

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 261/SIC/2008

Mrs. Maria Rita George,
H. No. 399, Tolleaband,
Loutolim,
Salcete – Goa

... Appellant.

V/s.

1) The Public Information Officer,
Administrator of Comunidades of
South Zone,
Margao – Goa

... Respondent No. 1

2) The First Appellate Authority,
Additional Collector-I,
South Goa District,
Margao – Goa

... Respondent No. 2

Adv. S. Correia for the Appellant.
Respondent No. 1 present.

J U D G M E N T

(Per Afonso Araujo)

The information sought under the Right to Information Act, 2005 by the Appellant and denied by the Public Information Officer by way of deemed refusal as well as by not complying with the orders of the First Appellate Authority is the subject matter in this Second Appeal.

2. The Appellant by request dated 26.05.2008 sought information under the RTI Act and requires the details of mining licences granted of the Comunidade land during the period from 15.11.2006 to 25.03.2008; details of criminal

...2/-

cases pending against Sagar Dessai during his tenure as Escrivao of Comunidade of Cortalim and copy of the resolution of the General Body meeting of Comunidade of Verna for approval of additional area to one Basana Hore. The Respondent No. 1 on 1st January 2009 informed the Appellant that a circular to all the Comunidades of South Zone was issued in order to provide the Appellant information required under the RTI Act and as soon as it is received it will be furnished and required fifteen days' time to submit the information to the Appellant. The Appellant on 19.08.2008 preferred the First Appeal on the grounds of deemed refusal and that the Respondent No. 1 deliberately, malafidely and unreasonably refused the information to the Appellant. On 19.11.2008 the Respondent No. 2 directed the Respondent No. 1 to furnish the information to the Appellant. The Appellant preferred this Second Appeal on 02.01.2009 with a prayer to direct the Respondent No. 1 to provide the information in the request dated 26.05.2008; imposition of penalty and recommend disciplinary action.

3. Shri Correia submitted that the application for information was submitted on 26.05.2008 and did not provide within the period of thirty days and that after the First Appeal was preferred the Respondent No. 1 did not comply with the orders of the First Appellate Authority and that the information was provided on 16.06.2009 when the Appeal was pending before this Commission and that there was a delay of 352 days and that the Respondent No. 1 did not explain such a long delay. Written arguments were filed by the Respondent No. 1.

4. I have gone through the records and proceedings of the case and submissions of the parties. The information sought

by the Appellant in the request dated 26.05.2008 ought to have been decided by the Respondent No. 1 at least within thirty days from the date of receipt of the information sought. Failure to decide within the stipulated time amounts to deemed refusal of the information sought. It is only on 01.07.2008 that the Respondent No.1 informed that a circular has been issued to all Comunidades to provide the required information and it will be furnished to the Appellant as soon it is received by the Respondent No. 1 and required fifteen days' time to provide the information. As no information was received after this period of fifteen days the Appellant preferred the First Appeal only on 19.08.2008 and from the letter dated 19.11.2008 of the Respondent No. 2 to the Respondent No. 1 direction was given to furnish the information to the Appellant within two days, i.e. by 21.11.2008 and report compliance by 24.11.2008. The Appellant preferred this Second Appeal on grounds of deemed refusal and non-compliance of the order of the First Appellate Authority. During the pendency of the Appeal the Respondent No. 1 on 16.06.2009 provided the information sought and the Appellant was satisfied with the information provided.

5. Though the Respondent No. 1 provided the information after the Second Appeal was preferred and though satisfied with the information provided by the Respondent No. 1, the grievance of the Appellant is that there was inordinate delay of 352 days in providing the information which is not explained and requires penalty to be imposed on Respondent No. 1 as well as recommending disciplinary proceedings. In fact, by not complying with the mandatory provisions of section 7(1) and providing the information within thirty days from the date the information was sought on 26.05.2008; the fact that only on

01.07.2008 a letter was addressed to the Appellant stating that a circular has been issued to all Comunidades; the fact that the Respondent No. 1 did not comply with the orders of the First Appellate Authority-Respondent No. 2 and the fact that the information was provided only after the Second Appeal was filed, indicates that there was a delay which has to be explained by the Respondent No. 1. In such circumstances, the Public Information Officer who has to provide the information at the time the request was made on 26.05.2008 and also to comply with the order of the First Appellate Authority was passed, has to explain the delay. Hence, the following order:

ORDER

The appeal is partly allowed. Show Cause Notice to be issued to the Public Information Officer- Shri Ajit Panchawadkar as to why penalties should not be imposed and recommend disciplinary proceedings for the delay in providing the information sought and to file the reply on 04.01.2010.

Pronounced in the open court on this 26th day of November, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

