

GOA STATE INFORMATION COMMISSION

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

Appeal No. 28/2006/PAN

Mr. C. S. Barreto,
H. No. 206, Mazalwaddo,
Assago, Bardez - Goa.

..... Appellant.

V/s.

1. Dy. Director of Panchayat (North) &
Public Information Officer,
Panaji - Goa.
2. Director of Panchayat &
First Appellate Authority
Panaji - Goa.

..... Respondents.

CORAM:

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

(Per G. G. Kambli)

Under Section 19 (3) of the RTI Act, 2005 (Central Act 22 of 2005)

Dated : 26/10/2006.

ORDER

This is a second appeal filed by the Appellant under sub-section (3) of Section 19 of the RTI Act, 2005 (for short RTI Act) against the Respondents.

2. The facts leading to this appeal are that the Appellant approached the Respondent No. 1 by his application dated 8/6/2006 requesting to provide him the information about the status of the Appeal No. 54/2005 filed by Mrs. Carol E. Ashby against V. P. Assagao. The Respondent No. 1 by his letter dated 27/6/2006 informed the Appellant that the matter is fixed for order to be communicated. Thereafter, the Appellant by his application dated 30/6/2006 requested the Respondent No. 1 to inform the date since when the matter is fixed for order. Accordingly, the Respondent No. 1 by the reply dated 10/7/2006 informed the Appellant that the matter is fixed for order since 7/6/2005. Again the Appellant by his application dated 14/7/2006, the Appellant raised several issues and requested the Respondent No. 1 to offer his comments in the matter.

...2/-

The Respondent No. 1 by his reply dated 20/7/2006 informed the Appellant that the matter is with the Presiding Officer who is the quasi-judicial authority and requested the Appellant to approach the concerned authority for further progress in the matter. Not satisfied with the reply of the Respondent No. 1, the Appellant preferred the first appeal before the Respondent No. 2 requesting the Respondent No. 2 to inform the Appellant for the inordinate delay in passing the order and the next steps, which would be taken by the Respondent No. 2. The Respondent No. 2 did not communicate decision within the statutory period as laid down in sub-section (6) of Section 19 of the RTI Act and therefore the Appellant approached this Commission under sub-section (3) of Section 19 of the RTI Act by way of second Appeal.

3. Both the Respondents filed their reply and stated that due to inadvertence, the appeal remains to be disposed off which was not intentional or malafide. Both the Respondents have also stated that the Appellant has filed many cases before the Respondent No. 2 and all the cases have been disposed off within the statutory period. The Respondents, therefore, pray that the matter be remanded back to enable the Respondent No. 2 to dispose off on merits.

4. We have gone through the records as well as considered the reply filed by the Respondents. It is to be noted that Respondent No. 1 has provided the information, which was sought by the Appellant, vide application dated 8/6/2006 and 30/6/2006. In subsequent application dated 14/7/2006, the Appellant did not specifically sought any information from the Respondent No. 1 but requested to offer the comments on the inordinate delay in passing the order. Similarly, the Appellant filed the first appeal before the Respondent No. 2 with a request to explain the inordinate delay in communicating the order and steps, which would be taken for such a inordinate delay.

5. Admittedly, the appeal is pending before the Presiding Officer who is deciding the matter in quasi-judicial capacity. The matter has been reserved for orders, which will be communicated. This fact has been informed to the Appellant. The Public Information Officer is required to provide the information, which is available in the department/office. If the Presiding Officer has not fixed the date for passing any order, the PIO cannot provide such information. The information has to be provided as per the available records.

The Appellant is seeking the comments from the PIO and requesting the first Appellate Authority to inform the reason for inordinate delay in passing the order.

6. The matter is pending before the quasi-judicial authority who is concurrently exercises the jurisdiction under the Goa Panchayati Raj Act alongwith the Director of Panchayats and therefore, the Respondents have no control over the quasi-judicial authority who has to pass an order on merits. The Respondents are also not the superior/disciplinary authority of the said Presiding Officer and therefore, the Respondents cannot direct the Presiding Officer to fix any date for passing the orders and therefore, we feel that the Respondent No. 1 has rightly informed the Appellant to approach the concerned Presiding Officer.

7. Incidentally, it may be pointed out that the Government has issued instructions inter alia, to all the quasi-judicial authorities pursuant to the order dated 24/08/2006 passed by the Hon'ble High Court of Bombay in Writ Petition No. 281/2006 laying down the time limit within which the orders are to be passed after hearing the arguments. The Appellant may approach the Presiding Officer bringing out to his notice the said order of the Hon'ble High Court as well as the instructions of the Government and in case the Presiding Officer fails to adhere to the said instructions the Appellant is free to approach the concerned authority for his grievances as per said Circular dated 16th October, 2006 if the Appellant so desires. These are the only observations of the Commission.

8. In view of the above, the appeal filed by the Appellant deserves to be dismissed and accordingly, the same is thereby dismissed.

Pronounced in the open Court on 26th October, 2006.

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

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