

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Second Appeal No. 11/SCIC/2009

Dr. Rozario Menezes,
R/o C-3, Sapana Enclave,
Vaddem, Vasco-da-Gama – Goa.

..... Appellant.

V/s.

1. Public Information Officer,
Directorate of Municipal Administration,
Government of Goa,
Collectorate Bldg., Panaji - Goa.
2. First Appellate Authority,
The Director,
Directorate of Municipal Administration,
Government of Goa,
Collectorate Bldg., Panaji - Goa.

..... Respondents.

Adv. Ryan Menezes for the Appellant.

Adv. Smt. Harsha Naik for Respondents.

J U D G E M E N T **(03-02-2010)**

1. The Appellant, Dr. Rozario Menezes, has preferred this Appeal praying for a direction to provide correct information or in the alternative, if the '24 hours helpline' in terms of the directions of the Hon'ble High Court were not yet provided, to furnish him with a reply stating so; for imposing penalty and for compensation.

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

That by letter dated 30/12/2008 addressed by Appellant to the Respondent No. 1 on 01/01/2009, the Appellant drew the attention of Respondent No. 1 to the Direction of the Hon'ble High Court in People for Elimination of Stray Troubles (PEST) V/s. State of Goa (Writ Petition No. 111 of 2005) including directives that each Municipal Council must have a

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Sub-Committee for effective implementation of the rules and Court directives and further that each sub-committee must have a twenty four hour help line telephone number wherein the citizen can immediately contact in case of rabid dog, violent dog, dog bite or great nuisance of stray dog, so as to take up immediate remedial measures, and that the applicant sought certain information in this regard under Right to Information Act, 2005 ("RTI" Act for short). That by letter dated 28/01/2009, the Petitioner was furnished a copy of the circular dated 25/04/2008. That the said circular purports to be a list of officials who may be contacted by the public for the same. It is the case of the Appellant that the information provided to the Appellant was misleading and/or incorrect and that none of the numbers were twenty four hour helpline in terms of Directives of the Hon'ble Bombay High Court. That some of the numbers provided are not even numbers of the concerned Municipality and are numbers of private organization/ persons. Being not satisfied the Appellant preferred Appeal before First Appellate Authority ('F.A.A.' for short), however, his appeal was not decided within the stipulated period of 30 days.

Being aggrieved the Appellant has preferred this Appeal on various grounds which are set out in the Memo of Appeal.

3. The Respondents resist the Appeal and their reply is on record. Additional replies also are filed and they are on record. In short it is the case of the Respondents that F.A.A. issued notice to appear on 15/05/2009 and passed Order on 18/05/2009 to collect updated information and make it available to the Appellant within a period of one month. It is also the case of the Respondents that Public Information

Officer has already furnished the information as sought by the Appellant; that whatever information is maintained and kept in the records by Public Information Officer has to be furnished as per the Act. That Respondent No. 1 has complied with the Order of Respondent No. 2. According to Respondents Appeal is to be dismissed with costs.

4. Heard the arguments. The learned Adv. Shri R. Menezes argued on behalf of Appellant and the learned Adv. Smt. Harsha Naik argued on behalf of the Respondents.

5. Advocate for the Appellant advanced elaborate arguments. According to him information given is not correct and the lines that are given are the mobile numbers of certain persons who do not reply. He wondered whether the said numbers are on the basis of 24 hrs. helpline as mentioned by the High Court. He also submitted that numbers are attached to particular persons and not helplines. In short according to him what is asked is numbers dedicated to this cause and permanently seated in the office.

6. Advocate for Respondent submitted that Order is passed by F.A.A. and that the present Appeal is infructuous. She next submitted that information has been furnished and that whatever information is held to be furnished. According to her what is furnished is the information available with the office. According to her Appeal deserves to be dismissed.

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

It is seen that the Applicant/Appellant made a request for information on 01/01/2009. The request was granted as can be seen from the letter dated 28/01/2009. This letter was sent within time. According to the Appellant the information is wrong and misleading as the numbers which were furnished are not providing 24 hour service and often no service at all. It is seen that being not satisfied the Appellant preferred the First Appeal. This Appeal was preferred on 25/02/2009. It is seen from record that F.A.A. issued notice on 06/05/2009 to remain present on 15/05/2009. The Order is passed on 18/05/2009 in which it is mentioned "the Respondent shall collect the updated information and make it available to the Appellant within a period of one month. It is to be noted here that as per RTI Act (19(6)) the Appeal is normally to be disposed off within 30 days. This period could be extended upto 45 days. The F.A.A. has not done so. May be due to lack of appreciation of the concerned provisions of the Act. Since the First Appeal was not decided the Appellant preferred the present Appeal. In fact the Order of F.A.A. is in favour of the Appellant herein. Unfortunately this Order is passed much later i.e. beyond 30/45 days. There is no provision in the Act for imposition of penalty against the Appellate Authority. However, the Appellate Authority must bear in mind that RTI Act, in general is a time bound programme and every step will have to be completed within time.

8. The main thrust of the arguments of the Advocate for the Appellant is that the information provided to the Appellant was misleading and/or incorrect and that none of the numbers were twenty four helpline.

The Right to Information Act, 2005 provides that the Public Information Officer shall provide the information as held by or under the

control of Public Authority. The term 'information' is defined under section 2(f) of the RTI Act and means any material in any form, including records, documents, e-mails etc. Under section 2(i) the term 'record' has been defined widely to include any document, manuscript, file etc.

Now coming to the case at hand the Appellant sought some information. Information was furnished. This appears to be in time. It is also seen that regarding Corporation of City of Panaji the said information was submitted later on as can be seen from the records. I have perused the list. Names, numbers etc. have been furnished. What is contemplated under the RTI Act is to provide the information as held by the Public Authority at the time of making the request. In my view this has been done as contended by the Advocate for the Respondent No. 1.

The grievance of the Appellant is that the numbers given are the mobile numbers of certain persons who do not reply. It is to be noted here that, under the RTI Act, this Commission has power to direct for supplying of the information and in some cases if the information is not correctly supplied proceed to direct for correction of such information and/or action. However, this power would end there. The Act does not call for redressal of complaints or taking action in the interest of information seeker.

9. Now it is to be seen whether the information was misleading or incorrect as contended by the Advocate for the Appellant.

It is to be noted here that purpose of the RTI Act is per se to furnish information. This information as I mentioned above is as held by Public Authority. Of course, the Appellant has a right to establish that the

information furnished to him is false, incorrect, incomplete, misleading etc. but he 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 he has received is incorrect and incomplete.

10. Advocate for the Respondent No. 1 contends that Public Information Officer has already furnished the information and whatever information is maintained and kept in the records by the Public Information Officer has been furnished. There is no dispute about the same. Commission's jurisdiction can go no further than only directing that information in the form held be provided.

11. The grievance of the Appellant is that the said numbers do not respond.

There is no reason to doubt the Appellant. To my mind the issue is concerning the redressal of the grievance which does not come within the purview of this Commission. The Appellant will have to seek recourse to the appropriate authority either judicial or administrative for rectifying the working of the said committees. This Commission is not the appropriate authority for such matters.

12. The grounds raised in the Memo of Appeal are the information furnished is wholly incorrect and misleading. However, there is no evidence on record to that effect. The seeker of the information must feel that he got the true and correct information otherwise the purpose of the RTI Act would be defeated. The approach of the Commission must be to attenuate the area of secrecy as much as possible. With this view in

mind, I am of the opinion that the Appellant must be given an opportunity to substantiate that the information given to him is wholly incorrect and misleading.

13. In the light of the above, I am of the opinion that no further intervention is required. The Appellant should be given an opportunity to prove that the information is wholly incorrect and misleading. Hence, I pass the following Order: -

ORDER

No further intervention in the Appeal is required. The Appellant is given opportunity to prove that information furnished in wholly incorrect and misleading.

The Appeal is accordingly disposed off.

Further inquiry posted on 24/02/2010.

Pronounced on this 3rd day of February, 2010.

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

