

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 159/SCIC/2009

Mr. Bablo Goltekar,
Plot No. C3/F/03,
Talak Homes Estates,
Indra Dhanush Building,
Borda, Margao – Goa.

..... Appellant.

V/s.

1. Public Information Officer,
Goa Industrial Development Corporation,
IDC Complex, Patto Plaza,
Panaji - Goa.
2. First Appellate Authority,
Goa Industrial Development Corporation,
IDC Complex, Patto Plaza,
Panaji - Goa.

..... Respondents.

Adv. J. V. Fernandes for Appellant.

Respondent No. 1 in person.

Shri Mandar Shirodkar present on behalf of Respondent No. 2.

J U D G E M E N T **(23-04-2010)**

1. The Appellant, Bablo Goltekar, has preferred this Second Appeal praying proper adjudication of the matter and also for penalty.
2. The brief facts leading to the present appeal are as under:-

That the Appellant submitted an application seeking certain information under Right to Information Act, 2005 ('RTI' Act for short). That the Public Information Officer replied on 29/9/2009 informing that M/s. KSK Energy Ventures vide their letter dated 25/9/2009 have requested them not to share any details regarding the said Agreement to third party and hence, the information cannot be provided. Being not satisfied with the reply the Appellant preferred First Appeal. However, the

...2/-

First Appellate Authority ('F.A.A.' for short) did not decide the appeal within 45 days. Being aggrieved, the Appellant has filed the present Appeal on the ground as mentioned in the Memo of Appeal.

3. The Respondents resist the Appeal and the say of Respondent No. 1 is on record. It is the case of the Respondent No. 1 that since the information was in relation to third party, the Respondent No. 1 sought the say of M/s. KSK Energy Ventures Ltd., and in their say it was stated that they are not covered by the RTI Act and hence, not to disclose any details regarding the said agreement. Respondent No. 1 accordingly informed the Appellant. That Appellant being not satisfied preferred the Appeal and the hearing was fixed on 12/11/2009 at 4 p.m. However, Appellant remained absent and the F.A.A. dismissed the Appeal. According to Respondent No. 1, Appeal is liable to be dismissed.

4. Heard the arguments. The learned Adv. J. V. Fernandes argued on behalf of the Appellant and Shri Mandar Shirodkar argued on behalf of Respondent No. 1.

According to Advocate for the Appellant the request for information was rejected only because it has been objected by KSK Energy Ventures Ltd. and not because it involves Trade Secret as mentioned by Respondent No. 1. According to him there is no mention of trade secret in the said letter. He also pointed out about purpose of RTI Act about transparency and accountability. He also filed written arguments which are on record.

5. The Respondent during the course of his arguments submitted that the money of Government or GIDC is not involved. According to him this

is not the time to disclose. He also submitted that various companies are interested and if agreement is disclosed it would be loss to Goa Government.

6. I have carefully gone through the records of the case, considered the arguments advanced by the parties and also considered the written arguments on record.

At the outset I must say that object of the RTI Act is to ensure greater and more effective access to information under the control of Public Authority. 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 fees as may be prescribed or reject the request on any of the grounds specified under section 8 and 9 of the Act. Section 6 (i.e. 6(3)(ii)) also provides for transferring the request to the other concerned public authority who may hold the information. Section 11 of the Act relates to third party information. Third party has been defined under section 2(n) to mean a person other than the citizen making a request for information required to be disclosed as confidential that authority is required to give a written notice to such third party of the request. It is to be noted that whenever any applicant is asking for information involving third party such information is to be given under section 7 of the Act only after following procedure prescribed under section 11(1) of the Act, 2005 and also keeping in mind section 7(7) of the RTI Act.

From the records it is seen that on receipt of application for information a letter was sent and they/Public Information Officer received a letter from K.S.K. Energy Venture stating that no information be shared and as such request was rejected.

7. It is seen the Appellant preferred First Appeal. The hearing was fixed on 12/11/2009. Appellant was not present and hence, the Appeal was dismissed. The Appeal is not disposed off on merits.

8. Looking at the sequence I feel that something is lacking and both the parties should get full opportunities. The Appellant should get a chance to put his case before the Public Information Officer and also get his valuable right of First Appeal. The Public Information Officer in turn must hear the third party so as to come to the particular conclusion in terms of RTI Act. Third party also should get a right of hearing if the third party so desires. Solely with this view and in the ends of justice, I wish to remand the matter back so that procedure prescribed be followed. Public Information Officer should give a reasoned Order.

9. In view of all the above, the matter is remanded back to the Public Information Officer. The Public Information Officer to hear the parties afresh and dispose off the request within the time schedule prescribed by Law. The Appellant to approach the Public Information Officer within 2 or 3 days on receipt of this Order. The period prescribed by RTI Act should start from the day the Appellant remains present before Public Information Officer. Concerned authority/authorities to deal with the matter in accordance with law and within prescribed time.

Needless to say that this authority has not expressed any opinion on merits of the case.

10. In view of the above, the following Order is passed: -

ORDER

The Order of F.A.A. and Public Information Officer are set aside and the matter is remanded back to Public Information Officer to hear afresh and dispose off the same as observed in para (8) and (9) hereinabove.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 23rd day of April, 2010.

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

