

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 158/SIC/2009

Shri Benigno Afonso,
Foro, Santo Estevam,
Tiswadi Taluka – Goa.

..... Appellant.

V/s.

Public Information Officer,
Village Panchayat of Santo Estevam,
Santo Estevam, Tiswadi – Goa

..... Respondent.

Appellant alongwith his Adv. S. Gaonkar present.

Respondent in person.

J U D G M E N T

(Per Afonso Araujo)

This Appeal deals with denial of information sought based on objections of the third party to provide information to the Appellant.

2. The information sought under the Right to Information Act, 2005 ('RTI' Act for short) by request dated 24th September, 2009 and pertaining to one Shri Estevam Manuel Menezes consists of (1) Copy of N.O.C. issued by Town and Country Planning Department; (2) Copy of licence issued by the Village Panchayat of St. Estevam and (3) Copy of Approved plan by technical officer of P.W.D. Further in the request it is stated that the information is required for the purpose of verifying the set back kept for the P.W.D. road which is used by the Public and backside road used by Six Houses. As the information pertains to the third party, the Respondent on 13/10/2009 issued a notice under section 11(1) of the RTI Act to make submission in writing whether the information sought by the Appellant should be disclosed to him or not. The representative of the Appellant by

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reply dated 22/10/2009 has referred to the reply dated 19/9/2009 addressed to the Respondent objecting to issue the construction plan in order to maintain the secrecy of her design of construction as there would be chances of copying the plans. The Respondent on 24/10/2009 took into consideration the submissions made by the third party and denied the information under section 8(1)(j) of the RTI Act. The Appellant preferred the First Appeal and by Order dated 30th November, 2009, the First Appellate Authority upheld the contention of the Respondent and dismissed the Appeal. This is the Impugned Order.

3. From the contents of the letter of the third party dated 19/9/2009, it indicates that the third party required the plan of construction be treated as confidential and the Respondent by following the procedure of the third party information, envisaged under section 11 of the RTI Act, firstly gave notice to the third party about the intention of the Respondent to disclose the information sought and secondly invited the third party to make submission whether the information should be disclosed. The Respondent took into consideration the submission made by the third party in letter dated 22/10/2009 as well as the letter dated 9/9/2009 and on 24/10/2009 decided the request of the Appellant and denied the information sought in respect of construction plan of the third party.

4. No doubt that the Respondent was justified in denying the information to the Appellant. However, as the construction plan consist of one portion showing the site plan and the other depicting the drawings and designs, the Respondent by taking recourse to the provision of section 10 of the RTI Act could separate the portion of the information which can be provided from the portion of the information which the third

party considers to be confidential. Consequently, the proper course for the Respondent is to sever the construction plan having the site plan from the portion of drawings and designs and provide to the Appellant the information which is the portion of the site plan in the construction plan of the third party. With these observations, the following Order: -

ORDER

The Appeal is partly allowed. The Respondent to sever the portion of the site plan from the portion where there are designs and drawings in the approved plan and provide the portion of the site plan to the Appellant within the period of 7 days from the receipt of the Order and report compliance.

Pronounced on this 31st day of March, 2010.

Sd/-
(Afonso Araujo)
State Information Commissioner

