor rights conferred by the authorities under the RTI Act. Similarly, there is no bar on the applicant to seek same information from the same public authority any number of times. I, therefore, do not see how argument of lack of jurisdiction pressed for not filing the first appeal in time arises. In fact, in this very case right from the date of receiving the reply to the request of information, the Appellant is in correspondence with the Public Information Officer a number of times regarding the same request to clarify his doubts and the Public Information Officer was also corresponding with the Appellant on regular basis. At least 4 letters by the Appellant were annexed to the second appeal itself. It is, therefore, not correct to take the view that the Appellant was not diligent in pursuing his case. Similarly, as there is no authority higher than the Managing Director in the KTCL and as learned Advocate himself has admitted Board of Directors cannot hear the first appeal under the RTI Act, the preliminary objection of lack of jurisdiction by this Commission or the First Appellate Authority on grounds of limitation is rejected and I hereby assume the jurisdiction.

4. The question No. 4 on which the Appellant is not satisfied states as follows: -

"4. Promotion of Shri. T. K. Pawse, Asst. controller of stores as Dy. Fin. Controller (Costing and Budget)

- a) Date of Promotion.
- b) Duration of service as Dy.Fc (Costing and Budget) in the costing and Budget department.
- c) Copies of order of Promotion, Joining order, Transfer order and relieving order from the office of Dy.FC (Costing and Budget Department) on 20.10.2006.

d) Extract of inward register of personnel Department as on 20.10.2006. Copy of relieving order and rejoining report of shri. T. K. Pawse as personnel Manager on 20.10.2006 in the personnel Dept.”

The reply to these questions is as follows: -

“i) Copy of Promotion order No.1-1-2006-2007/KTC/PERS-I/2210, dated 16th October, 2006 is enclosed.

ii) Copy of Joining report dated 20/10/2006 is enclosed.

iii) Copy of transfer order from Dy. Financial Controller (Costing & Budget) No.KTC/PERS/(559)/2006-2007/2211, dated 20th October, 2006 is enclosed herewith.

(iv) Xerox extract copy of Inward register of Personnel Department dated 20.10.2006 is enclosed.

v) No relieving order as Personnel Manager was issued to Shri. T. K. Pawase.

vi) Joining order of Shri. T. K. Pawase on 20.10.2006 as Personnel Manager vide under reference No.KTC/PERS/(559)/2006-2007/2237 dated 20/10/2006 is enclosed.”

5. All the information which is requested for has been given to the Appellant. I find that even the extract copies of the inward registers of Personnel Department and the specific reply was given, that Shri. T. K. Pawase was not issued any relieving order as Personnel Manager though joining order of the same person on 20/06/2006 was available and issued. I do not see what is the grievance of the Appellant.

6. While arguing his case, the Appellant has submitted that the reply was asked from the Budget and Costing Department whereas the reply was given by the Personnel Department of the KTCL. I do not see anything wrong if the Public Information Officer gives complete information requested which was done in this case. The Appellant, thereafter, made a grievance of not getting inspection of the documents which he has requested by a separate request dated 26/05/2008. This request also was disposed off by the Public Information Officer by his reply dated 19/8/2008. Nothing further survives for determination in this second appeal.

7. In view of the discussion above, the second appeal dated 28/10/2008 is hereby rejected.

Pronounced in the open court on this 6th day of February, 2008.

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

