

GOA STATE INFORMATION COMMISSION

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Appeal No. 25/2006/Goa-IDC

S. K. Agnihotri
Advocate "Abhinandan Farm",
Palam Vihar, Behind Old Chiranjiv,
Bharti School, Gurgaon – 122 017

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Appellant.

V/s.

1. Public Information Officer
Goa Industrial Development Corporation,
Panaji – Goa.
2. First Appellate Authority
Goa Industrial Development Corporation,
Panaji – Goa.

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Respondents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner
&
Shri G. G. Kambli
State Information Commissioner

(Per G. G. Kambli)

Under Section 19 of the RTI Act, 2005 (Central Act 22 of 2005)

Dated: 06/12/2006.

Appellant absent.

Respondents in person.

ORDER

This is the second appeal filed under sub-section (3) of Section 19 of the Right to Information Act, 2005 (hereinafter referred to as the Act) against the Respondents.

2. The facts of the case in brief are that the Appellant vide application dated 20/12/2005 requested the Respondent No. 1 to provide the following information: -

When plant and machinery as well as the land belonging to your client is mortgaged with your Corporation, does your Corporation still pay or ask the auction-purchaser of such property to pay Central Excise/Customs/Sale-Tax dues, despite two clear judgements of the Supreme Court in the cases of Dena Bank Vs. Bhikabhai Prabhudas Parekh, (AIR 2000 SC 3654) and Bank of Bihar Vs. State of Bihar (AIR 1971 SC 1210) laying down that the Govt.'s preferential right to recovery of debts over other creditors is confined to ordinary or unsecured creditors and Govt. debts are not entitled to precedence over secured debts.

3. As the Appellant did not receive any reply from the Respondent No. 1 within the statutory period of 30 days, the Appellant preferred the first appeal before the Respondent No. 2. However, the Respondent No. 1 by letter dated 23/5/2006 informed the Appellant that point no. 1 mentioned in the application dated 20/12/2005 is not applicable to the Goa Industrial Development Corporation. It is against this letter, the present second appeal is filed mainly on the ground that the reply given by the Respondent No. 1 is against the spirit of the Act and no reasons are given by the Respondent No. 1 for non-applicability of the point.

4. The Appellant filed written submissions by post. The Respondent No. 1 also filed written submissions. In the written submissions, the Appellant submitted that the Respondent No. 1 did not reply the application of the Appellant within the statutory period prescribed under the Act and that the appeal filed by the Appellant under Section 19 of the Act has been answered by the Respondent No. 1 instead of the Appellate Authority and that the reply given by the Respondent No. 1 is beyond the period of 30 days and therefore, the Respondent No. 1 is liable for action under Section 20 of the Act. The Appellant also submitted that the Respondent No. 1 has erroneously come to the conclusion that the information sought by the Appellant is not applicable to Goa Industrial Development Corporation and that too without assigning any reason.

5. The Respondent No. 1 in his reply has stated that the information sought by the Appellant is not applicable to Goa Industrial Development Corporation because no plant and machinery as well as land belonging to any client is mortgaged with Goa Industrial Development Corporation and that the recovery of the Central Excise/Customs/Sale-Tax dues is not within the jurisdiction of Goa Industrial Development Corporation.

6. Admittedly, the Respondent No. 1 did not provide the information to the Appellant within the statutory period of 30 days and therefore, in terms of provisions of sub-section (2) of Section 7 of the Act, the request of the Appellant deemed to have been refused by the Respondent No. 1. Therefore, the Appellant has rightly filed an appeal before the Respondent No. 2. The decision of the Respondent No. 2 is not made available and also it is not known whether the Respondent No. 2 has decided the said appeal. Therefore, once the appeal was preferred before the Respondent No. 2, the Respondent No. 1 ought not to have decided the matter and should have left it to the Respondent No. 2 for decision. It is also not clear whether the letter dated 23/5/2006 issued by the Respondent No. 1 was pursuant to the decision of the Respondent No. 2. As rightly pointed out by the Appellant, the said letter dated 23/5/2006 of the Respondent No. 1 does not disclose any reasons. The Respondent No. 1 ought to have specified the reasons which are now given before this Commission. Being so, the letter dated 23/5/2006 deserves to be quashed and set aside.

7. In these circumstances the impugned letter No. GIDC/CORP.OFF/URTIA/4860 dated 23/5/2006 issued by the Respondent No. 1 is hereby quashed and set aside. We direct the Respondent No. 1 to provide the correct information and if the request is rejected, the Respondent shall give the valid reasons for such rejection. The Respondents shall take the decision and communicate the same to the Appellant within two weeks from the receipt of this order.

8. The request of the Appellant to initiate the proceedings under Section 20 of the Act is rejected since we do not find any malafide motive or intention to withhold the disclosure of the information.

(G. G. Kambli)
State Information Commissioner, GOA.

(A. Venkataratnam)
State Chief Information Commissioner, GOA.