

# **GOA STATE INFORMATION COMMISSION**

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

Appeal No. 41/2006/GCZMA

Ligorio Pereira  
Represented by his Power of  
Attorney, Mr. Joao C. Pereira  
H. No. 40, Acsona, Utorda,  
Salcete - Goa.

..... Appellant.

V/s.

1. Public Information Officer  
Goa Coastal Zone Management Authority,  
Saligao, Bardez - Goa.
2. First Appellate Authority  
Goa Coastal Zone Management Authority,  
Saligao, Bardez - Goa.

..... Respondents.

## **CORAM:**

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

(Per A. Venkataratnam)

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

Dated: 07/12/2006.

Joao C. Pereira, Power of Attorney holder on behalf of the Appellant.

Public Information Officer in person.

Respondent No. 2 absent.

## **INTERIM ORDER**

The Appellant filed a second appeal on 30/10/2006 complaining that the First Appellate Authority namely, the Respondent No. 2 has not passed any order on his first appeal dated 21/09/2006 and that the information supplied by the Public Information Officer earlier was incomplete and misleading. It appears that the Goa Coastal Zone Management Authority has appointed the Public Information Officer and First Appellate Authority only in September, 2006. The exact date and notification through which the Public Information Officer and First Appellate Authority were designated is not on record. What is on record is

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a letter from the Information and Publicity Department informing the Appellant on September 14, 2006 the names and designation of APIO, PIO and FAA of the Goa Coastal Zone Management Authority.

2. The notices were issued to both the Respondents and the Appellant for filing their say and to argue the matter. The Respondent No. 1 filed written statement on 27/11/2006 and there is no response from Respondent No. 2.

3. The Appellant by various letters has requested Respondent No. 1 and 2 on various dates for various bits and pieces of information. He is also in habit of combining a number of requests and filing one appeal attaching there to a number of irrelevant correspondence. We will, therefore, confine ourselves to what is mentioned in the second appeal only. His grievance is that he has made 4 requests for information on 11/5/2006, 18/5/2006, 20/5/2006 and 26/5/2006. The requests dated 11/5/2006 and 26/5/2006 were addressed to Respondent No. 1 and remaining 2 were addressed to the Respondent No. 2. The Respondent No. 1, in her reply, referred to all the 4 requests and tried to justify the Public Authority's point of view. She submitted that the "Member Secretary of the Authority, who is Respondent No. 2, was involved in compiling the information as there is nobody appointed as Public Information Officer". Further, the Member Secretary, i.e. Respondent No. 2, proceeded on leave from 16<sup>th</sup> October, 2006 onwards and that the charge now is with Mr. Joseph D'Souza from 3/10/2006. In between, the charge was with the Secretary (Environment).

4. From the reply of Respondent No. 1, we gather that the request dated 11/5/2006 of the Appellant was treated as a complaint and not as an application for request of information under RTI Act. In fact, she contented that the Appellant has given the information to the Respondent No. 1 about the "wrongs committed by Directors of Ramesh Hotels and Resorts Private Limited". A perusal of attested copy of the request attached to the appeal memo shows that it is not entirely true. In this letter, the Appellant has referred to his earlier request dated 28/3/2006 wherein he requested for 13 documents and he was supplied only 7 documents by letter dated 9/5/2006 of the Respondent No. 2. One document regarding the notings in the file No. DJ/5599 containing 4 pages was refused stating that "these are internal office procedure and has no legal relevance in filing any legal proceedings". The other documents (5 in number)

were not given as they were neither addressed to the Public Authority nor originated from the Public Authority. The Appellant has raised an important point that the proposal submitted by M/s. Ramesh Hotels and Resorts Private Limited for approval of the Respondent No. 2 was signed by one Sanjay Vazirani, and the revised plans were signed by one S. V. Balaram both claiming to be Directors of the Hotel on 9/2/2006. The approval was given by Respondent No. 2 on 23/02/2006. The Appellant wanted to know whether the Respondent No. 2 has checked the application was submitted by the proper person before issuing the revised approval. He has also asked for information whether the revised plans of the hotel were approved by any authority other than the Respondent No.2. None of these queries were replied to.

5. The Respondent No. 1 submitted that the second request dated 18/5/2006 of the Appellant is also in the nature of complaint but at the same time he wanted a clarification whether the approval dated 23/2/2005 was correct or the letter dated 17/5/2006 addressed to the Appellant was correct. Here, it is to be seen, that the revised approval for the hotel project was given on 23/2/2006 by the Respondent No. 2 in response to the revised plans submitted by the hotel on 9/2/2006. However, the approval letter is wrongly dated 23/2/2005. The reply given by the Respondent No. 2 on 17/5/2006 does not clarify on what basis the approval was granted by the Respondent No. 2. Further, it also mentions that the access to the hotel project has to be checked by TCP Department and not by Goa Coastal Zone Management Authority and which was done by the said TCP Department while approving the project by their letter No.DJ/5599/TCP/9813 dated 1/1/98. On this point, the Appellant has raised two important issues. Firstly, he says that the TCP approval letter dated 1/1/98 mentioned in the reply of the Respondent No. 2 is not about this project at all but is about another project of M/s. Maharani Guest House, which is no longer in existence. The other important point mentioned by the Appellant is that the revised approval letter dated 24/2/2006 (wrongly mentioned as 24/2/2005) itself mentions that the old plans submitted earlier stand cancelled and substituted by the revised site plan duly endorsed by the Respondent No. 2. If this is the case, how the Respondent No. 2 can take the plea that the TCP approval to the project was obtained on 1/1/98 itself, is beyond our understanding. This is certainly a misleading statement by the Respondent No. 2 and we do not have his reply before us now. The Respondent No. 1 also has conveniently omitted this point by simply saying

that "on what basis the approval was granted is not within ambit of the powers of the Public Information Officer to comment on the issue". This is clearly not acceptable to the Commission. Similarly, simply permitting inspection of the file and allowing the Appellant to make notes is not enough.

6. The Appellant's letter dated 20/5/2006 reiterates that the site plan approved by Respondent No. 2 is not in accordance with survey plan of land records and wanted to know how the approval was issued without checking by the Respondent No. 2. The reply of Respondent No. 1 is that "directions was issued to the Additional Collector, South Goa to inspect the site and demolish the structure that is not confirmation with the approved plan". This also does not answer the request of Appellant. The point at issue is that the Ramesh Hotels and Resorts Private Limited were given approval for construction on 24/2/2006 by the Respondent No. 2 in respect of survey No. 41/1, 2, 3 and 42/2 and 3 of the Utorda village whereas the site plan approved by him does not show the survey No. 42/2 and 3. This difference and anomaly has to be explained by Respondent No. 2, which is not done.

7. The Request dated 26/5/2006 of Appellant was replied on 14/11/2006, six months after the request and around 14 days after the filing of second appeal. A copy of this reply is enclosed to the written statement of the Respondent No. 1 filed before us.

8. While replies of the Public Authority are incomplete, misleading and delayed, the Respondent No. 1 tried to justify the delay because of other work of the Member Secretary as well as his absence from 16<sup>th</sup> October, 2006. This is not acceptable to the Commission. As if this is not sufficient, she has asked the appeal to be dismissed with costs. Though the replies are unsatisfactory, we cannot initiate action against Respondent No. 1 herein because she was not designated Public Information Officer when the requests were made by the Appellant and as they were replied by Respondent No. 2, who is now appointed Appellate Authority. We consider the Respondent No. 2 as the Public Information Officer at the relevant time and will have to proceed further against him.

9. In order to proceed further, we would like to hear the then Secretary of the Goa Coastal Zone Management Authority Dr. N. P. S. Varde who has given the misleading replies to the Appellant. A fresh notice has to be sent to him by name and served through Personnel Department, Goa Government for filing his reply on 29/12/2006 at 11.00 a.m. The Department of Personnel should serve this Interim Order on Dr. Varde on or before 15/12/2006 and return one copy to this Commission in token of having served the order on Dr. Varde on or before 20/12/2006. The Appellant and Respondent No. 1 should also be informed.

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

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