

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No.136/2009

Shri Franky Monteiro,
H. No. 501, Devote,
Loutolim, Salcete – Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Landscape Architect,
Town & Country Planning Department(HQ),
Panaji - Goa.

2. First Appellate Authority,
The Chief Town Planner,
Town & Country Planning Department(HQ),
Panaji - Goa.

..... Respondents.

Appellant in person.

Respondent No. 1 in person.

Respondent No. 2 absent.

J U D G E M E N T **(08-01-2010)**

1. The Appellant, Shri Franky Monteiro, has preferred this Second Appeal praying that Respondents be directed to furnish information as sought by the Appellant; for action against the Respondents and for necessary monetary penalty.

2. The brief facts leading to the present Appeal are as under: - That by an application dated 01/09/2009, the Appellant sought certain information in the nature of certified copies under Right to Information Act ('RTI' Act for short). That the Respondent No. 1 furnished only part of the Information sought by the Appellant, however, did not furnish the other information and the reasons given were not satisfactory. That the reason

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that the said information cannot be traced is not acceptable. That the Respondent No. 1 also refused to furnish the information sought at para 4 stating that the sought information is under scrutiny of the State Level Committee and the RPG 2021 work is in progress and hence, it is not possible to give the copies at this stage. Being not satisfied with the reply the Appellant preferred the First Appeal, however, his appeal was dismissed thereby maintaining the Order of the Respondent No. 1. It is the case of the Appellant that when information is available in the office the same has to be provided under the RTI Act. That the both the Orders are patently illegal, arbitrary and cannot be sustained in law.

Being aggrieved by the said Order the Appellant has preferred this Appeal. The grounds are fully set out in the Memo of Appeal which is on record.

3. In response to the notice the Respondent No. 1 remained present. He did not file any reply as such, however, the Respondent No. 1, Subhash Nilekani, advanced arguments.

4. Heard the Appellant as well as Respondent No. 1. According to Appellant, the information sought ought to have been given. He advanced elaborate arguments and also showed some documents issued by Panchayat etc.

According to the Respondent the required material is with the State Level Committee and the R.P.G. 2021 work is in progress and as such it is not possible to give information. According to him the information sought is not available with him. Respondent No. 1 advanced elaborate arguments to drive home the fact that information was not available and as such could not be given.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the applicant is entitled for the relief prayed?

It is seen that by an application dated 01/09/2009 the applicant sought certain information in the nature of letters, plan and copies of correspondence and enclosures. Respondent No. 1 sent the reply dated 22/09/2009. The reply is within time. As per the same some information was furnished. Copies of plan and correspondence were not furnished on the ground that the same is not available. It was also informed that the same was placed on record by the R.P. 2021 cell and the said records are under scrutiny of the State Level Committee and the work was in progress. Hence, copies could not be given. It is the contention of the Appellant that the information has to be given under the RTI Act.

6. The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government. Information, more than any other element, is of critical importance in a participatory democracy. The citizens/information seekers have, subject to a few exceptions, an overriding right to be given information on matters in possession of the state and public authorities covered by the Act.

As per the scheme of the Act it is seen that section 3 ensures, subject to the provisions of the Act, all citizens have the right to information. Section 6 postulates that a person who desires to obtain any information under the Act shall make a request in writing or through electronic means to the authorities specifying the particulars of the

information sought by him. Section 6(3) reads as under: -

6. -----

“(3) Where an application is made to a public authority requesting for an information, –

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority,
the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.”

It is to be noted here that the concept of the RTI Act is a time bound schedule of transactions between the citizens and Governmental agencies represented by Public Information Officer and Appellate Authority. The office of the Public Information Officer designated by the Public Authority is the custodian of the information and his duty under RTI Act is to disseminate the information. If the information is not available with him the law (section 6(3)(ii) as above) provides for transmitting the request to the Public Information Officer with whom the information was available under intimation to the applicant/information seeker. The law is very specific in this matter. It is pertinent to note here that the object behind enacting this provision is obviously to lessen the travails of an information seeker lest he is lost in the labyrinth of procedural technicalities.

7. Now coming to the issue at hand information is respect of query 1 and 2 was furnished and 3 and 4 were not furnished for reasons mentioned in the letter dated 22/09/2009 of the Public Information Officer. During the course of arguments, Public Information Officer frankly admits that since the same was not with him he could not furnish, however, he shall endeavour to do the needful in the matter. According to the Appellant, he needs the said information.

It is seen that Respondent No. 1/Public Information Officer did not deliberately or intentionally withheld the information but he was handicapped as the same was not with him at the relevant time. Looking at the material on record there is no reason to disbelieve him.

8. In view of all the above, I pass the following Order: -

ORDER

The Respondent No. 1/Public Information Officer is directed to furnish the information sought by the Appellant within ten (10) days from the receipt of the Order. In case the information is still not available than to take recourse to the provisions of RTI Act in furnishing information to the Appellant as observed hereinbove.

Pronounced on this 8th day of January, 2010.

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

