

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 244/SCIC/2008

Shri Kashinath Shetye,
Bambino Building, Alto Fondvem,
Ribandar, Tiswadi – Goa.

..... Appellant.

V/s.

1. The Public Information Officer,
The Chief Officer,
Mormugao Municipal Council,
Mormugao – Goa.
2. The First Appellate Authority,
The Director,
Directorate of Municipal Administration,
Panaji - Goa.

..... Respondents.

J U D G E M E N T

(Per Afonso Araujo)

In this appeal, non-compliance by the Respondent No. 1 of the order dated 17/11/2008 of the First Appellate Authority, Director of Urban Development, the Respondent No. 2 is under challenge.

2. The Appellant moved an application dated 22/09/2008 to the Public Information Officer of the Director of Municipal Administration seeking information enumerated from 1 to 10 in the said application. As the contents of the application pertains to the affairs of the Municipalities, the Director of Municipal Administration forwarded this application to all the Municipalities under the Directorate. Accordingly, Mormugao Municipal Council by letter dated 7/10/2008 in answer to the application of the Appellant dated 22/9/2008 stated that the Appellant is requested to attend the office on any working day to collect the required documents sought after making necessary payment of Rs.450/-

3. Not satisfied by this reply, the Appellant approached the First Appellate Authority, Director of Urban Development at Panaji, the Respondent No. 2 on 13/11/2008 stating the reply of the Respondent No. 1 dated 7/10/2008 has not given Appellant necessary inspection; no copies were given nor pointwise reply and this amount to deemed refusal under section 7(2) of the Act. By order dated 17/11/2008, the Respondent No. 2 ordered the Respondent No. 1 to make available all

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the details sought by the Appellant within a period of 7 days from the date of the order. By letter dated 19/11/2008 addressed to the Appellant, Respondent No. 1 informed the Appellant that he kept ready the information required by making necessary payment of Rs.458/- and the Appellant may attend the office during the office hours for the inspection of the documents/files.

4. Not content with the contents of the letter dated 19/11/2008 of the Respondent No. 1, the Appellant filed the present appeal on 10/12/2008 making a grievance that the Respondent No. 1 failed to give the required information mentioned in application dated 22/9/2008 at points 3, 5, 6, 7, 8, 9 and 10 and the inspection of the records was not given which amounts to deemed refusal and violates the mandate provision of the Act.

5. In his submissions, Shri. Shetye stated that the application for information was made on 22/09/2008 and the information was given only on 19/11/2008 and that the amount was increased from Rs.450/- to Rs.458/- and as was delayed, he is entitled to the documents free of cost as per the provision of section 7(6) of the Act. Shri. Naik, the Respondent No. 1 stated that there was no delay and all the information has been given and efforts were made to see that the records are kept ready and information be given whenever required.

6. I have gone through records of the case and taken into consideration the submissions of the parties. In the reply to the information sought on 22/09/2008, the Respondent No. 1 by letter dated 7/10/2008 called the Appellant to attend the office to collect required documents and making the payment of Rs.450/-. It is not known whether the Appellant approached the office of the Respondent No. 1 to ascertain, whether the information sought at item No. 1 to 10 in the letter dated 22/9/2008 was complied or not. Even when the Appellant approached the First Appellate Authority, Respondent No. 2 the Appellant has not specified in what manner the details of the information sought was not given to him. Merely confined to state that the inspection was not given and pointwise reply was also not given is not sufficient. On the strength of the order dated 17/11/2008 of

Respondent No. 2, on 19/11/2008 the Respondent No. 1 informed the Appellant that the information sought is kept ready. Still the grievance of the Appellant in this appeal is that points 3, 5 to 10 were not complied. The Respondent No. 1 clearly had mentioned in the column of remarks the position of the information sought at items No. 3, 5 to 10. Except remarks to the item No. 3, the Respondent No. 1 explained the position of the information required in items No. 5 to 10. It was incumbent on the part of the Appellant to show in what manner the remarks of the items No. 5 to 10 amounts to refusal of the information sought.

7. In respect to item No. 3, the remark made is that the same may be obtained from the Electricity Department. The Respondent No. 1 acted in most casual manner in making such remarks. Once the Respondent No. 1 knows that he is unable to give the information as the same pertains to the other Department, the Respondent No. 1 ought to have transferred this application dated 12/9/2008 by specifying item No. 3 to the concerned Electricity Department in order to enable the Appellant to obtain the information sought on this item No. 3 and inform the Appellant about this transfer. Sub-section (3) of section 6 says: -

“(3) Where an application is made to a public authority requesting for an information,-

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:”

The above provision is mandatory in nature and the Respondent No. 1 once he arrived at conclusion that the information sought has to be obtained from the other public authority, the Respondent No. 1 ought to have transferred the information at item No. 3 in the letter dated 22/09/2008 to the Electricity Department rather than merely stating that the Appellant has to approach the Electricity Department.

8. Since there was no delay in furnishing the information, the question of the Appellant obtaining the certified copies free of charge

does not arise. The Appellant will pay only the amount of Rs.450/- instead of Rs.458/- for all the documents mentioned in the letter dated 19/11/2008, and also inspect the documents/files.

9. Hence, I pass the following order: -

ORDER

The appeal is partly allowed. The Respondent No. 1 shall transfer the information under the item No. 3 in the letter dated 22/09/2008 to the concerned public authority within the period of 5 days with an intimation to the Appellant. The Respondent No. 1 to collect only Rs.450/- for all the documents mentioned in the letter of the Respondent No. 1 dated 19/11/2008.

Pronounced in the open court on this 23rd day of March, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

