GOA STATE INFORMATION COMMISSION
AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 196/2008

Shri. Jose Almeida,
Marchon Bldg., 1st Floor,
Margao, Goa – 403 601. …… Appellant.

V/s.

1. Public Information Officer,
   The Member Secretary,
   South Goa Planning & Development Authority,
   Osia Complex, Margao – Goa.
2. First Appellate Authority,
   The Chief Town Planner,
   Town & Country Planning Department,
   Patto, Panaji - Goa. …… Respondents.

Appellant present in person.

Adv. Vivek Rodrigues for Respondent No. 1.

J U D G M E N T

(Per Afonso Araujo)

The deemed refusal of the information sought and non-compliance of the direction of the First Appellate Authority to provide the information are the grievances in the Second Appeal.

2. The Appellant on 23/05/2008 approached the Public Information Officer, Member Secretary, South Goa Planning and Development Authority, Margao for a certified copy of NOC to register Sale Deed of Plot surveyed under Chalta No. 15 of P.T. Sheet No. 193 under reference No. SGPDA/R/1961/589/99-2000 dated 9/07/1999 along with file notings and plans attached. As the Public Information Officer did not provide the information within the stipulated period of limitation, the Appellant considered as deemed refusal and on 01/07/2008 approached the First Appellate Authority, Respondent No. 2 who by order dated 18/07/2008 ordered the Respondent No. 1 to provide the information mentioned in the application dated 23/05/2008 within 15 days from the receipt of the order. On 4/8/2008, the Appellant received the letter from the Respondent No. 1 stating that he was not able to locate the file No. SGPDA/M/P/1961 till date and he was not in a position to supply the information sought. Not content with this reply, the Appellant on 31/10/2008 preferred the Second Appeal with a prayer to direct the

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Respondent No. 1 to furnish the certified copies of the information sought; the Public Information Officer and the Officers concerned who were in charge of the custody of the files be punished under Section 20(1) and 20(2) of the Right to Information Act (for short the RTI Act) and for costs. On 12/12/2008, the Appellant received the letter from the Respondent No. 1 stating that the file No. SGPDA/P/1961 has been traced and information was given namely certified copy of NOC No. SGPDA/R/1961/589/99-2000 dated 9/07/1999 and the file notings are attached.

3. Written arguments were filed by the Appellant. I have gone through the records of the case and taken into consideration written submission of the Appellant and the affidavit in reply of the Respondent No. 1 to the averments of the Appeal.

4. The information which was sought by the Appellant under the RTI Act on 23/05/2008, the Respondent No. 1 did not decide one way or the other the request of the Appellant. The mandate of section 7(1) requires the Public Information Officer to decide the request for information sought as expeditiously as possible and not exceeding the period of 30 days. The Public Information Officer either has to provide information on payment of the required fees or deny the information on any grounds enumerated in section 8(1) of the RTI Act. Once the Public Information Officer does not decide within the period of 30 days the request of the information seeker it amounts to deem refusal of the information sought. The information which was sought on 23/05/2008, by adhering to the provision of section 7(1) of the RTI Act which prescribed a period of limitation of 30 days to provide information, the Appellant ought to have received the decision by 22/06/2008. Since the Appellant did not receive this information within the period of 30 days preferred First Appeal on 01/07/2008.

5. The First Appellate Authority by order dated 18/07/2008 directed the Respondent No. 1 to provide information sought within 15 days from the receipt of this order. The Respondent No. 1 did not comply with the order of the First Appellate Authority and did not provide information. But on 4/8/2008 the Respondent No. 1 stated that it was not able to locate the concerned file and was not in a position to supply the information sought. As the Appellant continued to be deprived of information required, Second Appeal was preferred on 31/10/2008 and the first hearing was fixed on 4/12/2008. The Respondent No. 1 on 12/12/2008 communicated the Appellant that the concerned file has been traced and provided the

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information sought in the letter dated 23/5/2008 to the Appellant. Right from the time the information was sought on 23/05/2008, even after the order of the First Appellate Authority was passed on 18/7/2008 and till the filing of the Second Appeal on 31/10/2008, the Appellant could not obtain the information required and the same was provided only on 12/12/2008. The contention of the Respondent No. 1 that as jurisdiction of SGPDA has been withdrawn in 2005 and the file under process was transferred to the Town and Country Planning Department, Margao Branch, has been countered by the Appellant by producing Circular No. 4-5-84-UDD-TCP-05/674 dated 25/02/2005 wherein it is stated that all pending files be forwarded to the respective District Offices/Branch Offices of Town and Country Planning Department and the relevant file been disposed off as back as on 7/7/99 cannot be said to be pending and the question of transferring this file does not arise.

6. Taking into consideration the Appellant is satisfied with the information provided by the Respondents in the letter dated 12/12/2008, the question which remains to be decided is whether there are grounds to take recourse to the provisions of section 20 of the RTI Act for imposition of penalties. Failure to provide information by way of deemed refusal; not complying with the direction of the order of the First Appellate Authority; providing the information only after the Second Appeal was preferred and taking shelter on the transfer of the files to the Town and Country Planning Department, prime facie indicates that there was a delay on the part of the Respondent No. 1 to provide information sought for which a show cause notice needs to be issued. Hence, the following order: -

O R D E R

The Appeal is partly allowed. The Respondent No. 1 is directed to show cause as to why the penalty under section 20 of the RTI Act should not be imposed for not providing the information within the stipulated period under the RTI Act. The Respondent No. 1 to file his reply to the show cause notice on 14/08/2009 at 10.30 a.m.

Pronounced in the open court on this 21st day of July, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner