

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 34/SIC/2009

Shri Venkatesh Pai,
House No. 620, Madegal,
Kakode – Goa

... Appellant.

V/s.

The Public Information Officer,
O/o. Dy. Conservator of Forests,
South Goa Division,
Margao – Goa

... Respondent.

Adv. Ajit Katak for the Appellant.
Adv. D.E. Aswenkar for the Respondent.

J U D G M E N T

(Per Afonso Araujo)

As the residence of the Appellant was searched by the officials of Forest Department of Quepem, the following information was sought under the Right to Information Act, 2005 (for short 'The Act').

- 1a) Whether the proper and valid search warrant was issued to search my house No. 620 situated at Madegal-Kakoda-Goa?
- b) Name of the authority of issuing search warrant.
- 2) Whether the said search was made to confiscate the unauthorized forest produce?
- 3) Whether the required unauthorized forest produce was found during the said search period?

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4) Name and quantity of the unauthorized forest produce if found during the course of search of my above referred residence.... if any.

5) What is the name and address of the informant/complainant who informed you about the so called deposit of the unauthorized forest produce in my said residential house?

6) Is the said informant informed to you a) Orally b) in writing c) telephonically?

7a) Do you act on a telephone/oral information/complaint to the extent of search of residence of a well reputed person?

b) If yes, you need not require the genuineness of the complainant and/or complaint.

8) Do you impose any fine and/or punishment to the informant if information supplied by him if found untrue and/or fabricated?

2. The Respondent by communication dated 13.03.2009 specifically provided the information sought at items 1a), b), 2, 3, and 4. In respect of information at item 5, 6, 7a) and 8 the Respondent stated that no information is available and in respect of 7(b) it was not answered at all. Aggrieved by this denial of information the Appellant preferred the First Appeal and by order dated 14.05.2009 the First Appellate Authority dismissed the appeal. This is the Impugned Order.

3. Shri Kantak, Ld. Adv. Appearing for the Appellant contended that the Respondent furnished part of the information and did not provide material information which is at Sr. No. 5 to 8 and that the First Appellate Authority brought out

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a case of exemption which is not borne from the reply or arguments of the Respondent. On the other hand Shri Aswenkar, Ld. Adv. for the Respondent submitted that whatever is on records can be furnished and the Respondent furnished the information correctly on all 8 points and that no prejudice or harm is caused to the Appellant.

4. I have gone through the records of the case and taken into consideration the submissions of the parties. The grievance of the Appellant is to the replies provided to information at Sr. No. 5 to 8. In fact, except where there is no answer to question at 7(b) the reply to the question 5, 6, 7(a) and 8 is merely stating that no information is available. The primary concern and all out endeavour has to be made by the Public Information Officer to provide the information to any information seeker and once an application is made seeking information, the Public Information Officer has to either provide the information sought on payment of required fees or reject the application on any of the grounds of exemption from disclosure. The Respondent, by merely stating that no information is available, has not decided the request of the Appellant as per the mandate of section 7(1) of the RTI Act.

5. The information which was sought arose on account of a search conducted by the public authority of the Forest Department to residence of the Appellant. The search warrant was provided and based on search warrant the officials of the Forest Department carried the search. Such a search warrant is issued on the strength that some forest produce is stored in a particular place. Since the officials of the Forest Department

had a search warrant and carried the search in the residence of the Appellant, though no forest produce was found, the Respondent has to specifically provide the information at Sr. No. 5 to 8 and not merely state that no information is available. The Respondent either to provide information on payment of required fees or reject it on any of the grounds mentioned for exemption from disclosure. With the above observations, the following order:

ORDER

The appeal is partly allowed. The Respondent shall decide the request of the Appellant dated 19.02.2009 at Sr. No. 5, 6, 7(a), (b) and 8 within a period of twenty days from the receipt of the order and report compliance on 11.01.2010.

Pronounced on this 09th day of December, 2009.

**Sd/-
(Afonso Araujo)
State Information Commissioner**