

**GOA STATE INFORMATION COMMISSION AT
PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 218/SCIC/2008

Shri Kashinath Shetye
Bambino Building, Alto Fondvem
Ribandar
Tiswadi – Goa

...Appellant.

V/s.

1) The Public Information Officer
The Chief Officer
Pernem Municipal Council
Pernem - Goa

...Respondent No. 1

2) The First Appellate Authority
The Director
Directorate of Municipal Administration
Panaji – Goa

...Respondent No. 2

Adv. George for the Appellant.

Adv. S. P. Patkar for the Respondent No. 1 present.

J U D G M E N T

(Per Afonso Araujo)

Not content with the information provided by the Public Information Officer in pursuance of the order of the First Appellate Authority is the grievance in this Second Appeal.

2. The Appellant by request dated 22.09.2008 approached the Public Information Officer – Dy. Director of Municipal Administration, Panaji and sought information under the Right to Information Act, 2005 (for short ‘The Act’) relating to moveable and stationary handcarts, stalls, kiosks, milk booths existing within the Municipal Councils of State of Goa and which are enumerated at serial No.1 to 10. The Appellant also requested inspection of all

...2/-

files. On 22.09.2008 itself the Public Information Officer transferred this application to the Public Information Officer, Chief Officer, Pernem Municipal Council – the Respondent No. 1. As the Appellant did not receive any reply from the Respondent No. 1 approached the First Appellate Authority- the Respondent No. 2. By order dated 05.11.2008 the Respondent No. 2 directed the Respondent No. 1 to provide the information requested in the letter dated 22.09.2008 within a period of 10 days and also allow inspection of records to the Appellant. By communication dated 07.11.2008 the Respondent No. 1 provided the information to the Appellant. Not satisfied with this information provided the Appellant preferred this Second Appeal praying for the information to be furnished correctly and fully; penalty on the Public Information Officer for denying the information; disciplinary proceedings against the Public Information Officer for not obeying orders of the First Appellate Authority and compensation to be granted to the Appellant.

3. In his submissions, Shri Shetye for the Appellant stated that his application dated 22.09.2008, was transferred to the Pernem Municipal Council and as no reply was given by the Respondent No. 1 within the prescribed period, amounts for deemed refusal under section 7(2) of the Act and that he then preferred the First Appeal and by order passed on 05.11.2008 the First Appellate Authority directed the Respondent No. 1 to provide the information to the Appellant which was given to him on 07.11.2008 and that the Appellant has specifically required certified copies of the licences but only NOCs were given and that the information is incomplete. Shri Redkar for the Respondents stated that the reply and the written arguments to be considered.

4. I have gone through records of the case, and considered the submissions of the parties.

5. The contention of the Appellant is that the Respondent did not adhere to the prescribed time limit and consequently the failure to provide information within 30 days, has to be considered as deemed refusal of the request. The information which was sought on 22.09.2008, the Respondent should have decided by 22.10.2008. In the reply to the averments made in the appeal, the Respondent contended that within 30 days by letter dated 21.10.2008, the Respondent gave a reply to the request of Appellant. By order dated 05.11.2008, the First Appellate Authority by referring the letter dated 21.10.2008 of the Respondent and the statement that the information which was sought was not specific, directed the Respondent to provide information within 10 days. The Respondent complied the order dated 05.11.2008 and on 07.11.2008 provided the information to the Appellant on all the items enumerated in the request dated 22.09.2008, except item 3 and 10 which information was transferred to the Electricity Department and Food and Drugs Administration respectively.

6. Though the information was not provided in the letter dated 21.10.2008, for all purposes the Respondent gave a reply stating that information sought was not specific which was mentioned in the Order of the First Appellate Authority. The Appellant on the very day the period of 30 days expires, namely 22.10.2008, preferred the First Appeal and in compliance of the Order dated 05.11.2008, the Respondent promptly on 07.11.2008 provided the information sought.

7. Under the Right to Information Act, 2005 the primary concern is to provide the information to the information seeker and only in case where denial of the information is intentional, deliberate or malicious, the provision to impose penalties can be

resorted to. Since there is no material on record to indicate that there was intentional denial or refusal to the information sought and taking into consideration that the communication of the Respondent dated 07.11.2008 alongwith annexures providing the information sought, meets the requirements to the request of Appellant dated 22.09.2008, the Appeal is disposed off accordingly.

Pronounced in the open court on this 07th day of July, 2009

Sd/-
(Afonso Araujo)
State Information Commissioner