

# GOA STATE INFORMATION COMMISSION AT PANAJI

**CORAM:** Shri Afonso Araujo, State Information Commissioner

Appeal No. 312/SIC/2008

Ms. Tanya Mendosa,  
R/o 728, Sataporio, Moira,  
Bardez – Goa.

..... Appellant.

V/s.

1. The Public Information Officer,  
The Secretary,  
Village Panchayat of Moira,  
Moira, Bardez – Goa.
2. The First Appellate Authority,  
Block Development Officer - II,  
Mapusa, Bardez – Goa.

..... Respondents.

Ms. Vigilia D'Sa, authorized representative for Appellant present.

Respondent No. 1 present in person.

## **JUDGMENT**

(Per Afonso Araujo)

The order of the First Appellate Authority dismissing the appeal and maintaining a partial denial of the information sought is being challenged in this Appeal.

2. The Appellant by letter dated 13<sup>th</sup> October, 2008 addressed to the Public Information Officer, Village Panchayat Moira – Respondent No. 1, sought information on various items pertaining to the construction of house of one Mr. James D'Souza in survey No. 151/50 of Moira village. The Respondent No. 1 by reply dated 22/11/2008 provide the information except at point No. 2 which is regarding approved plans and stated that the party Mr. James D'Souza has strongly objected by letter dated 7<sup>th</sup> November, 2008 to issue approved plans of his house as it can be copied or patent and also misused and the information was denied under the section 8(j) of the Right to Information Act (for short the Act). Aggrieved by this reply, the Appellant preferred the first appeal and the First Appellate Authority – Respondent No. 2 by order dated 23/01/2009 dismissed the appeal. This is the Impugned Order.

3. Ms. Vigila D'Sa, authorized representative for the Appellant has stated that the information sought is in a public domain and the Respondents are bound to provide and section 8(j) is not attracted as there is nothing personal and the appeal be allowed and exemplary cost and penalty be imposed on the Respondents. Ms. Shetye, Respondent No. 1 - Public Information Officer submitted that the letter was made to Mr. James D'Souza on 7/11/2008 informing him about the information sought by the Appellant and to intimate her whether the certified copies can be furnished and that in the reply of the same date Mr. James D'Souza stated that he has strongly objected of his approved plans is given to the Appellant as the same can be copied or patent and also misused and that it is a personal information which cannot be given to the Appellant and section 8(j) is applicable being the personal in nature it cannot be given to the Appellant and the appeal is dismissed.

4. I have gone through the records of the case and taken into consideration the submission of both the parties. The Appellant sought information in the request dated 31/10/2008 and required copies of the various documents and at serial No. 2 required the conversion sanad, ownership documents and approved plans of one James D'Souza. The Respondent No. 1 did not provide the information only in respect of approved plan based on the objection of the concerned person stating that the plans can be copied, patent or misused. On the strength of objection raised by James D'Souza, the Respondent No. 1 denied the information as it falls under the exemption in section 8(1)(j) of the Act being confidential. It is on the Public Information Officer to decide whether the provision of section 8(1)(j) is attracted or not. The Respondent No. 1 can take into consideration those objection while taking the decision whether the information should be provided or not.

5. No doubt that the approved plans are part and parcel of the construction licence which is at Sr. No. 1 and the Respondent No. 1 disclosed this information to the Appellant by providing the same. Once the copy of licence has been provided, there is nothing confidential in the approved plan so as to deny this information to the Appellant. However, the apprehension of said James D'Souza that the plan of his house can be copied, patent and misused cannot be ignored. After all it is the prerogative of the owner to construct his house at his own liking and

design and by providing this plan having all the drawing of the structures internal as well as external runs the risk of his plan being copied. The Respondent No. 1 was directed to produce this plan which consist of two portions one on the left having drawings and on the right is site plan. On perusing this plan, left part where all the drawings are depicted can be separated from the part which consist only of site of the structure. In such circumstances, the part having drawings can be severed from actual plan of the site and by providing only the site plan there cannot be any apprehension on the part of said James D'Souza that the plan having drawing can be copied. The Respondent No. 1 to take recourse to the provision of section 10 of the Act and severe the portion which is confidential from the portion which can be disclosed. Section 10(1) of the Act says:

"Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be served from any part that contains exempt information." Since the approved plan consist of one portion having drawing of the building and other site plan, it is possible to separate from each other, the Respondent No. 1 to provide the copy of the part of the plan where the site of the property wherein the building is built. Hence, the following order: -

### **ORDER**

The Appeal is partly allowed. The Respondent No. 1 to severe the part of the plan having the drawings from the part having site of the building and provide this severed portion which is the site plan to the Appellant within 20 days from the receipt of this order and to report compliance on 2/09/2009 at 10.30 a.m.

Pronounced in the open court on this 29<sup>th</sup> day of July, 2009.

Sd/-  
(Afonso Araujo)  
State Information Commissioner



