

**GOA INFORMATION COMMISSION**

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

**Appeal / 65 / SIC / 2008 /**

Shri Sagar Vishwanath Dharwadkar,  
C-43, Dhake Park, Natwar Nagar,  
Road no. 1, Jogeshwari (East), Mumbai - 400 060.

..... Appellant

V/s

1. The Public Information Officer,  
Shri Prashant Naik,  
The Secretary,  
Village Panachayat of Nerul Village,  
Bardez Taluka - Goa. ..... Respondent No.1..
2. The First Appellate Authority,  
Mr. Shivprasad Naik,  
The Block Development Officer,  
Govt. Complex, 2<sup>nd</sup> Floor, Mapusa - Goa. ..... Respondent No.2..

**CORAM:**

Shri G. G. Kambli  
State Information Commissioner

(Per G. G. Kambli)

Dated: 11/09/2008.

Appellant absent.

Both the Respondent present in person.

**JUDGMENT**

By three separate applications all dated 05/04/2008 the Appellant requested the Respondent No. 1 to provide certain information under the Right to Information Act 2005 (for short the Act). As the Appellant did not receive any response from the Respondent No. 1, the Appellant filed first Appeal before the Respondent No. 2 on 26/05/2008. The Respondent No. 2 also did not dispose off the first Appeal within the time specified in sub-section 6 of section 19 of the Act hence the present second Appeal.

2. Upon issuing the notices, the Appellant remained absent but informed that he is unable to remain present for the hearing. Both the Respondents remained present for the hearing and the Respondent No. 1 also filed his reply.

3. In the first application, the Appellant sought the information pertaining to the record of rights such as form I & XIV partition

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proceeding, ownership of the land etc. On perusal of the said application it is seen that the information sought by the Appellant was pertaining to the office of Mamlatdar of Bardez and Dy. Collector and SDO Mapusa except part of the information on point No. 4. At point No. 4 the Appellant also requested to inform the owner of the House No. 184 which must be available with the records of the Respondent No. 1, as all the Houses have been assessed for the purpose of House tax in the Panchayat area. Therefore, the Respondent No. 1 ought to have transferred this application to the Mamlatdar of Bardez and Dy. Collector Mapusa under section 6 (3) of the Act. Further, he ought to have provided the information regarding the ownership of the house bearing No. 184 based on the records available in the Panchayat office.

4. In the second application, the Appellant has sought the information regarding copy of the applications, permission and licenses for construction and for development, repair and restoration activities of any kind since 1942 issued by various Authorities. The Appellant has mentioned the names of certain departments. In this case also, certain information such as issue of license for construction etc should be available with the Respondent No.1 as such licences/permissions are issued by the Panchayat based on the recommendation/NOCs from various authorities. Being so the Respondent No. 1 should have provided the information pertaining to the Village Panchayat and sent the copies of the application to the other department where the information is available, under section 6 (3) of the Act.

5. Coming now to the third application, the Appellant has sought the copies of the Complaints, resolutions of the Panchayat etc, this information pertains to the Village Panchayat and therefore the Respondent No. 1 ought to have disposed off the application of the Appellant within the time limit laid down in section 7 of the Act. The Respondent No. 1 did not communicate the decision to the Appellant with the time limit and hence the Appellant had to file the first Appeal before the Respondent No. 2.

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6. The Respondent No.2 who appeared in person before this Commission, on 26/08/2008, submitted that he has fixed the matter for hearing on the same day. Similarly, it can be seen from the reply filed by the Respondent No.1 that the hearing of the said Appeal filed by the Appellant was fixed on 26/08/2008 at 3.00 p.m. This clearly shows that the Respondent No. 2 did not dispose off the Appeal within the time limit of 30 days as provided in sub section (6) of section 19 of the Act. The First Appellate Authority has to dispose off the Appeal within 30 days which can be extended by another 15 days by the First Appellate Authority for the reasons to be recorded in writing. In the instant case, the first appeal was filed on 26/05/2008 and the Respondent did not dispose off the same till 26/08/2008 which is more than 3 months. Thus, the Respondent No. 2 has not adhered to the provisions of section 19(6) of the Act and therefore the Respondent No. 2 did not discharge his functions within the time limit specified in section 19 (6) of the Act. The Respondent No. 2 should note that the first Appeal has to be disposed off within the statutory period laid down in section 19 (6) of the Act and he has no discretion or power to extend this period beyond 45 days. Even if the First Appellate Authority has to extend the period of 30 days by another 15 days, the First Appellate Authority has to record its reasons for not disposing the Appeal within the statutory period of 30 days and inform the reasons in writing to the Appellant. Hence the Respondent No. 2 is hereby directed to strictly adhere to the provisions of section 19(6) of the Act.

7. In the reply filed by the Respondent No. 1, preliminary objection has been taken stating that the present appeal is not maintainable as there is no order passed by the First Appellate Authority. Hence the Respondent No. 1 prayed that the present Appeal should be dismissed. In this context, the Respondent No. 1 should note that the Appellant is not expected to wait till the First Appellate Authority to pass an order under section 19(1) of the Act. As stated earlier, the period for disposal of the first Appeal has been laid down in section 19(6) of the Act and therefore it is the duty of the FAA to dispose off the Appeal within the time limit.

8. The provisions of sub-section (3) of section 19 of the Act are very clear which contemplate that the second Appeal against the decision under sub-section (1) shall lie within 90 days from the date on which the decision should have been made or was actually received by the Appellant. Being so, second Appeal lies to this Commission within 90 days from the date on which the decision should have been made by the First Appellate Authority. The First Appeal was filed on 26/05/2008 and therefore the Respondent No. 2 ought to have taken the decision on the said Appeal on or before 25/06/2008. Therefore, Appeal can be filed before this Commission after 25/06/2008 within 90 days. Therefore, the preliminary objection raised by the Respondent No. 1 has no basis and deserves to be overruled at the outright. Hence, I overrule the same.

9. Along with the reply, the Respondent No. 1 has annexed Xerox copy of certificate of posting which was issued on 25/08/2008 just on the previous day on which the hearing has been fixed by this Commission. The Respondent No. 1 has issued 3 letters to the Appellant all dated 20/8/2008 wherein the Respondent No. 1 has informed that the information sought has been kept ready and the same can be collected on payment of necessary fees. The Respondent No.1 has also produced the Xerox copy of the letter dated 20/08/2008 written to the Mamlatdar of Bardez forwarding the application of the Appellant. All these clearly show that the Respondent No. 1 has not acted diligently and it is only when the Appellant has filed the 2<sup>nd</sup> Appeal before this Commission and on getting the notice from this Commission, the Respondent No.1 transferred the application to the Mamlatdar after 141 days from the date of the receipt of the application as against 5 days provided in section 6 (3) of the Act. The Respondent No. 1 has not followed the procedure laid down in section 7 of the Act. Apart from causing inordinate delay of 141 days the Respondent No. 1 has not informed the charges which are required to be paid by the Appellant towards the supply of information as required by section 7 (3) (a) of the Act. Apart from raising the preliminary objection, the Respondent No. 1 has not explained the reasons for causing such a delay of

141 days just for sending the intimation which is also not in accordance with the provisions of section 7(3) (a) of the Act and therefore prima-facie this is a fit case to invoke section 20 of the Act.

10. In view of the above the following order is passed.

**ORDER**

The Appeal is allowed. The Respondent No. 1 is directed to provide the information to the Appellant within 1 week from the date of this order in respect of the applications where the Appellant has sought the information pertaining to the resolution, transfer of House tax etc and grant of permission for construction and development, on payment of fees. The Respondent No. 1, Shri Prashant Naik is hereby directed to show cause under section 20 of the Act on 25/09/2008 at 11.00 a.m. as to why disciplinary proceeding should not be recommended against him and the penalty of Rs. 250/-per day delay should be imposed on him for causing inordinate delay of 141 days.

Pronounced in the open Court on this 11<sup>th</sup> day of September, 2008..

Sd/-  
(G. G. Kambli)  
State Information Commissioner

No.GIC/ Appeal No. 65/SIC/2008  
Goa Information Commission,  
Shrama Shakti Bhavan,  
Patto, Panaji Goa.

Dated: 16/09/2008.

To,

1. Shri Sagar Vishwanath Dharwadkar,  
C-43, Dhake Park, Natwar Nagar,  
Road no. 1, Jogeshwari (East), Mumbai -  
400 060.
2. The Public Information Officer,  
Shri Prashant Naik,  
The Secretary,  
Village Panachayat of Nerul Village,  
Bardez Taluka - Goa.
3. The First Appellate Authority,  
Mr. Shivprasad Naik,  
The Block Development Officer,  
Govt. Complex, 2<sup>nd</sup> Floor, Mapusa - Goa.

**Sub: Appeal No. 65/SIC/2008.**

Sir,

I am directed to forward herewith the copy of the Order dated 11/09/2008 passed by the Commission on the above Appeal for information and necessary action.

Yours faithfully,

(Pratap Singh Meena)  
Secretary

Ecc: Copy of Order in 5 pages.