

GOA STATE INFORMATION COMMISSION

AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 182/SIC/2008

Shri R. G. Furtado,
73/A1, Virginkar Residency,
Ambaji,
Fatorda – Goa

... Appellant.

V/s.

1) The First Appellate Authority,
The Chief Inspector,
Inspectorate of Factories & Boilers,
Altinho,
Panaji – Goa

... Respondent No. 1

2) The Public Information Officer,
Shri S. V. Salkar,
The Inspector of Factories & Boilers,
Altinho,
Panaji – Goa

... Respondent No. 2

Appellant in person.

Respondent No. 2 in person.

JUDGMENT

(Per Afonso Araujo)

By request dated 5th May 2008 the Appellant sought information under the Right to Information Act, 2005 (for short 'The Act') mentioned at Sr. No. 1 to 15 which can be provided by the Respondent No. 2 from Zuari Industries Limited under the Factories Act, 1948. As the Appellant did not receive any reply within a period of thirty days on 17th June 2008 preferred the First Appeal on deemed refusal. The First Appellate Authority – Respondent No. 1 by order dated 13th August 2008 directed the Respondent No. 2 to send parawise information to the Appellant on or before 27th August 2008. The Respondent No. 2 by communication dated 27.08.2008 provided the information at Sr. No. 1 to 15 received from Zuari Industries Limited. Not content with the information provided the Appellant preferred this Second Appeal.

...2/-

2. Shri Furtado submitted that he requires only information at 1(e), 2, 4 to 10, 13 and 15 of his request dated 05.05.2008.

3. It appears that the Company Zuari Industries Limited (hereinafter referred to as 'Zuari') has to follow the provisions under the Factories Act and the Rules made thereunder and any contravention can result in the Public Authority of the Inspectorate of Factories & Boilers to take appropriate action for violating the provisions of the Factories Act and Factory Rules. The information sought at (a) to (f) of Sr. No. 1 the Appellant requires to know if permission was obtained for extension carried in the factory. The Respondent No. 2 provided the information stating that no action was taken but the question at (e) the Appellant requires the reason for not taking such action. By asking reasons amounts to asking opinion of the Public Information Officer which is not information within the meaning of "information" under the RTI Act. The information contemplated under the RTI Act is from the records available with the Public Authority and the Respondent No. 2 need not provide this information as to the reasons why action was not taken for not complying with the provisions of Factory Rules.

4. It is not within the competence of the Respondent No. 2 to provide the information at Sr. No. 2 and state whether or not the factory building, extension, processes and machinery layout are in conformity with the approved plans [Rule 4(2)] of the Factory Rules. Again, it is the opinion of the Public Information Officer which is not information within the RTI Act.

5. The information sought at Sr. No. 4 is whether the Zuari has maintained under the Factory Rules various forms mentioned at (a), (b), (c) and (d). Since the question at Sr. No. 4 is specific the Respondent No. 2 to answer specifically and not merely state that they are checked at the time of inspection and are not available for

that particular period. In respect of queries at (e) and (f) the Respondent No. 2 need not provide as the Appellant requires to know whether any action has been taken in case the register and forms are not maintained and this is not information within the meaning of RTI Act.

6. The information sought at Sr. No. 5 the Appellant requires the list of any 10 employees and of any ten contract labourers who had worked for more than 48 hours in a week. At Sr. No. 10 the Appellant requires the list of any 10 employees and of any ten contract labourers who have worked for maximum number of hours and the Company has to give overtime also. The information sought at Sr. No. 5 and 10 is not specific. The Appellant is seeking the information in general and at random and not of any specific employee or contract labourer. It may be that there are restrictions under the Factory Act that a worker who worked more than 48 hours in a week, and under the Factory Rules the Company has to provide overtime slips. The Appellant instead of seeking specific information requires information from any ten employees and contract labourers and the Respondent No. 1 need not provide.

7. Again at Sr. No. 6 and 7 the Appellant requires total number of hours in a week including overtime exceeding 60 hours and total number of hours overtime in a quarter exceeding 50 hours of any employee of the Company and any contract labourer and at Sr. No. 8 the information is whether workers exceeding the limits at Sr. No. 6 and 7 is in accordance with the exemptions and conditions provided under the Factory Rules. This information sought is in the form of opinion of the Public Information Officer and such opinion is not information within the meaning of information under the RTI Act and the Respondent No. 2 need not provide this information at Sr. No. 6, 7 and 8.

8. The information at Sr. No. 9 is as follows:

“Section 57 of the Factories Act makes it clear that a continuous rest period of twenty four hours will be counted as a day’s holiday. Has the company adhered to this section?” This information the Respondent No. 1 can provide since the Appellant requires to know whether Zuari has adhered to the provisions of section 57 and continuous rest period of twenty hours is counted as a day’s holiday.

9. The information sought at (a) to (g) of Sr. No. 13 arose as a result of incident taken place on 13.08.2008 where there was a spillage of Phos Acid/Sludge belonging to Zuari, from a truck. The Respondent provided the information at (a) and (b). At (c) to (g) it is stated that the information was not made available by Zuari. In fact, query at (c) is as to what measures the Company had taken to clear up the spillage and whether control measures were in accordance with the emergency plan. Since this information is in the form of an opinion of the Public Information Officer, the Respondent need not provide the same. The information at (d) and (e) is in respect of the sludge and the Appellant requires the information as to where the sludge was taken and for what purpose and whether it was taken for disposing. The Respondent No. 2 has to provide this information at (d) and (e) in case the truck was carrying dirty oil. The information at (f) and (g) is in respect of spark arrestor and the Appellant requires to know whether the truck had a spark arrestor; whether the same is required under Factories Act, and what were the penal provisions for not having spark arrestor. If under the provision of Factories Rules, the truck carrying the acid requires the spark arrestor, then the Respondent No. 1 to provide this information at (f) and (g).

10. The information at 15 is in respect of bypass register which the Company is required to maintain. Once the Zuari maintains the register and the bypass equipment is entered into the Register the Appellant first has to inspect the relevant records and then request for the information required since it has not specified the period and requiring the list of all the equipment/controls, etc; date from which the equipment was bypassed and the name and designation of the person who authorized the bypass.

11. With the above observations, the following order:

ORDER

The appeal is partly allowed. The Respondent No. 2 to provide the information at Sr. No. 4, 9, 13 (d), (e), (f) and (g) of the request of the Appellant dated 05.05.2008 within a period of thirty days from the receipt of this order. The Respondent No. 2 to provide information by way of inspection of the records in respect of information sought at Sr. No. 15.

Pronounced on this 23rd day of December 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

