

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 112/SCIC/2009

Mr. Stanley P. Colasso,
Church Road, Morailem,
Curchorem, Goa – 403 706.

..... Appellant.

V/s.

1. Public Information Officer,
The General Manager,
Goa Industrial Development Corporation Ltd.,
EDC Complex, Patto Plaza, Panaji - Goa.

2. First Appellate Authority,
The Managing Director,
Goa Industrial Development Corporation Ltd.,
EDC Complex, Patto Plaza, Panaji - Goa.

..... Respondents.

Appellant alongwith Adv. Savio J. F. Correia present.

Respondent No. 1 in person.

Shri Mandar Shirodkar, Dy. G.M.(Law)/Law Officer on behalf of
Respondent No.2.

J U D G E M E N T **(01-02-2010)**

1. This is a Second Appeal preferred by Shri Stanley Colasso praying for a direction to the Public Information Officer/Respondent No. 1 to furnish the information as sought by the Appellant.

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

That the Appellant sought certain information under Right to Information Act, 2005 ('RTI' Act for short). That the information was in the nature of eight questions. That the Public Information Officer furnished information/documents in respect of query No. 1, 2, 4 and 5. That in respect of query No. 3 it was informed that lease Agreement is not executed and in respect of query No. 6, 7 and 8 gave a patent reply "Does not fall under Right to Information Act – 2005". Being not satisfied

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with the Order of the Public Information Officer, the Appellant preferred First Appeal before Respondent No. 2. The First Appellate Authority passed the Order whereby the Applicant was requested to go through concerned files with prior appointment and identify documents of which he is seeking copies and the Appeal was disposed off.

Being aggrieved by the said Order, the Appellant preferred this Appeal on various grounds which are set out in the Memo of Appeal.

3. The Respondents resist the Appeal and their say is on record. It is the case of the Respondent No. 1 that the Appellant had sought information pertaining to various Industrial Estates. That the Respondent No. 1 vide his note dated 06/08/2009 called for the information from Shri W. A. Borges, Dy. General Manager (A)/Asst. Public Information Officer and Shri J. J. Valadares, Dy. General (E)/Asst. Public Information Officer to furnish the information as they are looking after transfer/allotment of plots, approval of plans etc. of Verna Industrial Estate. That the Dy. General Manager (A)/Asst. Public Information Officer submitted the reply vide note dated 19/08/2009 and the said replies alongwith the documents were communicated to Appellant vide letter dated 02/09/2009. Respondent No. 1 also refers to the First Appeal and the Order passed thereon. According to Respondent No. 1 the Appeal ought to have been dismissed.

4. Heard the arguments of both sides. Appellant also filed written submissions which are on record.

5. I have carefully gone through the records of the case and also considered the arguments advanced as well as written submissions on

record. It is seen that the Appellant by his letter dated 03/08/2009 sought some information i.e. 8 queries were asked. Public Information Officer/ Respondent No. 1 furnished the information by letter dated 02/09/2009. In respect of query No. 6, 7 and 8 the answer was as under: -

“Does not fall under Right to Information Act.”

During the hearing Respondents were agreeable to show the files and the Appellant was agreeable to take the inspection and accordingly inspection was taken.

It is to be noted here that the Right to Information Act, 2005 has been enacted to provide for a legal right to information for citizens to secure access to information under the control of Public Authorities, in order to promote transparency and accountability in the working of every Public Authority. No democratic Government can survive without accountability and the basic postulate of accountability is that people should have information about the functioning of the Government citizens should know the facts, the true facts.

6. After taking inspection of the relevant files the Appellant discovered that the documents/information sought by him at query No. 6, 7 and 8 of his Application were part of the File No. 350; File No. L – 45 A maintained by Head Office and another file of Estate Division. It is now the contention of the Appellant that the information which was provided was incorrect and misleading and that information was very much there. It appears that the Appellant has got the information now.

7. Appellant has advanced a number of contentions. One of the contention was regarding directing the Appellant to inspect the files. I do

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agree that there is no provision in the RTI Act to direct the citizens to approach the Public Authority and inspect the documents when a specific information is sought. However, sometimes this is done if parties are agreeable solely with the view that party seeking information is satisfied about the same.

8. The main thrust of the argument of the Appellant is that the information given regarding query No. 6, 7 and 8 is incorrect, misleading and false.

In this case as per reply dated 14/12/2009, Respondent No. 1 states that Respondent No. 1 vide his note dated 06/08/2009 called for the information from Shri W. A. Borges, Dy. General Manager (A)/Asst. Public Information Officer and Shri J. J. Valadares, Dy. General Manager (E)/Asst. Public Information Officer as they are looking after transfer/allotment of plots, approval of plans etc. of Verna Industrial Estate and the Dy. General Manager (A)/Asst. Public Information Officer submitted the reply vide note dated 19/08/2009 and the said replies alongwith the documents were communicated to the Appellant vide letter dated 02/09/2009. I have seen Exhibit R 3 Colly the said documents.

It is to be noted here that personal liability of the Public Information Officer in furnishing the information is the debatable point. Public Information Officer is the designated Officer under the RTI Act to furnish the information to the citizens. During the course of the discharge of the duties, a Public Information Officer may sometimes seek the assistance of any other Officer who might be in actual possession of the information. Public Information Officer is the interface between the Public Authority to which he belongs and the citizen seeking information from

the Public Authority.

From the record, it is seen that information was sought from other authorities who are not before this Commission. RTI Act is per se to furnish information. Of course the Appellant has a right to establish that the information furnished to him is false, incomplete, misleading etc. Natural justice requires that an opportunity is also to be given to the concerned officers to show that information was correct to the core.

9. The Appellant has preferred this Appeal under section 19(3). Whereas the Appellant has to establish that information is not correct etc. that is to say the reply given to query No. 6, 7 and 8 are incorrect and misleading.

Since information is furnished and Appellant got the information in respect of query No. 6, 7 and 8 no further intervention is required and Appeal is to be disposed off. However, proceedings under section 20 of the RTI Act shall be proceeded against the concerned officers. Hence, the Order: -

ORDER

The Appeal is disposed off.

Issue notice to Shri W. A. Borges, Dy. General Manager(A)/Asst. Public Information Officer and Shri J. J. Valadares, Dy. General Manager (E)/Asst. Public Information Officer as to why action should not be taken for providing incomplete and misleading information returnable on 09/02/2010.

The Appeal is accordingly disposed off.

Pronounced on this 1st day of February, 2010.

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

