

# GOA STATE INFORMATION COMMISSION AT PANAJI

**CORAM:** Shri M. S. Keny, State Chief Information Commissioner

Appeal No. 93/2009

Shri Allan Falleiro,  
H. No. 400, Toleband,  
Loutolim, Salcete, Goa – 403718.

..... Appellant.

V/s.

Public Information Officer,  
Office of the Captain of Ports Department,  
Panaji - Goa.

..... Respondent.

Appellant in person.

Respondent also in person.

## **J U D G E M E N T** **(20-11-2009)**

1. The Appellant, Allan Falleiro, has preferred this appeal praying for a direction to provide information sought by him and also for fine for the delay in providing the required information.

2. The brief facts leading to the present appeal are: - that the Appellant had requested for information under Right to Information Act, 2005 (RTI Act for short) from the Public Information Officer of the Captain of Ports. That the information was not provided as requested and therefore the Appellant preferred the First Appeal with the First Appellate Authority of the Captain of Ports Authority. The First Appellate Authority allowed the appeal and directed the Respondent to furnish the information sought to the Appellant on or before 27/08/2009. It is further the case of the Appellant that even after the order of the First Appellate Authority no information was furnished to him and non-compliance of the order was informed to the First Appellate Authority.

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Being aggrieved the Appellant has approached this Authority, on the grounds which are set out in detail in the Memo of Appeal.

3. The case of the Respondent, as set out in the reply of the Respondent, is that the information sought by the Appellant vide his letter dated 8/6/2009 could not be provided as the concerned Dealing Hand did not supply the information within the prescribed time inspite of having served the Note bearing No. A-11060(217) dated 10/06/2009 under section 5(4) and 5 of the Right to Information Act, 2005, to the concerned hand who failed to provide the same. It is also their case that required information was furnished by the said Dealing Hand to the Respondent/ Public Information Officer only on 14/07/2009 but since First Appeal was preferred on 10/07/2009 the same remained. In short according to Respondent they were not negligent in providing the information. It is further the case of Respondent that they provided the information in pursuance of order of the First Appellate Authority. According to the Respondents, Appeal be dismissed.

4. Heard the Arguments. The Appellant argued in person and also submitted written submission styled as reply to the submission of Respondent. According to him, no information is received by him and whatever provided by letter dated 27/08/2009 is misleading and false. The Appellant also submitted that the information sought does not fall under any of the sub-sections of section 8 of the RTI Act that exempt from disclosure.

5. According to the Respondent the information sought cannot be furnished under section 8 of the RTI Act. It is also contended by the Respondent that the Appellant is not at all entitled for the prayers prayed.

6. I have carefully gone through the records of the case, considered the arguments advanced by the parties and also perused the order of the First Appellate Authority. The point that arises for my consideration is whether the Appellant is entitled for the relief prayed?

At the outset I must say that the Right to Information Act, 2005 has been enacted to provide for a legal right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. From the scheme of the Act it is clear that Right to Information Act ensures maximum disclosures and minimum exemptions, consistent with constitutional provisions prescribing at the same time confidentiality of sensitive information. To be noted here the scope of freedom of information has been enhanced by the present Act.

In the case at hand the undisputed facts are: - (i) That the application was made by the Appellant before the Public Information Officer; (ii) That information was not furnished to the Appellant; (iii) That the Appellant, therefore, preferred the first appeal and (iv) that by order dated 20/08/2009, the Public Information Officer was directed to furnish the sought information to the Appellant on or before 27/08/2009. It is also not in dispute that First Appellate Authority directed the Departmental Inquiry against the dealing hand for the delay in submission of information to the Public Information Officer.

7. The Respondent by letter No. A-11060/(217)/2548 dated 27/08/2009 addressed a letter to the Appellant stating that information sought cannot be furnished under section 8 of the said Act.

It is pertinent to note here that the Public Information Officer/ Respondent's case was that the information could not be furnished as the dealing hand did not submit the information in time. It is further pertinent to note that at the appellate i.e. First Appeal stage also the Respondent's stand was the same and they did not speak about section 8. Even in reply filed before this Commission there is no whisper about section 8 but it mentions that requisite information has been provided. But strangely the Respondent took their stand at a belated stage for reasons best known to them. Be that as it may, the only thing to be seen is whether section 8 of the RTI Act is attracted in the factual backdrop of this case?

I need not reproduce section 8 herein. Suffice it to say that section 8 deals with various categories of information such as information which would affect sovereignty and integrity of India, security of State; International relations, Public Safety and order, Centre State relations, Trade or Commercial secrets, Breach of privilege etc. which shall be exempted from disclosure. These are section 8(1)(a) to (j).

Ordinarily all information should be given to the citizen but there are certain informations which are protected from disclosure. In the instant case the information sought are copies of letters i.e. six letters. The question, therefore, that falls for consideration is as to whether disclosure of these letters/documents would come in any category 1(a) to (j) of section 8 of the RTI Act? Prima facie I am of the view that none of these sub-sections are attracted and they cannot be barred from disclosure under section 8(1)(a) to (j) of the RTI Act. Rather disclosure of such information shall be in public interest in as much as it will show transparency in the activities of Public Authority.

8. The Respondent contends that it cannot be given. According to Appellant the information sought cannot be denied to the Parliament or State Legislature and therefore it cannot be denied to the Appellant. I do agree with the submission of the Appellant. Moreover the Respondent failed to satisfy this Commission as to how any sub-section of section 8 of RTI Act would come into play.

To be noted here the finding of the First Appellate Authority in directing to furnish the information is just and proper. In my view the information is to be furnished to the Appellant.

9. The Appellant has next contended that Respondent be suitably punished and fine may be levied. Normally in a case like this some fine/penalty is imposed so that delays etc. in providing information be avoided in future. But in the instant case the First Appellate Authority has observed as under: -

“As regards the delay in submission of the information to the Public Information Officer by the concerned dealing hand, a departmental inquiry is to be conducted separately .....”.

In my view sufficient fine/penalty has been levied commensurate with the act and, therefore, I do not wish to impose any further penalty. The apprehension of the Appellant that nothing would be done can be controlled to some extent as the concerned authority to see that the same is strictly followed and inquiry completed within a reasonable time.

10. In view of the above, the following order is passed: -

**ORDER**

The appeal is allowed. The Respondent/Public Information Officer is directed to furnish the information sought to the Appellant within 10 days from the date of receipt of this order.

The appeal is accordingly disposed off.

Pronounced here at Panaji on 20<sup>th</sup> day of November, 2009.

Sd/-  
(M. S. Keny)  
State Chief Information Commissioner



