

GOA STATE INFORMATION COMMISSION

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

Appeal No. 48/2006/Goa-IDC

Shri Uday M. Rege
Regional Manager,
Honda Industrial Estate,
Honda, Sattari - Goa.

..... Appellant.

V/s.

1. Public Information Officer
Chief General Manager,
Goa Industrial Development Corporation,
Panaji - Goa.
2. First Appellate Authority
Managing Director,
Goa Industrial Development Corporation,
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 of the RTI Act, 2005 (Central Act 22 of 2005)

Dated: 08/12/2006.

Appellant in person.

Respondent No. 1 in person.

Respondent No. 2 is represented by Shri Mandar Shirodkar, Law Officer,
Goa-IDC.

ORDER

The Appellant vide application dated 7/6/2006 requested the Respondent No. 1 to provide the following information under the Right to Information Act, 2005 (for short the Act): -

1. What is the exact period within which ACP will be released (in days) to the Appellant?

...2/-

2. The exact time frame within which the posting will be done on the promoted post of Regional Manager and the pay fixation will be effected in the new pay scale after grant of ACP.
3. The powers, duties and facilities available to the post of Regional Manager as per policy of Goa IDC and such facilities provided to other Regional Manager.

2. The Appellant did not receive any reply from the Respondent No. 1 in spite of the reminders and therefore, the Appellant preferred an appeal before the Respondent No. 2 on 17/7/2006. During the pendency of the appeal, the Respondent No. 1 by letter dated 11/8/2006 informed the Appellant that the information sought by the Appellant at points no. 1 and 2 does not fall under the Act. As regards to point no. 3, the Respondent No. 1 informed the Appellant that the Field Managers, Area Managers and Regional Managers are required to look after all the work of civil, maintenance, water supply, power supply, subsidy cases etc. and the same is supervisory as well as managerial in nature. In addition, they have to follow and do all the instructions and/or work assigned by the higher authorities.

3. The Respondent No. 2 disposed off the appeal on 22/8/2006. Dissatisfied with the order of the Respondent No. 2, the Appellant has filed the present appeal. In the appeal, the Appellant stated that the Respondent No. 2 did not take any action against the Respondent No. 1 for causing the delay in furnishing the information. Besides the information furnished by the Respondent No. 1 was vague and not as sought by the Appellant. The Appellant states that the Respondent No. 1 has purposely delayed the information and therefore, the Appellant prays that action be initiated for imposing penalty against the Respondents. The Appellant has also prayed that the Respondents be also directed to provide the exact information to the Appellant.

4. The Respondent No. 1 filed the written submissions. In the written submissions, the Respondent No. 1 submitted that the information sought by the Appellant was provided vide letter dated 11/8/2006 and that the information pertaining to the points at Sr. No. 1 and 2 does not fall within the definition of Section 2 (f) of the Act and therefore, the same could not be provided. The Respondent No. 1 also maintained that the information provided to the Appellant on point no. 3 was specific.

5. Admittedly, the Appellant sought the information vide letter dated 7/6/2006 and Respondent No. 1 replied the same on 11/8/2006 as the Appellant did not receive any reply, the Appellant preferred the appeal before the Respondent No. 2 and during the pendency of the appeal, the Respondent No. 1 sent the reply. Therefore, it was not proper on the part of the Respondent No. 1 to decide the application of the Appellant since on expiry of 30 days from the date of the submission of the application, the request of the Appellant deemed to have been refused by the Respondent No. 1 in terms of the provisions of sub-section (2) of Section 7 of the Act. In fact, the Respondent No. 1 ought to have waited till the outcome of the first appeal filed before the Respondent No. 2. The Respondent No. 2 by his order dated 22/8/2006 disposed off the appeal without any specific decision. Since the Respondent No. 1 has made a submission before the Respondent No. 2 during the hearing that the information sought by the Appellant on point no. 3 has already been furnished and the Appellant has also confirmed of having received the same. So far as the information pertaining to the points no. 1 and 2, the Appellate Authority has confirmed the decision of the Respondent No. 1.

6. Coming now to the merits of the case, it is seen that the Appellant sought the information at points no. 1 and 2 regarding the exact period within which the ACP will be released (in days) and as to when the posting will be done and pay fixation will be effected in the new pay scale after grant of ACP. The term information is defined in clause (f) of Section 2 of the Act, as follows: -

“(f) “information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;”

It will be seen from the above definition that only the information, which is available in any form or records, could be provided. About the future course of action or any decision, which is yet to be taken in any matter, does not fall within the ambit of the term “information”. The information sought by the

Appellant on points no. 1 and 2 is regarding the course of action to be taken by the Respondents. We feel that the information could be provided only when the decision is taken. Hence, we uphold the decision of the Respondents.

7. Coming now to the information relating to point no. 3, the Appellant has sought the information regarding the powers, duties and facilities available to the post of Regional Manager. The information provided by the Respondent No. 1 is certainly not to the point on which the information was sought by the Appellant. The reply dated 11/8/2006 of the Respondent No. 1 mentions work among others, the Regional Manager. The Appellant wanted to know also powers, duties and facilities of the Regional Managers. In fact, as per sub-clause (ii) of clause (b) of sub-section (1) of Section 4 of the Act, every Public Authority was required to publish within 120 days from the date of the enactment of the Act the powers and duties of the officers and employees and therefore, there should not have been any difficulties for the Respondent No. 1 to provide the information regarding the powers and duties of the Regional Manager. The Respondent No. 2 ought to have disclosed this information suo moto in which case, there was no need for the Appellant to seek such information. This information should have been provided free of cost to any citizen without any application. We are surprised that the Respondent No. 1 did not do so even after an application by the Appellant who is one of their own employees, more particularly a Regional Manager. In other words a Regional Manager of a statutory Corporation of Government of Goa wanted to know his own powers, duties and "facilities" and his own employer gives incomplete and vague information to him, which is very sad. We shudder to think what will happen if any citizen approaches the Respondent No. 1 for the same information. Therefore, we are of the view that the information provided by the Respondent No. 1 to the Appellant on point no. 3 is incomplete and vague.

8. We, therefore, partly allow the appeal and direct the Respondent No. 1 to provide the correct information on point no. 3 within a week from the date of the receipt of the order.

9. The Appellant has prayed for imposing the penalty on the Respondent No. 1 for not furnishing the reply within the statutory period of 30 days under Section 20 of the Act. In the present case, the application was made on 7/6/2006

and the Respondent No. 1 replies the same on 11/8/2006 i.e. after the expiry of 64 days. The Respondent No. 1 has not explained the delay as to why the reply could not be given within the statutory period of 30 days. We, therefore, feel that this is a fit case for invoking the provisions of Section 20 of the Act. The Respondent No. 1, is therefore, hereby directed to show cause as to why the penalty of Rs.250/- per day delay should not be imposed on the Respondent No.1. The Respondent No. 1 to file the reply on 26/12/2006 at 11.00 a.m.

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

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