

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 203/SIC/2008

Shri J. T. Shetye,
H. No. 35, Ward No. 11,
Khorlim, Mapusa – Goa.

..... Appellant.

V/s.

1. The Public Information Officer,
The Secretary,
Village Panchayat of Latambarcem,
Bicholim – Goa.
2. The First Appellate Authority,
The Block Development Officer,
Bicholim – Goa.

..... Respondents.

Appellant present in person.

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

J U D G M E N T

(Per Afonso Araujo)

Not furnishing proper reply to the information sought and failure of the Director of Panchayats to inform the Appellant about the transfer of the appeal to the Block Development Officer, Bicholim - the Respondent No. 2, are the grievances in this Second Appeal.

2. The Appellant moved an application dated 30/6/2008 addressed to the Public Information Officer, Village Panchayat Latambarcem, Respondent No. 1 by referring to letter dated 15th April, 2008 of one Prabhakar S. Yende addressed to the Sarpanch of Respondent No. 1 seeking information under Right to Information Act, 2005 (hereinafter referred to as the Act). In this letter the Appellant sought the following information: -

- 1) Please indicate the daily/monthly progress made on the above referred complaint letter dated 15.04.2008 so far i.e. when did this complaint letter reach which officer, for how long did it stay with that officer what action did he/she take on it during that period?

...2/-

- 2) Please give the names and designations of the officials, if any, who delayed taking action on this complaint letter dated 15.04.2008?
- 3) What action would be taken against these officials for the delay? By when would that action be taken?
- 4) By whom would this complaint letter dated 15/4/08 be dealt with?

On 29/7/2008, the Respondent No. 1 replied to the application dated 30/6/2008 of the Appellant. Not satisfied with this information received from Respondent No. 1, the Appellant preferred the first appeal before Director of Panchayats on 12/8/2008. On 13/8/2008 Director of Panchayats by referring to the notification No.26/87/DP/RIA/05/1131 dated 15/01/2007 made over this first appeal to the Respondent No. 2, Block Development Officer stating that the Respondent No. 2 has appointed as the First Appellate Authority. As the Appellant was not informed about the transferred of the appeal to the Respondent No. 2, the Appellant filed the present second appeal.

3. Shri. Shetye has urged before me that he requested by letter dated 30/6/2008 information regarding the complaint made by Prabhakar S. Yende dated 15/4/2008 against Rajendra Kalangutkar in respect of his illegal construction and the reply dated 29/7/2008 is misleading and does not say anything about the letter dated 15/4/2008 and that the direction may be given to the Respondent No. 1 to give a proper reply. Shri. Raut, Respondent No. 1 has stated that the reply has been given by the Respondent No. 1 for the information sought. The Respondent No. 2, Shri. Mishra stated that the Appellant was informed to resubmit the information in the proper format.

4. I have gone through records and proceedings of the case and taken into consideration submission made by all the parties. Based on the complaint filed by Prabhakar S. Yende dated 15/4/2008 to the Sarpanch of Village Panchayat Respondent No. 1 regarding the illegal construction of house by Rajendra Kalangutkar, the Appellant sought information on the four points mentioned in the letter dated 30/6/2008. The Respondent No. 1 replied to this information on 29/7/2008. Now

question is whether the reply provided by the Respondent No.1 is in answers to the queries put forth by the Appellant in his letter dated 30/6/2008. On perusing this letter dated 30/6/2008 indicates that the Appellant requires information about the progress made by the Respondent No. 1 in respect to the complaint dated 15/4/2008; which officer has to deal to the complaint dated 15/4/2008; when the complaint reach to the concerned officer, how long it stay with that officer and what action has been taken during the period it was with that concerned officer. The Appellant also sought information in respect of the names and designation of the officials who delayed in taking action on the complaint dated 15/4/2008 and what action would be taken against these officials for the delay and by whom.

5. The reply dated 29/7/2008 of the Respondent No. 1 to the information sought by the Appellant states that the show cause notice No.VPL/ShowCaus/RK/07-08/490 dated 17/01/2008 was served on Rajendra Kalangutkar and the reply given by the said Kalangutkar to the show cause notice was placed on monthly meeting of the Village Panchayat dated 28/02/2008 and by letter dated 6/3/2008, the Complainant and the said Kalangutkar were called to attend the office of Respondent No. 2 on 12/3/2008. On analyzing the reply, the question arose whether the show cause notice dated 17/01/2008 pertain to the illegal construction of the house of Rajendra Kalangutkar for which clarification was sought from the parties. Shri Shetye submitted that the show cause notice referred in the reply is in respect of the septic tank constructed by Rajendra Kalangutkar and not to the house. Shri Raut endorsed the fact that the reply does not refer to the house but to the septic tank. Since the reply of the Respondent No. 1 dated 29/7/2008 is not specific and does not meet the requirement of the information sought by the Appellant in the application dated 30/06/2008.

6. Initially, the Appellant approached the Director of Panchayats for the purpose of First Appeal and since the First Appellate Authority concerning Village Panchayat matters is the Block Development Officer, the Director of Panchayats made over the Appeal to the Block Development Officer, Respondent No. 2. It appears that the Appellant was not informed about the transfer though the Respondent No. 2 by letter dated 16/9/2008 addressed to the Appellant, directed the

Appellant to file the Appeal in proper format. The purpose of the Act is that the information seeker should obtain the information required. Insisting that the request of information should be made in a particular format is against this spirit of the Act. The request for information either before Public Information Officer or the First Appellate Authority should be as simple as possible so as to enable the common man to apply for information under the Act.

7. Since the Respondent No. 1 did not provide to the Appellant precisely the information sought, the proper course would be to direct the Respondent No. 1 to reply specifically to the queries raised by the Appellant. Hence, the following order: -

ORDER

The Appeal is allowed. The Respondent No. 1 is directed to provide information requested in the letter dated 30th June, 2008 and which pertain to the letter dated 15/04/2008, within 15 days from the date of this order.

The Respondent No. 1 to report the compliance on 3rd June, 2009 at 10.30 a.m.

The question of penalty will be dealt in due course depending on the compliance of this order.

Pronounced in the open court on this 13th day of May, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

The letter further states "accordingly Complainant including defaulter attended the V.P. Office on 12/3/08 during morning session. Sarpanch of V.P. taken of issue being also a ward member of the said areas in which a construction activity in figuring while discussing the matter it is concluded with the acceptance both parties (Complainant as well as alleged defaulter) that Govt. approved/Authorized surveyor of the site on order to detect the boundaries location if any encroachment had took place between the property of Complainant by defaulter due to construction of such structure serving of the surveyor should be made available by both parties without depending V.P. Office with due acceptance of the decision finalized before the Chairperson Sarpanch of the Village Panchayat Latambarcem." As per this letter the decision contemplated is in abeyance and neither the Complainant nor the said Kalangutkar has pursued the matter.

5. Analysis the contents of the letter dated 29/7/2008, it appears that one Prabhakar S. Yende has approached the Respondent No. 2 in respect of the construction made by Rajendra Kalangutkar and in pursuance of the show cause notice issued to the said Kalangutkar both the Complainant and the said Kalangutkar appeared before the Sarpanch of Respondent No. 1 and it was decided surveyor to be appointed to mark the boundaries in order to find out if any encroachment has been taken place due to the construction made by the said Kalangutkar in the

property. This decision to appoint a surveyor has taken place on 12/3/2008 and to this letter dated 29/7/2008 was issued. It appears that no surveyor has been appointed and the matter is pending before Respondent No. 1.

6. Once said Prabhakar S. Yende and one Rajendra Kalangutkar has agreed to appoint the Surveyor to locate the encroachment and once the surveyor gives his report and both the parties accept this report and finalise before the Sarpanch of Respondent No. 1, it is for the said Prabhakar S. Yende to prepare plan and submit a report rather than seeking information under the Act. It appears that the show cause notice was issued on 17/01/2008 to Rajendra Kalangutkar upon a complaint of Prabhakar S. Yende. The reply to the show cause notice was placed in the monthly meeting of Village Panchayat on 28/2/2008. By letter dated 6/3/2008 both the parties were called in the office of the Respondent No. 1 which they did on 12/3/2008 wherein it was decided that both the parties will abide by the report of the surveyor. Instead of pursuing the settlement arrived at by appointing the surveyor and abiding by this report said Prabhakar S. Yende approached the Sarpanch of the Respondent No. 1 by letter dated 15/04/2008 and based on this letter information was sought on 30/6/2008. As the parties agreed for the appointment of the surveyor and accepting his report there is no question of placing any responsibility on anyone for the delay which otherwise is not existing. Since right of the time the show cause notice issued to the said Rajendra Kalangutkar on 17/1/2008 to the date 12/3/2008 where both the parties agreed for the appointment of the surveyor there is no delay whatsoever. The matter has to be pursued at the point whether the surveyor has to be appointed. If the said

Kalangutkar has back from the appointing surveyor. This fact has to be made clear by Prabhakar S. Yende and not by letter dated 15/4/2008 and seeking information under the Act by letter dated 13/6/2008.

7. Since the Respondent No. 1 has explained the progress of the letter dated 15/4/2008, the reply dated 29/7/2008 is explanatory by itself and there is no question of placing any responsibility on any official for any delay on the complaint dated 15/4/2008. There are no merits in this appeal and hence, I pass the following order: -

ORDER

The appeal is dismissed.

Pronounced in the open court on this ____ day of April, 2008.

(Afonso Araujo)
State Information Commissioner

