

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 73/2009

Smt. Sanyogita Kashinath Shetye,
Through Power of Attorney
Kashinath J. Shetye,
Alto Fondvem, Ribandar,
Tiswadi - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
Captain of Ports Department,
Panaji - Goa.
2. First Appellate Authority,
Captain of Ports Department,
Panaji - Goa.

..... Respondents.

Shri Kashinath Shetye, Power of Attorney for Appellant.

Adv. Smt. Nilima Narvekar for Respondent No. 1.

Shri Jose J. Fernandes, U.D.C., authorized representative for
Respondent No. 2.

J U D G E M E N T **(30-12-2009)**

1. The Appellant, Smt. Sangyogita K. Shetye, has preferred this Second Appeal praying for a direction to furnish information, for penalty and for compensation.

2. The brief facts leading to this Appeal are that the Appellant through her Power of Attorney filed an application dated 30/06/2009 under Right to Information Act ('RTI' Act for short) thereby requesting for certain information as mentioned in the said application. That the Public Information Officer failed to furnish the said information. That considering the said non-action on behalf of the Respondent No. 1 as deemed refusal under section 7(2) of the RTI Act preferred a First Appeal before the Respondent No. 2. That the Respondent No. 2 vide letter dated 12/08/2009 informed the Appellant that the Appeal stands

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rejected on the ground that it is not signed by the Appellant. That no hearing was given to the Appellant.

Being aggrieved by the said Judgment and Order, the Appellant has preferred the present Appeal on various grounds which are set out in the Memo of Appeal.

3. The Respondents resist the Appeal and their reply is on the record. It is the case of the Respondents that the alleged First Appeal was no Appeal in the sense that it was not owned up by the alleged Appellant by signing it. That First Appellate Authority/Respondent No. 2 was, therefore, fully justified in refusing to take cognizance of the said document as First Appeal. That no duly signed copy was sent. It is also their case that Public Information Officer provided the information to the Appellant as per section 7(1) of the Right to Information Act.

4. I have heard both sides i.e. Shri Kashinath Shetye, Power of Attorney of the Appellant and Adv. N. Narvekar for the Respondent No. 1. I have also perused the records of the case. The point that arises for my consideration is whether the relief sought is to be granted or not?

It is seen that the Appellant by her Application dated 01/07/2009 sought certain information i.e. in the nature of documents and inspection of all concern subject files/diary and registers. The Respondent No. 1/Public Information Officer furnished the information by letter dated 21/07/2009. This reply is in time as per R.T.I. Act. It is seen from the records that Appellant was not satisfied and he preferred the First Appeal however the Appellate Authority did not consider the same and rejected the same as the Memo of Appeal was not signed by the Appellant.

The contention of Shri K. Shetye is two fold. Firstly the answers given ought to have been proper and secondly the First Appeal ought not to have been rejected on the ground that Memo of Appeal was not signed. According to Adv. Smt. N. Narvekar the reply given is in their style as they normally do. She supported the rejection of the appeal.

5. It is to be noted here that object of the Act is to ensure greater and more effective access to information under the control of public authorities. Section 3 of the RTI Act ensures that subject to the provisions of the Act all citizens have the right to information. Information has to be furnished as it is available in the office. 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.

I have perused the application of the applicant. Out of seven, one request is for inspection. The answers given to all is as 'Nil'. In my view the same needed elucidation and/or clarity so that information seeker and/or for that matter any other person ought to know properly as to the meaning it conveys. Respondent No. 1 ought to have elaborated a bit and given clear answers as available in the office.

6. Second aspect canvassed is about rejecting the appeal. It is seen that Respondent No. 2/First Appellate Authority rejected the appeal on the grounds that it has not been duly signed by the Appellant. Technically speaking Respondent No. 2/First Appellate Authority may be right. But this Act is for the benefit of citizens and enacted with a view to establish a practical regime of right to information of citizen to have

access to information. In my view an opportunity ought to have been given to the Appellant to carry out the said defect. Normally before accepting the appeal such things are checked properly. In any case, authorities to take proper care in future. Ends of justice demand that matters are disposed off on merits.

7. Coming to the aspect of penalty, I must say that technically there is no delay in supplying the information. However, it is a fact that much time has been consumed in the process. The ends of justice would be met if Respondent No. 1 is directed to provide information free of cost as provided in the RTI Act.

8. In view of all the above, I am of the opinion that Respondent No. 1 should give proper answers that is to say to clarify or elucidate what he means by 'Nil'. Hence, I pass the following Order: -

ORDER

The Respondent No. 1 is directed to provide proper information to the applicant within 30 days from the receipt of this Order. The information be provided free of cost as per section 7(6) of the RTI Act.

Pronounced on this 30th day of December, 2009.

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

