

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Complaint No. 12/SCIC/2009

Shri R. G. Joshi,
5, Suvihar Co-op. Housing Society,
Near Power House, Pontemol,
Curchorem-Goa

...Complainant.

V/s.

The Chief Officer,
Curchorem Cacora Municipal Council,
Curchorem – Goa

...Opponent.

Dated: 15.12.2009

O R D E R

(Per Afonso Araujo)

The Complainant by request dated 23.02.2009 sought information under the Right to Information Act, 2005 (for short, the 'RTI Act') and it is as follows:

"1] I have documents that without informing to or approval from the Town & Country Planning Dept., the CCM Council has directly approved a plan favoring Shri. Milagres Fernandes the Legal Advisor of CCMC, to construct house in S. No. 161/1 Curchorem.

Unless you mean to expressly imply, that in this case sanction Town and Country Planning Dept. was not at all necessary, kindly state if this direct approval by CCMC actually Lawful?

2] Reference is made to the existing house no. 2280 in S. No. 161/1 belonging to legal advisor of CCMC – Shri. Milagres Fernandes and also to the two different plans accepted by CCMC but having no relevance with actual house no. 2280.

For legal proceedings, I wish have your comments as Competent Authority, whether this house no. 2280 is really

...2/-

constructed as per the plan directly approved by CCMC or is it constructed as per some unknown third plan?

3] I have documents that a plan is directly approved by the CCM Council favoring Shri. Milagres Fernandes to construct house in S. No. 161/1.

Unless you mean to suggest that Town & Country Planning Dept. is not authorized to approve construction plan of house in CCMC jurisdiction, kindly mention as Competent Authority, the Act or bye Law or rule or any special authorization vide which CCM Council could directly allow Council's Legal Advisor to construct house no. 2280.

4] I have document that Director of Municipal Administration has instructed the Chief Officer of CCMC to reply to letter 14/110/07/DMA/Cur/Part File/1664 dated 6.10.2008 with a copy of reply to the Chairman of Suvihar Co-op. Housing Society Ltd.

Kindly give reference nos. and outward numbers of the replies to both Dir, of Mun. Admn. and the Chairman –Suvihar Society.

5] I have document that Director of Municipal Administration has instructed the Chief Officer-of CCMC to reply to letter 14/110/07/DMA/CUR/Part file/2411 dt. 14.1.2009 with a copy of reply to the Chairman of Suvihar Co-op. Housing Society Ltd.

Kindly give reference nos. and outward numbers of the replies to both Dir. of Mun. Admn. and the Chairman – Suvihar Society.

6] I have document that Dy. Town Planner – Quepem, has instructed the Chief Officer – of CCMC to reply to letter TPQ/CT/Q-Cur/161/2009/28 dated 9.1.2009 with a copy of

reply to the Chairman of Suvihar Co-op. Housing Society Ltd.

Kindly give reference nos. and outward numbers of the replies to both Dy. Town Planner and the Chairman – Suvihar Society.”

As the information sought was not provided, the Complainant approached this Commission with the present Complaint.

2. The information sought at Sr. No. 1, 2 and 3 in the request dated 23.02.2009 is in respect of the approved plan for construction of the house by one Milagres Fernandes and at Sr. No. 4, 5 and 6 the Complainant requires reference nos and outward nos. of the replies to the letters mentioned at the respective Sr. Nos. On going through the information sought at Sr. No. 1 the Complainant requires to know if the direct approval by the Municipal was lawful. The Complainant is seeking an opinion of the Opponent which is not information within the meaning of information under the RTI Act as it is not from the records. Again, the question at Sr. No. 2 whether the H. No. 2280 was really constructed by the plan directly approved by the Municipality or it is constructed as per some unknown third plan, is also an opinion of the Opponent and as the information is not from the records the Opponent is not required to provide the information. The question whether the Council can directly allow Milagres Fernandes to construct the house No. 2280 is also an opinion and Complainant requires the provision of the Act, bye-laws or rule by which the Municipality permits the construction of a house. In case there is any provision in the bye-laws or rules wherein permission is granted for the construction of the house, the Complainant is entitled for such bye-laws or rules.

3. The information at Sr. No. 4, 5 and 6 pertains to the letters of the respective Public Authorities to the Opponent and if any replies are given by the Opponent to these respective letters the Complainant is entitled for those replies and as the Complainant requires only the reference and outward nos. of those replies to the

respective Public Authorities and the Chairman of the Suvihar Co-op. Housing Society, the same may be provided by the Opponent.

4. Since the information sought at Sr. No. 1 and 2 in the request dated 23.02.2009 is not information within the meaning of information under RTI Act, the Complainant is not entitled for the same. The Opponent is directed to provide information at Sr. No. 3 by providing only the relevant provision of the bye-law or rule, if any, by which the Municipality can issue licence for construction. The Opponent to provide information at Sr. No. 4, 5 and 6 by giving only reference numbers and outward numbers of replies, if any, of the Opponent to the letters of Director of Municipal Administration, Dy. Town Planner and to the Chairman of Suvihar Co-op. Housing Society. The Opponent to provide the above information within the period of twenty days from the receipt of this order and report compliance on 15.10.2010.

Sd/-
(Afonso Araujo)
State Information Commissioner

