

# GOA STATE INFORMATION COMMISSION AT PANAJI

**CORAM:** Shri Afonso Araujo, State Information Commissioner

**Appeal No. 95/SIC/2009**

Shri Edwin Rodrigues,  
Curca-Canturim, P.O. Goa Velha,  
Tiswadi – Goa.

..... Appellant.

V/s.

1. Public Information Officer,  
Dy. Secretary,  
Goa Public Service Commission,  
EDC House, 1<sup>st</sup> Floor, Block C,  
Dada Vaidya Road, Panaji - Goa.
2. First Appellate Authority,  
Secretary,  
Goa Public Service Commission,  
EDC House, 1<sup>st</sup> Floor, Block C,  
Dada Vaidya Road, Panaji - Goa.

..... Respondents.

Appellant in person.

Respondents absent.

## **JUDGEMENT**

(Per Afonso Araujo)

The decision of Public Information Officer and the Order of the First Appellate Authority dismissing the appeal for non-appearance of the Appellant are challenged in this Second Appeal.

2. The Appellant by request dated 18/06/2009 sought information under the Right to Information Act, 2005 (for short the RTI Act) from the Respondent No. 1 which is enumerated at Sr. No. 1 to 4. By communication dated 9/7/2009, the Respondent No. 1 provided the information sought. Not content with information provided, the Appellant preferred First Appeal and by Order dated 31<sup>st</sup> August, 2009, the Respondent No. 2, on the ground that neither the Appellant nor his representative attended the hearing came to the conclusion that the Appellant was not interested in pursuing the Appeal, and dismissed the First Appeal.

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3. Any Appellate Authority under the RTI Act while dealing with the Appeals is required to follow the provision of section 19 of the RTI Act and the Rules framed thereunder. As per Rule 7(2) of Goa State Information Commission (Appeal Procedure) Rules, 2006 (hereinafter to be referred as the 'Rules') says that: -

“(2) The appellant or the complainant, as the case may be, may, at his discretion, at the time of hearing of the appeal or complaint by the Commission, be present in person or through his duly authorized representative or may opt not to be present.”

Since the Respondent No. 2 has to decide the First Appeal under RTI Act, the provision of the Rules are applicable and if the Appellant do not appear before First Appellate Authority to prosecute his interest, the Respondent No. 2 has to decide the Appeal on merits based on whatever records available and cannot dismissed the Appeal for non-appearance of the Appellant.

4. The Appellant moved an application on 28/08/2009 before the Respondent No. 2 stating the reasons for his non-appearance to the hearing held on 27/08/2009. There is nothing on record to indicate that the Respondent No. 2 received the said application and it is immaterial whether the Respondent No. 2 is aware or not of the said application once Respondent No. 2 has to decide the Appeal on merits inspite of the absence of the Appellant. Hence, the following Order: -

**ORDER**

The Appeal is allowed. The Order of the Respondent No. 2 dated 31/08/2009 is set aside. The Respondent No. 2 to intimate the Appellant of the hearing and decide the Appeal No. APPEAL/GPSC/RIA/5/2009 on merits. The Respondent No. 2 to dispose the Appeal in accordance to the provision of section 19(6) of the RTI Act.

Pronounced on this 31<sup>st</sup> day of December, 2009.

Sd/-  
(Afonso Araujo)  
State Information Commissioner

