

# GOA STATE INFORMATION COMMISSION AT PANAJI

**CORAM:** Shri Afonso Araujo, State Information Commissioner

Appeal No. 251/2008

Shri V. A. Kamat,  
G-1, Ravindra – A,  
Next to Hotel Ameya, Opp. St. Inez Church,  
St. Inez, Panaji – Goa – 403 001.

..... Appellant.

V/s.

1. The Public Information Officer,  
Head Office,  
Town & Country Planning Department,  
Patto, Panaji - Goa.
2. The First Appellate Authority,  
The Chief Town Planner,  
Town & Country Planning Department,  
Patto, Panaji - Goa.

..... Respondents.

Appellant present in person.

Respondent No. 1 also in person. Respondent No. 2 is absent.

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

(Per Afonso Araujo)

The order of the First Appellate Authority, Respondent No. 2 dated 17/11/2008 dismissing the appeal and endorsing the denial of the information to the Appellant by the Respondent No. 1, is challenged in this Second Appeal.

2. The Appellant by an application dated 28/8/2008 addressed to the Public Information Officer, Dy. Director of Panchayats (North), Panaji sought the following information under the Right to Information Act, 2005 (for short the Act): -

1. Certified copy of the Official Gazette in which the Goa Panchayat (Regulation of Zoning and Erection of Buildings) Rules, 1997 final rules were published.
2. If the final rules were not published in the Official Gazette to provide information as to what is the FAR and maximum height permitted for construction of building in Village Panchayat jurisdiction/area which is not covered by the Planning and Development Authority and under what rules/ regulation.

...2/-

Since the request at Sr. No. 2 pertains to Department of Town and Country Planning, the Dy. Director of Panchayats by letter dated 10/9/2008 made over under section 6(3)(ii) of the Act information at Sr. No. 2 in the letter dated 28/8/2008 to the Public Information Officer, Town and Country Planning Department, Respondent No. 1.

3. The Dy. Director of Panchayats by letter dated 23/9/2008 furnished the information at point No. 1 stating that no final rules are published in the Official Gazette. The Respondent No. 1 by letter dated 22/9/2008 answered the information at point No. 2 and stated that "the FAR Max Height of a building in village Panchayat jurisdiction/area are as per section 9 of the Goa (Regulation of Land Development and Building Construction) Act, 2008 (for short the Construction Act), published in the Official Gazette, Government of Goa, Extraordinary No. 2, Series I No. 5 dated 07/05/2008 and copy of the Gazette can be collected by payment of Rs.8/- towards photocopies."

4. Not satisfied with this information provided by the Respondent No. 1, the Appellant preferred the first appeal before the First Appellate Authority, Chief Town Planner, Town and Country Planning Department, Respondent No. 2 and by order dated 17/11/2008, the Respondent No. 2 dismissed the appeal on the ground that the letter dated 22/9/2008, the Respondent No. 1 made available to the Appellant information sought by him and the cost of the information also was indicated to the Appellant and the Appellant failed to collect the information. The order dated 17/11/2008 of the First Appellate Authority is the Impugned Order.

5. Shri. V. A. Kamat submitted that the Respondent No. 1 gives an incorrect and misleading information as section 9 does not contain the information sought by the Appellant and that the Respondent No. 2 merely passed an order without giving reasons. Shri. S. Nilekani, Respondent No. 1 stated that the information sought was given by letter dated 22/9/2008 to the Appellant and that if further information is given it will be used and quoted as that of Public Information Officer.

6. I have gone through the records of the case and taken into consideration the submission of both the parties. The information which

the Appellant sought from the Respondent No. 1 confines to the FAR and the maximum height permitted for construction of building in the Village Panchayat jurisdiction which is not covered by the Planning and Development Authority. The reply to this information given by Respondent No. 1 is that the FAR the maximum height of the building in the Village Panchayat jurisdiction are as per section 9 of Construction Act. On reading the provisions of section 9 of the said Construction Act in no manner meets the requirements sought by the Appellant. A specific information was sought by the Appellant and a specific information ought to have been given by the Respondent No. 1. Just because the information given be used and quoted as that of the Respondent No. 1, it does not mean, the Respondent No. 1 should give a vague reply to the query made by the Appellant. As long as the information is available from the records, it is mandatory to provide such information and in no manner the Public Information Officer can be considered as an author of such information. The First Appellate Authority ought to have ascertained from Respondent No. 1 whether the information sought by the Appellant was correctly given and in the absence of proper and correct information order dated 17/11/2008 of Respondent No. 2 requires interference. Hence, the following order: -

### **ORDER**

The appeal is allowed. The order dated 17/11/2008 of the Respondent No. 2 affirming the denial of information by the Respondent No. 1 is set aside.

The Respondent No. 1 directed to furnish the information at point No. 2 in the application dated 28/8/2008, within 10 days from the date of the Order.

The question of penalty and compensation to be dealt in due course.

Pronounced in the open court on this 9<sup>th</sup> day of April, 2009.

Sd/-  
(Afonso Araujo)  
State Information Commissioner



