

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 17/SIC/2009

Shri Shankar Raghunath Jog,
Margawadi Sancordem,
Via Tiska - Goa.

..... Appellant.

V/s.

1. First Appellate Authority,
Director of Mines & Geology,
Government of Goa,
Udyog Bhavan, Panaji - Goa.
2. Public Information Officer,
Directorate of Mines & Geology,
Government of Goa,
Udyog Bhavan, Panaji - Goa.

..... Respondents.

Appellant in person.

Adv. Shri K. L. Bhagat for the Respondents.

ORDER

(Per Afonso Araujo)

The request of the Appellant on 06/10/2008 for information under the Right to Information Act, 2005 (for short the 'RTI Act') is as follows: -

1. In respect of mining concession/lease T. C. No. 22/1953, situated at Ordolo Dongor of village Sancordem of taluka Sanguem, granted to Mr. Damodar Jaganata Amoncar of Margao, Goa, presently represented by his legal heir Mr. Jaganata Damodar Amoncar, having area of 22.65 Hectors, the following information: -
 - a. what was the APPROVED production capacity, if any, on dated 27-1-1994 and on date 17-1-2005. Also kindly give me certified copies of document/orders, etc., if any, approving such capacities.

...2/-

2. In respect of mining concession/lease T.C. No. 7/1959, situated at Ondolo and its adjacent land in village Darbandora of taluka Sanguem, granted to Mr. Pundolica Poi Vernecar of Merces, Goa, presently represented by his legal heir Smt. Manikbai P. Vernecar, having area of 28.50 Hectors the following information: -
 - a. what was the APPROVED production capacity, if any, on date 27-1-1994 and on date 17-1-2005. Also kindly give me certified copies of documents/orders, etc., if any, approving such capacities.
 3. Kindly give certified copy of 'The Environmental Impact Assessment Notification, 1994, Number S.O. 60(E), dated 27th January, 1994, issued by the Ministry of Environment and Forest, Govt. of India, New Delhi, as received in your office.
 4. Kindly give certified copy of Order no.5/20/2002-Mines/PartI/18 dated 13-02-2006 issued by Department of Mines, Govt. of Goa, Porvorim, issued to Lease Holder Shri. Jairam D. Amonkar, L.H. of late Damodar J. Amonkar, India Sadan, H. No. 341, Aquem, Margao – Goa, in respect of T.C. No. 22/1953, referred at S. No. 1 above, as received in your office.
 5. Also, kindly give me certified copy of undertaking submitted by lease holder Shri. Jairam D. Amonkar, as directed in order dt. 13-02-2006, referred at S. No. 4 above, as submitted or received in your office.
2. The Respondent No. 2 by communication dated 13/11/2008 provided the information at items No. 1 to 5. As the Appellant was not satisfied with the information provided at item No. 5 which is certified copy of the undertaking submitted by Jairam D. Amonkar, the Appellant

preferred the First Appeal and by Order dated 06/02/2009, the First Appellate Authority upheld the information provided in respect of items 1 to 4 and in respect of information at item No. 5 directed the Respondent No. 2 to furnish information within ten days from the receipt of the Order. Since the Respondent No. 2 did not comply with the Order, the present Second Appeal.

3. Shri Jog stated that the information at Sr. No. 5 is an undertaking which was not provided and the Department must obtain this undertaking in view of the Order dated 13/02/2006 of the Department of Mines and that by merely stating that it is not available in the file is not sufficient and that there may be many reasons why such information is not available in the file and that sometimes it can be removed from the file and then state that it is not available. Adv. Shri K. L. Bhagat submitted that this information sought is not on record and Respondents cannot create such record.

4. I have gone through the records of the case and taken into consideration the arguments of both the parties.

5. The information sought by the Appellant at Sr. No. 5 is a certified copy of the undertaking which one Jairam D. Amonkar had to submit before the Department of Mines in view of the direction in the Order dated 13/02/2006 of Directorate of Mines. The Respondent No. 2 answered this information by stating that this undertaking is not available with the Department of Mines. No doubt that the order dated 13/02/2006 of Department of Mines directs the lessee Jairam D. Amonkar of the mining lease not to produce behind the approved capacity prevailed prior 1994, until environmental clearance under increase in production is granted by

the Central Government and submit an undertaking to that effect. It appears that Jairam D. Amonkar did not produce any undertaking before Mines Department and the Appellant precisely sought the information on this undertaking.

6. The Respondent No. 2 produced a letter from Jairam D. Amonkar dated 25/03/2008 addressed to Department of Mines, wherein it is stated that they have temporary discontinued the mining operation in view of the Order dated 13/02/2006. Since the lease holder Jairam D. Amonkar discontinued the mining operation there is no question of complying with the Order dated 13/02/2006 by submitting the undertaking to the Department of Mines and the Respondent No. 2 rightly answered the information sought at Sr. No. 5 by stating that the information is not available. As the reply to the information at Sr. No. 5 meets the requirements in respect of information sought in the request dated 25/10/2008, the Appeal is disposed off.

Pronounced on this 9th day of December, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

