

GOA STATE INFORMATION COMMISSION

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

Appeal No. 27/2006/POLICE

Joao C. Pereira

H. No. 40, Acsona, Utorda,
Salcete - Goa.

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Appellant.

V/s.

1. Public Information Officer
Superintendent of Police (South),
Margao, Salcete - Goa.
2. First Appellate Authority
Deputy Inspector General of Police,
HQ, Panaji.

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Respondents.

CORAM:

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

(Per A. Venkataratnam)

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

Dated: 15/11/2006.

Appellant in person.

Adv. Irshad Agha for both the Respondents.

ORDER

The Appellant vide his letter dated 13/5/2006 requested the Respondent No. 1 for information of action taken on two earlier complaints made by him on 22/3/2005 and 26/3/2005. The complaint dated 22/3/2005 was made by him as a power of attorney holder on behalf of one Natividade Fernandes. Having waited for 30 days, the Appellant put in first appeal before the Respondent No. 2. It is interesting to note that neither the Public Information Officer nor the First Appellate Authority gave any reply. The Appellant, therefore, has moved the second appeal on 25/8/2006. A notice was issued by the Commission on 4/9/2006 to both the Respondents to remain present for the hearing of the appeal on 29/09/2006. Only after receiving a notice from the Commission, the Respondent No. 1 has given his reply on 29/9/2006. On receiving the notice, the authorized representative Mr. Nolasco Raposo on behalf of both the Respondents

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submitted a written reply on 6/11/2006 stating that the information is already given to the Appellant. The case was adjourned thereafter three times on 21/9/2006, 10/10/2006 and 30/10/2006, for arguments. All the time, neither the case was argued nor any reason was given for the delay in furnishing the information. Thereafter, the final written arguments were submitted on 8/11/2006 by the learned Advocate for the Respondents.

2. The point raised by the Appellant is not replying to his request for information in time by the Public Information Officer i.e. Respondent No. 1 and not passing any order by Respondent No. 2 on appeal. On both the points, the Commission does not have the benefit of any reply or arguments either from the Respondents or from authorized representative or learned Advocate for the Respondents. We have taken this matter seriously in the past and already have given directives to the Police Department. However, we find that there is no seriousness shown even now.

3. In the arguments submitted by the Respondents, the learned Adv. Agha said that the replies have been given to the Appellant from time to time and that the Appellant was satisfied with the replies given by the Respondents. However, the conduct of the Respondents not giving reply in time is not explained. On the other hand, at para 8 of the written arguments, the learned Advocate says that the "information is given by the letter dated 29/9/2006, before this Commission could pass any order, and hence the same may not be treated as delay on the part of the Respondents". The learned Advocate even pushed the blame on the Appellant for not being fair to produce the letter dated 29/9/2006 of the Respondent No. 1 before us. This argument is not acceptable because Section 7(1) of the Act puts the responsibility on the PIO to dispose off any request within 30 days time limit failing which he has to justify that he has acted reasonably and diligently and there was no malafide intention in delaying the information. The burden of proof lies on the PIO as per second proviso of Section 20 (1) of the Act. Viewed in this context, the reply by the PIO through the Advocate, is not acceptable to the Commission. If the reply could be given on 29/9/2006, it could have been given within 30 days from the date of the application.

4. We, therefore, come to the conclusion that Respondent No. 1 is responsible for the delay in giving the information. No explanation has come from the Respondent as to why the information was not provided within the statutory period of 30 days. We are of the view that the Respondent No. 1 has deliberately and with malafide intention has delayed the disclosure of the information sought by the Appellant and therefore this is a fit case for invoking the provisions of Section 20 of the Act and therefore, we hereby direct the Respondent No. 1 to show cause as to why the penalty of Rs.250/- per day delay should not be imposed.

5. The Appellant has prayed that the Appellant be paid a cost of Rs.250/- for each day delay. We do not find any provisions in the Act where the cost could be awarded or the penalty of Rs.250/- per day delay could be paid to the Appellant. The other prayer of the Appellant to initiate disciplinary action against Respondents is rejected.

Next hearing is fixed on 30/11/2006 at 11.00 a.m.

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

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