

## GOA INFORMATION COMMISSION

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

**Appeal / 66 / 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 Suresh Narulkar,  
The Mamlatdar of Bardez Taluka,  
Mapusa - Goa.
2. The First Appellate Authority,  
Office of the Mamlatdar of Bardez,  
Mapusa - Goa.

..... Respondent No.1..

..... Respondent No.2..

### **CORAM:**

Shri G.G. Kambli  
State Information Commissioner

(Per G.G. Kambli)

Dated: 19/09/2008

Appellant present.

Shri Kishor G. Naik, UDC represented the Respondent No.1.

Respondent No. 2 absent.

### **ORDE R**

This disposed of the second Appeal filed by the Appellant against the Respondents under section 19 of the Right to Information Act 2005 (for short the Act).

2. The facts, leading to this appeal, are that the Appellant herein approached the Respondent No. 1 vide application dated 05/04/2008 requesting to furnish the information on 3 points in respect of the property surveyed under No.61/2. The then Public Information Officer vide his letter dated 21/04/2008 requested the Appellant to call in his office on 30/04/2008 at 11.00 a.m. for clarification and stated further that the Application of the Appellant would be filed if the Appellant fails to do so. The Appellant responded to the said letter of the Public Information Officer stating that he could not attend the office of the Respondent No.1 due to the sudden demise of his father on 26/04/2008. The Appellant also

...2/-

submitted Court fees of Rs.10/- and requested the Public Information Officer to inform the further fees payable by him towards the furnishing of the information.

3. As the Appellant did not receive any decision of the Respondent No. 1, the Appellant filed an Appeal before the First Appellate Authority of the office of the Mamlatdar of Bardez on 26/05/2008. Subsequently, the Respondent No. 1 by his letter dated 17/06/2008 informed the Appellant that there was a clerical error in the occupant column in form I & XIV in respect of survey No. 61/2C in the village Nerul and that the computerized copy of the I and XIV was sent to the Appellant with a direction to pay Rs. 2/- towards the charges. In the said letter, the Respondent No. 1 also informed the Appellant that his application dated 05/04/2008 stood disposed off. The Appellant again wrote another letter dated 30/06/2008 to the Respondent No.1 bringing out to his notice that he did not receive information pertaining to the point No.2 and 3 of his application. The Appellant also invited the attention of the Respondent No.1 to the provisions of sub-section (3) of section 6 of the Act. In the said letter, the Appellant has also forwarded demand draft of Rs. 37/- being two Rupees of the cost of one page document and balance being postal charges of Rs. 35/-.

4. As the Appellant did not receive any decision from the Respondent No. 2 within the time limit laid down in sub-section (6) of section 19 of the Act, preferred the present 2<sup>nd</sup> Appeal before this Commission. The notice were issued to both the Respondents. Shri Kishor G Naik, UDC of the Office of the Respondent No. 1 remained present for the hearing both the times. The Respondent No. 2 remained absent. The Appellant was also remained absent but had informed that he was unable to attend the hearing. Shri Kishor G. Naik, UDC Authorized Representative of the Respondent No. 1 filed the reply and on query, he stated that he has nothing to submit orally. Hence the matter was posted for orders.

5. I have gone through the Appeal memo as well as the copies of the letters written by the Appellant as well as the replies given by the Respondent No. 1 also considered the replies filed by the Respondent No. 1.

6. The Appellant had sought the information on 3 points. The Respondent No. 1 had called the Appellant for clarification and further threatened the Appellant that in case he fails to remain present his application would be filed. In his context, it is pointed out that the Public Information Officer is not empowered to call the applicant for clarification when the Applicant has sought the copies of the documents and threaten the Applicant that the application would be filed. The procedure for dealing with the application received under section 6 of the Act is laid out in section 7 of the Act. The Respondent No. 1 has totally ignored the provisions of section 7 of the Act while sending the reply dated 21/04/2008. The Public Information Officer has to take a decision on the application within 30 days from the date of the receipt thereof and decide whether the information sought by the applicant is to be issued or rejected on any of the grounds specified in the Act. Further, in case the information sought by the Applicant is not available with him, the Public Information Officer has to forward the application to the concern Public Authority where the information is available within 5 days from the date of the receipt.

7. It will be seen form the letter dated 17/06/2008 of the Respondent No. 1, the information has been furnished only on point No. 1 and the Respondent no. 1 remained silent as regard to the points No. 2 and 3. it is only when the Appellant wrote another letter dated 04/07/2008, the Respondent No. 1 by his letter dated 29/07/2008 informed the appellant that the records of the Matriz book are not traceable in his office as they are completely mutilated. Regarding the partition proceeding the Respondent No. 1 informed that the same are not available in his Office. Thus, the Respondent No.1 at one stage says that records are not traceable and on the other side the Respondent No. 1 states that the records are mutilated. Therefore, the statement of the Respondent No. 1 that the

records are not traceable is not correct. The Appellant in his original application dated 05/04/2008 has clearly made the reference to the partition case and also the order dated 07/10/2002, which clearly show that the information sought, by the Appellant was in respect of the partition proceeding pertaining to the office of Dy. Collector and SDO Mapusa. It is also pertaining to note that the Appellant in his very application requested the Respondent No. 1 to inform the department in which the said information is available. Therefore, it is the duty of the Respondent No. 1 as a Public Information Officer to transfer that part of the application pertaining to point No.3 to the Dy. Collector & SDO, Mapusa for taking necessary action in the matter in accordance with the provisions of the Act instead of informing belatedly to the Appellant that the information is not available.

8. It will be seen from the above that the information sought by the Appellant on point No. 2 is available but, the records are mutilated and it is not correct to say that the same are not traceable. The records pertaining to the Matriz is very important documents which relates to the properties and they are required to be preserved properly. It is possible that the records might be mutilated because of age and frequent use. The Respondent No. 1 should see if the copies of the records in whatever form they are available could be furnished, on verifying this register. As regard to the information relating to the point No.3, the Respondent No. 1 shall forward a copy of the application within 5 days from the date of this order to the Dy. Collector and SDO Mapusa for taking suitable action in the matter, under intimation to the Appellant.

In view of the above, the Appeal is partly allowed.

Pronounced in the open Court on this 19<sup>th</sup> day of September, 2008.

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