

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 55/SCIC/2009

Smt. Teresa Dinesh Vaghela,
Navagauri Apartment, 2nd floor,
Opp. ICICI ATM, Alto,
Porvorim - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
Executive Engineer (Plg.),
Electricity Department,
O/o The Chief Electrical Engineer,
Vidyut Bhavan, 3rd floor, Panaji - Goa.
2. First Appellate Authority,
Superintendent Engineer – II(N),
Electricity Department,
Vidyut Bhavan, Panaji - Goa.

..... Respondents.

Shri Dinesh Vaghela, authorized representative for Appellant.

Adv. Shri D. E. Aswenkar for Respondents.

ORDER **(01-02-2010)**

1. The Appellant, Smt. Teresa Dinesh Vaghela, has preferred this Second Appeal praying that Respondent No. 1 be directed to provide the complete information to the Appellant; that the Respondent No. 1 be punished in accordance with the R.T.I. Act; that compensation be awarded to the Appellant and disciplinary action be initiated against the Respondent No. 1.

2. The brief facts leading to the present Appeal are as under: -

That the Appellant vide her application dated 06/05/2009 sought certain information from the Respondent under the Right to Information Act ('RTI' Act for short); that the Appellant received copy of the letter dated 07/05/2009 addressed to the E.E. Division XV (Civil), Panaji and to the A.E. Sub-Division III (Civil), Xeldem Goa; that the Appellant received a

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copy of the Notice dated 27/05/2009 issued by State Public Information Officer, E.E. (Plg.); that the Appellant received reply dated 04/06/2009 from the Respondents by post. That the Respondent in his reply refused to give information under section 8(1)(j) of RTI Act. Being not satisfied the Appellant preferred an Appeal before First Appellate Authority ('F.A.A.' for short). That the Appeal was allowed. It is the case of the Appellant that she received a Notice dated 02/07/2009 from Public Information Officer to appear on 08/07/2009 and on 08/07/2009 handed over 9 pages of information. It is further the case of the Appellant that Respondent No. 1 furnished incomplete information. Being aggrieved by the same, the Appellant has preferred the present Appeal on various grounds which are set out in the Memo of Appeal.

3. The Respondent No. 2 has filed reply/application stating that Appellant cannot be aggrieved by his Order and also praying to delete Respondent No. 2.

4. The Respondent No. 1 resists the Appeal and the reply dated 23/11/2009 and 07/01/2010 are on record. It is the case of the Respondent No. 1 that the Appeal is not maintainable on facts and on law; that there cannot be further appeal. That there is non-joinder of necessary parties. That there is no cause of action to file such an Appeal. On merits it is the case of the Respondent No. 1 that taking recourse of section 5(4) the Respondent No. 1 requested for information and furnished to the Appellant. That notice was also issued to the third party. That later on third party consented to give his personal information and that full information was given to the Appellant. According to Respondent No. 1 Appeal may be dismissed.

5. Heard the arguments. Shri D. Vaghela argued on behalf of Appellant. Respondent No. 1/Public Information Officer argued his case. Third party was also present. According to the Appellant information as sought has not been furnished and that complete and correct information has not been given. That the information furnished is incomplete and misleading. He also narrated the facts leading to the present Appeal.

According to the Respondent all information has been furnished and nothing has been hidden.

6. 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 Appellant is entitled for the relief prayed?

It is seen from the record that by letter dated 06/05/2009, the Appellant sought certain information regarding Shri Kashinath Shetye, a third party. It is seen from letter dated 07/05/2009 that steps were being taken by State Public Information Officer in furnishing the information. It is seen that Notice was issued to Shri K. Shetye/third party on 27/05/2009. By letter dated 04/06/2009 the State Public Information Officer rejected the request on the grounds as mentioned therein.

Section 6 of the RTI Act 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. Under section 7(1) Central Public Information Officer or State Public Information Officer as the case may be shall provide the information within 30 days of the receipt of the request

on the payment of such fess as may be prescribed or reject the request on any of the grounds specified under section 8 and 9 of the Act. This part has been done within the prescribed time.

It is seen thereafter First Appeal was preferred. The F.A.A. by its Order dated 03/07/2009 directed State Public Information Officer to provide information to the Appellant after taking hearing of the third party alongiwth the Appellant within a week's time. Accordingly by letter dated 02/07/2009 the Appellant was asked to remain present on 08/07/2009.

Shri Vaghela argued about the date 02/07/2009 when the Order was passed on 03/07/2009. This appeared to be an anomaly, however, on proper scrutiny of the records, it is seen (Roznama on record) that Order was declared and further it was mentioned that separate Order to be issued on 03/07/2009. It is pertinent to note that the Appellant was present and she has put her dated signature. Letter dated 08/07/2009 is an Order whereby it was decided to furnish information to the Appellant. The third party consented to give the information. The First Appellate Authority is required to dispose the Appeal within 30 days of its receipt. This period may be extended to 45 days for reasons to be recorded in writing.

RTI Act, in general, is the time bound programme between the Administration and the citizen requesting information and every step will have to be completed within the time schedule prescribed for presentation of request and disposal of the same, presentation of First Appeal and disposal by the Appellate Authority. From the records it is seen that information has been given. It is seen some information given and some has been sent by post. Looking at the sequence of events, it appears that

there is no delay in furnishing the information. For that matter even though the Appellant has raised nearly 12 grounds in the Memo of Appeal there is no ground that the information was delayed badly. No doubt prayer for punishment is there.

7. Now it is to be seen whether the information given is incomplete, incorrect, misleading etc. as contended by the Appellant. In fact the main thrust of the arguments of the Appellant is that information that is furnished is incomplete, not correct, misleading etc. The Respondent No. 1 vehemently opposed this. According to them what was true and available on record has been furnished.

It is to be noted here that purpose of the RTI Act is per se to furnish information. Of course, the Appellant has a right to establish that the information furnished to her is false, incorrect, incomplete, misleading etc. but she has to prove it by means of some sort of documentary evidence to counter Respondent's claim. The mandate of the RTI Act is to provide information – information correct to the core and it is for the Appellant to establish what she has received is incorrect and incomplete.

Now I shall refer to the application whereby information was sought. The application is dated 06/05/2009. The information sought is in two parts I and II. In part one there are three queries and Part II (a) to (f). During the course of his arguments Shri Vaghela states that Appellant has no grievance to the Second Part i.e. Part II. It is seen that information regarding Part I was sent by Post dated 06/08/2009 which is received on 07/08/2009 as can be seen from AD record. As per the same information sought is provided, however, it is not in proper form but in a crude form.

It should have been in a proper form as RTI Act is a people friendly, user friendly Act. No doubt it is not an offence but authorities should bear in mind the spirit behind the Act.

8. Respondent No. 1 has submitted that they have furnished all information in time etc. and has relied on Reliance Industries Ltd. V/s. Gujarat State Information Commission & Others 2008(2) RTI 461. The same refers about 3rd party, hearing third party, larger public interest etc. It is also observed in the said ruling that the time bound schedule given under the Act is not for ousting the hearing of a third party but it is for the prompt, quick and early disposal of the application preferred by the Applicant under section 6 of the Act, 2005 so that information can be supplied as quickly as possible to the applicant. It is also observed that everything cannot be done so hurriedly that the rights given to third party under section 11 are violated. I need not refer to the same in detail as that is not the issues in this case in view of what is observed hereinabove.

9. It was next contended by Respondent that Appeal is not maintainable as F.A.A. has allowed the Appeal and that there is no cause for the present Appeal.

Two stages of Appeal have been provided in the RTI Act. First Appeal lies before the Senior Officer of the Public Information Officer in the same Department and Second Appeal before State Information Commission. Normally Appeal against the decision of the Public Information Officer cannot be filed directly with the Commission though Complaints under the Act are filed directly with the Commission by-passing First Appellate level.

The present Appeal was presented on 16/07/2009. It appears that by then full information was not furnished. In any case in the ends of justice the same could be entertained.

10. In the light of the above, I am of the opinion that there is no delay as such so as to invite penal provisions of the Act. No intervention is required, however, the information regarding Part I as mentioned above is to be given properly and secondly the Appellant should be given an opportunity to prove that the information is incomplete, incorrect, misleading etc. Hence, I pass the following Order: -

ORDER

The Public Information Officer/Respondent No. 1 to furnish the information regarding Part I (i.e. 1, 2 and 3) in a proper manner within Eight days from the receipt of this Order.

The Appellant is given opportunity to prove that information furnished is false, incomplete, incorrect, misleading etc.

Further inquiry posted on 15/02/2010.

An Appeal is accordingly disposed off.

Pronounced on this 1st day of February, 2010.

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

