

GOA STATE INFORMATION COMMISSION
Ground Floor, "Shrama Shakti Bhavan," Patto Plaza, Panaji.

Appeal No. 130/SIC/2008

Shri Subodh Shiwaji Sawant
B-2, Shanti-Campus, Near Mehul Talkies
Mulund West
MUMBAI- 400 080 ... Appellant

V/s.

1. Shri Pramod D. Bhat
The Public Information Officer
Mamlatdar of Bicholim Taluka
Bicholim-GoaRespondent No. 1

2. Shri Arvind V. Bugde
First Appellant Authority
The Dy. Collector and S.D.O. Bicholim Sub-Division
Bicholim-Goa ... Respondent No. 2

G. G. Kambli
State Information Commissioner

(Per G. G. Kambli)

Dated: 18.12.2008

Appellant in person.
Respondent No. 1 in person.
Respondent No. 2 absent.

J U D G M E N T

The Appellant herein approached the Respondent No. 1 vide his application dated 7th May 2008 bearing reference No. 27/8 requesting to provide certified copies of the letter bearing reference No. 2/7/B/2006/Bud/Saptakoteshwar, Office Mam/Bich/Dev/BUD/44/06 dated 26th July, 2006 issued by the Respondent No. 1 and/or Administrator of Devasthan of Bicholim Taluka.

2. As the Appellant did not receive any response from the Respondent No. 1 within the time limit as laid down in section 7(1) of the Right to Information Act, 2005 (for short "the Act"),

the Appellant preferred an appeal before the Respondent No. 2, i.e. First Appellate Authority on 02.07.2008. However, the First Appellate Authority has not even fixed the appeal for hearing within the stipulated period as specified in section 19(6) of the Act, and hence the Appellant has filed the present second appeal before this Commission on various grounds as set out in the memorandum of appeal.

3. The Appellant has also prayed for the calling of the records of the First Appellate Authority as also for the imposition of the penalties besides ordering to provide the correct information.

4. Upon issuing the notices the Respondent No. 1 filed the reply. The Respondent No. 2 neither appeared nor filed any reply. In the reply filed by the Respondent No. 1, the Respondent No. 1 has submitted that the information sought by the Appellant is not available as per the information furnished by Shri Sadanand P. Gad, Ex-Devasthan Clerk and that as per the memorandum dated 24.07.2008 of the Respondent No. 2, the Appellant was informed vide letter dated 08.08.2008.

5. The Respondent No. 1 thereafter filed additional reply stating that the documents sought by the Appellant is found registered in the outward register but the copies of the same are not available. The Respondent No. 1 has also put the blame on the Devasthan Clerk. In support of the said reply, the Respondent No. 1 has produced a copy of the memorandum dated 23.05.2008, a copy of the letter dated 23.05.2008 from Shri Sadanand P. Gad and also another letter dated 27.05.2008 addressed to the Mamlatdar of Bicholim by Shri Sadanand P. Gad. It is seen from the memorandum dated 23.05.2008, the Respondent no. 1 directed the Devasthan Clerk, Shri Sadanand P. Gad, to furnish the certified copies of the documents sought by the Appellant within two days to enable the Respondent No.

1 to provide the same to the Appellant. In response thereof Shri Sadanand P. Gad, Ex-Devasthan Clerk informed the Mamlatdar that the documents sought by the Appellant will be made available within two days. Further as per endorsement made on the said letter, Shri Sadanand P. Gad has stated that the Appellant was informed under certificate of posting. Further, as per the list furnished by Shri Sadanand P. Gad to the Mamlatdar at Sr. No. 63, a remark has been written by Shri Sadanand P. Gad that the applicant may verify the date.

6. It will be seen from the above that the Appellant has sought the information by the application dated 07.05.2008 and the Respondent No. 1 had sent the reply to the Appellant vide letter dated 08.08.2008 after three months stating that the information sought is not available in the Devasthan section. Now in the additional reply the Respondent No. 1 has stated that the document is found registered in the outward register but the copies are not available. Therefore, it is crystal clear that the Respondent No. 1 has provided incorrect information deliberately to the Appellant. Even to inform that the information is not available without verification, the Respondent No. 1 took 93 days as against the statutory period of 30 days laid down in section 7(1) of the Act. The Respondent No. 1 has not even verified his outward register before furnishing the reply to the Appellant. The appeal filed by the Appellant before the First Appellate Authority is also not disposed off by the First Appellate Authority thereby putting the Appellant into unnecessary harassment and hardships.

7. The Respondent No. 1 as well as the ex-Devasthan Clerk, Shri Sadanand P. Gad, have not provided the correct information within the time limit. The Respondent No. 1 has now informed that though the documents are found registered in the outward register the copies are not available in the office records. Therefore, it is crystal clear that the Respondent No. 1

as well as Shri Sadanand P. Gad, ex-Devasthan Clerk, have not acted diligently and provided misleading and false information to the Appellant and that too, after 93 days and it is only when the Appellant has filed second appeal before this Commission and on verifying the records it is found that the documents sought by the Appellant is found registered in the outward register. Therefore, this is a clear case where Shri Sadanand P. Gad, ex-Devasthan Clerk has deliberately and malafidely withheld the disclosure of the information. Therefore, it is necessary to issue the notice to Shri Sadanand P. Gad, ex-Devasthan Clerk to show cause as to why he should not be treated as Public Information Officer in terms of the provisions of sub-section (4) and (5) of section 5 of the Act, for the contravention of the provisions of the Act, and for imposition of penalty as laid down in section 20 of the Act. The Respondent No. 1 is also equally liable for the imposition of penalty under section 20 of the Act as no justification has come in reply to the notice of the Commission.

8. In view of above, the following order is passed:

ORDER

The appeal is allowed. The Respondent No. 1 is directed to reconstruct the documents by obtaining the copies from the person to whom the said letters were issued by the Office of the Respondent No. 1 and provide the same to the Appellant within two weeks from the date of this order. The Respondent No. 1 is also directed to file complaint at the concerned Police Station regarding the missing records from his office within a period of two weeks. Shri Sadanand P. Gad, is also directed to show cause as to why he should not be treated as the Public Information Officer in terms of provisions of sub-section (4) and (5) of section 5 of the Act and as to why penalty should not be imposed on him under section 20 of the Act. The decision to

impose the penalty on the Respondent No. 1 is deferred till the information is provided to the Appellant. Case to come up for hearing on 08.01.2009 at 11:00am.

Pronounced in the open court on this 18th day of December 2008.

Sd/-
(G. G. KAMBLI)
STATE INFORMATION COMMISSIONER

