

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 304/SIC/2008

Shri Anil Fondu Naik Gaonkar,
R/o Naikwada, Adcolna – Goa.

..... Appellant.

V/s.

The Public Information Officer,
The Secretary,
Village Panchayat of Bhoma-Adcolna,
Bhoma, Ponda – Goa.

..... Respondent.

Appellant present in person.

Respondent also present in person.

J U D G M E N T

(Per Afonso Araujo)

The Appellant by letter dated 19/11/2008 sought information under the Right to Information Act, 2005 (for short the RTI Act) and requested the Respondent to provide him the certified copy of letter No. 2481 dated 19/03/2008. Again on the same day, the Appellant in view of the letter of the Village Panchayat Sarpanch dated 8/8/2008 informing him to remain present on 13/08/2008 for site inspection regarding removal of illegal construction, sought information as to what action was taken in the said matter by the Sarpanch. The Appellant sought the same information on 17/12/2008. In the reply dated 06/01/2009, the Respondent stated that the then V.P. Secretary Savio Fernandes has not maintained or drawn copy of site inspection and in respect to the letter dated 19/3/2008, addressed to Dashrath Popat Naik Gaonkar, stated that the then V.P. Secretary Pradeep Shirodkar has not maintained acknowledgement copy of the said letter.

2. The Appellant not satisfied with the reply, preferred First Appeal and by order dated 6/2/2009, the First Appellate Authority on the information regarding site inspection maintained the decision of the Respondent that the inspection report cannot be provided as it was not prepared and directed the Respondent to furnish the certified copy of letter dated 19/03/2008 within 5 days of it's availability in the office of the Respondent, if after inquiry or otherwise on any point of time the said

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letter is traced. As the Respondent did not comply with direction of First Appellate Authority and not content with the observation of the First Appellate Authority and denial of the information in respect of site inspection, this Appeal has been preferred.

3. The Appellant Anil Gaonkar submitted that he received a letter dated 8/8/2008 that the inspection would be carried on 13/08/2008 and on this date the site inspection did take place and the Respondent had to prepare the inspection report which Respondent failed to provide to him and that Respondent failed to provide certified copy of the letter dated 19/03/2008. The Respondent Nileshkumar Sawant stated that he took charge on 11/09/2008 as a Secretary and it was during the tenure of the Secretary Pradeep Shirodkar and Savio Fernandes that information was sought in respect of letter dated 19/3/2008 and inspection report carried on 13/08/2008 respectively and that these two documents were not handed over to him when he took over the charge from the respective Secretary.

4. I have gone through the records of the case and taken into the consideration the submission of both the parties. The Appellant received the letter dated 8/8/2008 of the Sarpanch, Village Panchayat Bhoma-Adcolna directing him to remain present on 13/8/2008 at 11.00 a.m. for removal of illegal obstruction on access pathway at Naikwado-Adcolna and a copy of this letter was sent to the Ward Member Shri Shailesh S. Naik with a request also to remain present at the site. It is a contention of Appellant that all concerned parties were present at the site and inspection was carried and the Appellant requires a certified copy of the inspection report. On one side the Appellant vehemently contended that the inspection did take place on 13/08/2008 and on other side the then Secretary Savio Fernandes in his letter dated 16/02/2009 addressed to the Block Development Officer has stated that the inspection was cancelled on that day 13/08/2008 as there was some urgent official work for the Sarpanch of Village Panchayat Bhoma. For all purposes the information sought by the Appellant requiring this inspection report was not provided. The question whether the inspection which was carried on 13/08/2008 either the inspection report was not prepared or deliberately denied to the

Appellant, is required to be dealt by an inquiry which will have to be conducted for the purpose of fixing the responsibility and imposition of penalties.

5. The Appellant also required the certified copy of a letter No. 2481 dated 19/03/2008. The Respondent produced the copy of outward correspondence register which shows entry No. 2481 that it was dispatched on 19/03/2008 to Dashrath Popat Naik Gaonkar, Naikwada-Adcolna and it has a reference No. VP/BA/PF/07-08 and it is in respect of a notice. This notice was issued by the Village Panchayat against Dashrath Popat Naik Gaonkar and though shown in the said entry, a copy of the notice is not on the records of the Panchayat. This information sought was not provided to the Appellant by the Public Information Officer, the then Secretary, Pradeep Shirodkar on the ground that the letter is missing. Once the notice has been prepared and has been dispatched, a copy of this notice has to be kept in records of the Panchayat and if such notice is not found, it is to be inferred either there was negligence on the part of the concerned authority to maintain the record or deliberately has not been provided to the Appellant. The First Appellate Authority also found necessary an inquiry to be conducted on this missing notice and stated that the objective of the Act is not negated by giving answers the documents are not available or missing. In such circumstances, it would be proper that an inquiry to be conducted on the question that the information was not provided to the Appellant of the inspection report and the notice under entry No. 2481 dispatched on 19/03/2008 so that the responsibility is placed on those persons in order to take recourse for imposition of penalties under section 20 of the RTI Act. Hence, the following order: -

ORDER

The Appeal is allowed. The Respondent to provide information to the Appellant in respect of the certified copy of site inspection carried on 13/08/2008 and certified copy of the entry which is in respect of notice dispatched on 19/03/2008 having reference No. 2481 addressed to Shri Dashrath Popat Naik Gaonkar, within 20 days from the receipt of this order.

The Block Development Officer, Ponda to hold an inquiry on the information sought in respect of inspection report dated 13/08/2008 and notice dispatched on 19/03/2008 and fix the responsibility on the authority responsible for not providing the information and submit the report within 2 months.

A show cause notice to be issued to Public Information Officer, the then Secretary, Savio Fernandes and Public Information Officer, the then Secretary, Pradeep S. Shirodkar why penalties should not be imposed; disciplinary proceedings should not be initiated and compensation to be awarded to the Appellant. The show cause notice to be returnable on 08/09/2009 at 10.30 a.m.

Pronounced in the open court on this 6th day of August, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

