

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 155/SCIC/2009

Kundaim Nagrik Kruti Samiti,
Through its President,
Shri Ritesh J. Narvekar,
R/o Godkadev Nagar,
Kundaim, Ponda – Goa.

..... Appellant.

V/s.

State Public Information Officer,
Shri A. D. Naik,
Goa Industrial Development Corporation,
Panaji - Goa.

..... Respondent.

Adv. R. V. S. Varde for Appellant.

Respondent in person.

J U D G E M E N T **(30-03-2010)**

1. The Appellant, Kundaim Nagrik Kruti Samiti through its President, has preferred this Second Appeal praying that the Appeal be allowed and Respondent/Public Information Officer be directed to furnish the information as sought and also for costs.

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

That the Appellant is the association of the citizens of Village Kundai duly registered under the Societies Registration Act. That the Appellant by its application dated 16/7/2009 sought certain information under the Right to Information Act ('RTI' Act for short) from the Public Information Officer (P.I.O) of Goa-IDC. That the Respondent/PIO by its reply dated 12/8/2009 informed the Appellant that the information sought by the Appellant does not fall within the definition of Right to Information Act, 2005. That the said reply is deemed to be the refusal to give

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information as requested. That the Appellant preferred the First Appeal before the First Appellate Authority (F.A.A.) but the same was disposed by Order dated 24/9/2009. Being aggrieved by the said Order, the Appellant has preferred the present Appeal on various grounds which are set out in the Memo of Appeal.

3. The Respondent resists the Appeal and their say is on record. In short it is the case of the Respondent that on receipt of the Application of the Appellant the Respondent called for the information from Shri W. A. Borges, Dy. General Manager(A), APIO as he is in charge of the concerned Estate Division who is looking after allotment of plots etc. in various Industrial Estates and from Regional Manager/APIO Kundaim who is in charge of Kundaim Industrial Estate. That the Dy. General Manager (A)/APIO informed the P.I.O. vide note dated 3/8/2009 that the information sought by the Appellant at Sr. No. 1 to 7 does not fall under the definition of 2(f) of the Right to Information Act, 2005. That the said reply was communicated to the Appellant vide letter dated 12/8/2009. It is the case of the Respondent that Appellant is asking about the status and intended action by the Corporation to protect Government property and that P.I.O. is not expected to communicate to the citizen what action is proposed to be taken or why a certain thing done or not done.

4. Heard Adv. Shri R. S. Varde for Appellant and Respondent in person. 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 claimed?

At the outset I must say that 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. The idea behind the Act is that citizen should know the facts, the true facts. R.T.I. Act ensures maximum disclosures and minimum exemptions consistent with the constitutional provisions prescribing at the same time confidentiality of sensitive information.

5. Coming to the case at hand, it is seen that the application was presented on 16/7/2009 seeking certain information. The information sought consists of 8 points (1 to 8). By letter dated 12/8/2009, the P.I.O./Respondent informed the Appellant that the information sought does not fall within the definition of Right to Information Act, 2005. It is seen that P.I.O has not elaborated further as to why the same does not fall under R.T.I. Act.

It is seen that First Appeal was preferred. I have perused the Order. As per the Order "as the scheme is operated by GHRSSIDC the Appellant was advised to approach the concerned organization". Again the Appellant was advised to make fresh request Appellant was also requested to go through the files and pick up pages for giving copies.

It is to be noted here that the office of the Public Information Officer designated by the Public Authority is the custodian of the information and his duty under RTI Act is to disseminate the information. If the information is not available with him the law (section 6(3)(ii))

provides for transmitting the request to the Public Information Officer with whom the information was available under intimation to the applicant/information seeker. The law is very specific in this matter. It is pertinent to note that RTI Act is people friendly Act and the object behind enacting this provision is obviously to lessen the travails of an information seeker lest he is lost in the labyrinth of procedural technicalities.

Again it is too much to direct information seeker to go through the files and pick up pages for giving the information.

I need not go into this aspect much in view of the submission of the Respondent to which I shall refer hereinafter.

6. During the course of his arguments, the Respondent submitted that the Appellant cannot seek information as the Appellant is an association and information is sought by the Association through its President. This has been made for the first time before this Authority. Since it is a legal submission the same is taken at the Second Appeal stage. I have heard both sides on this point.

I have carefully screened the applications. The Application is on the letterhead of Samiti and signed as President for Kundaim Nagrik Kruti Samiti. In the Appeal Memo before this Commission, it is mentioned as the Appellant is the association of the citizens of village and signed as President of the same. It is also not the case of the Appellant that he signed on the letterhead of Samiti and that he sought information in the personal capacity. I also agree with the submission of the Respondent that Appellant being an association cannot seek information under RTI Act.

It is pertinent to note that section 3 of the RTI Act is as under: -

“Subject to the provisions in this Act all citizens shall have the right to information”.

As per the same only ‘citizens’ have the right to information that means every person who is citizen can apply for information. It is to be noted here that Citizenship, as defined in Part II of the Constitution of India, includes natural persons and not juristic persons like Corporation etc. The definition of ‘person’ under citizenship Act section 2(1)(f) does not cover any company or association or body of individuals whether incorporated or not. I am fortified in this by the observations in State Trading Corporation V/s. Commercial Tax Officer, Visakhapatnam AIR 1963 SC 1811.

Again section 6(1) used the word ‘person’ who desires to obtain any information under this Act”. Reading section 3 and 6(1) together one will find that since the ‘citizens’ alone are entitled to obtain the information under provisions of section 3 of the Act a ‘person’ desiring to have the information should necessarily be a ‘citizen’ of India. Therefore, a company, Corporation or any body of individuals whether incorporated or not incorporated is not entitled to seek information.

7. I have perused some of the rulings of Central Information Commission. It is observed that Application as M.D. of a Company could be rejected; that Corporate entities cannot file application under RTI Act. It is also held that General Secretary of Employees Association is not a citizen; that Association or a Company is not and cannot be treated as a citizen.

8. In view of this legal position, the applicant in the present form cannot seek information under RTI Act. In case the information sought is required then any office bearer as a citizen can seek the same in a normal course. In case such an application is preferred the concerned P.I.O. to deal with the same having regard to the time schedule provided under RTI Act.

This Commission is conscious of the fact that the spirit behind RTI Act is to provide information and there should not be any obstacle in its path. At the same the provisions of the Act have to be followed. This Commission has no choice but to reject the appeal only on technical aspect.

9. In view of all the above, I pass the following Order: -

ORDER

The Appeal is dismissed.

However, any office bearer as citizen i.e. in their personal capacity can seek the very same information from the concerned P.I.O.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 30th day of March, 2010.

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

