

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 61/2009

Prakash B. Sardessai,
C/o Sardessai Egg. Works,
Cortalim – Goa.

..... Appellant.

V/s.

1. Public Information Officer,
Goa Coastal Zone Management Authority,
Department of Science and Technology,
Saligao – Goa.
2. First Appellate Authority,
The Member Secretary,
Goa Coastal Zone Management Authority,
Department of Science and Technology,
Saligao – Goa.

..... Respondents.

Appellant in person.

Respondent No. 1 absent.

Respondent No. 2 in person.

J U D G E M E N T **(30-04-2010)**

1. The Appellant, Prakash Sardessai, has preferred this Appeal praying that the Public Information Officer be directed to furnish the information sought and for penalizing for suppressing, hiding the information etc.; that the APIO be directed to directly furnish and direct the PIO to furnish the said information; that necessary action be taken against APIO and PIO for obstructing furnishing of information and that APIO and PIO cannot be vested in same person as it is resulted in murder and denial of the information and that appropriate action be taken.

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

That the Appellant by his letter dated 19/3/2009 asked for certain information under the Right to Information Act, 2005 ('RTI' Act for short).

...2/-

That the said information was not furnished inspite of lapse of one month. That inspite of personal visit on 14/5/2009 the said information was not furnished and the Appellant was told that it will take further time but even thereafter the said information was not furnished and thereby deemed to have been refused under section 7(2) of the Act. It is the case of the Appellant that being not satisfied, he preferred the First Appeal before the First Appellate Authority ('F.A.A' for short) under section 19 of the RTI Act, however, till date no Order has been passed. That the Member Secretary has been nominated as First Appellate Authority and his subordinate as Public Information Officer. That all the information sought is in custody and in direct access of the Member Secretary. That in the instant case the Member Secretary is appointed as FAA whereas under section 5(5) he happens to be the Public Information Officer and one cannot hold the post of Public Information Officer and Asst. Public Information Officer simultaneously.

Being aggrieved, the Appellant has preferred this Appeal on the grounds as set out in the Memo of Appeal.

3. The Respondents resist the Appeal and their say is on record. The case of the Respondent No. 2 that he is functioning as Member Secretary of Goa Coastal Zone Management Authority (GCZMA) in pursuance of the Order issued by the Ministry of Environment and Forest, Government of India. That the application under section 6 of the Right to Information Act was in his office on 20/3/2009. That the Appellant filed an Appeal under Section 19 of the RTI Act before FAA and Member Secretary (GCZMA) vide his application dated 18/5/2009 received on 20/5/2009. The Respondent No. 2 refers to Complaint by Surendra Sardesai and also about PIL W.P. No. 7/2008 before Hon'ble High Court of Bombay at Goa. It is the case of

the Respondent No. 2 that the Appellant has sought information to nearly 30 particulars relating to the said matter. That the information required to be provided is to be compiled including certain orders and other unrelated matters and that GCZMA is an independent authority functioning under Department of Science, Technology and Environment and it has office functionaries which are contract basis staff. That at the relevant time Public Information Officer as well as asst. Public Information Officer had resigned and their contract have been discontinued. That GCZMA is in the process of being reconstituted by the Ministry of Environment and Forest, Government of India. That the information shall be made available to the Appellant within a period of 15 working days. That the Respondent No. 2 is the only full time officer presently functioning in the authority and he is holding charge of Joint Secretary (Finance) and Officer on Special Duty to Hon'ble Chief Minister of Government of Goa and thus has to render multifaceted and other job responsibility. The Respondent expresses sincere regrets for having not furnishing the information in time.

4. Additional reply of the Respondent No. 2 is on record. So also Appellant's reply to the reply of the Respondent No. 2 are also on record. Additional reply on behalf of Respondent No. 2 dated 5/2/2010 is also on record.

5. Heard the arguments. The Appellant argued in person and Respondent No. 2 also argued in person.

6. I have carefully gone through the records of the case and also considered the arguments advanced. The short point that arises for my consideration is whether the information is furnished or not?

It is seen that the Appellant made an application dated 19/3/2009. It appears that the same was received on the same day. It is seen that information was furnished on 29/10/2009. I have perused additional reply dated 29/10/2009 and other annexures. It is the case of the Appellant that part of information furnished and part is refused. In his reply filed after Respondent's reply, the Appellant states that part of the information is furnished and partly tried to hide. Respondent No. 2 also filed reply and he clarified the position.

From the records as well as submissions advanced by Respondent No. 2, it appears, that this information is supplied as available on record. It is to be noted here that section 2(j) provide only information held by or under the control of any public authority. It, therefore, necessarily implies that the information to which an information seeker is entitled can only be that which is available in the records of the Public Authority concerned.

7. During the course of the arguments, the Appellant was asked as to whether he got the information. The Appellant states that he got all the information sought. However, he did not get full information in respect of point No. 9 and 10. I have perused the replies given and I also feel that the same could be given. When confronted Respondent No. 2 also agrees.

8. Now it is to be seen whether there is delay. Looking at the sequence of events I find there is much delay in furnishing the information. Respondent No. 2 in his reply particularly in paras 11 to 15 has explained as why there was delay. Again in his reply dated 5/1/2010 has explained about the same. There is no reason to disbelieve the same. Besides Appellant also does not press the same and he has no grievance. Malafide intention cannot be gathered from the facts on record. However,

Respondents should note that RTI Act is a time bound programme and the acts should be within the specified time. Hope Respondents in future adhere to time schedule.

9. Appellant also argued about Asst. Public Information Officer/Public Information Officer and also sought direction. I think the same is not required, however, both these authorities are expected to work within the parameters of law and there should no be cause to complain.

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

ORDER

The Respondents are directed to furnish complete information in respect of Point No. 9 and 10 within 10 days from the date of receipt of the Order.

Appeal is disposed off accordingly.

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

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

