

GOA STATE INFORMATION COMMISSION

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

Appeal No. 14/2006/MAM/Margao

C. S. Barretto,
H. No. 206, Mazilvaddo,
Assagao, Bardez - Goa.

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Appellant.

V/s.

1. Mamlatdar, Margao - Goa.
Public Information Officer.
2. Dy. Collector & S.D.O., Margao,
South Goa.

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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 (3) of the RTI Act, 2005 (Central Act 22 of 2005)

Dated : 06/09/2006.

Appellant in person. Respondent No. 1 in person and Respondent No. 2 represented by M. P. Korgaonkar.

ORDER

This disposes off the second appeal dated 19/06/2006 by the Appellant mentioning that the Public Information Officer has not given him information regarding the mutations effected by the Respondent 1 as requested by him by his original application dated 18/05/06. The PIO by his letter dated 25/5/2006, instead of giving the information, infact raised a query "if you can enlighten in respect of any survey number in particular, we would be able to provide you the information based on which the mutation is effected". As this does not meet the requirements of the Appellant, he appealed to the Respondent No. 2 on 27/5/06. However, the Respondent No. 2 being the first Appellate Authority returned the appeal memo by his letter dated 14/6/2006 informing the Appellant to file the appeal before the State Information Commission. Against this letter, this second appeal filed.

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2. On the issuance of the notice to both the Respondents, both of them filed their written statements on 6/9/2006, the copies of which are given to the Appellant. The Appellant is not satisfied with what was stated in the written statement of the PIO and insisted that the information is available with the PIO and had to be given to him within statutory period of 30 days. He further stated that not only other Mamlatdars in both the districts have given this information to him in their respective jurisdictions but even the Respondent No. 2 who is the first Appellate Authority has admitted that this has to be given by his written statement before us. He, therefore, stuck to his stand that the information should be provided by the Mamlatdar, who is PIO and Respondent No. 1.

3. The Mamlatdar, on the other hand, in his written statement raised a preliminary objection that the application fee of Rs.10/- was not paid alongwith his request for information and hence the request for information filed before him was defective. On merits, the Respondent No. 1 has taken the plea that the survey records are not prepared, maintained and updated on the basis of the caste, creed, religion, sex or nationality. He has also submitted that the mutation in the survey records are only for fiscal purpose of recovering revenue and do not confer any title. He stated that no separate records are maintained for mutation for foreigners or Indian nationals and hence he is not a position to give any information of general nature and the present appeal is, therefore, not maintainable. The Respondent No. 2 who is senior in rank than Respondent No. 1 in his statement stated contents of all the paras of the appeal are admitted and as far as providing information requested, he left it to the Commission. He, however, did not say anything as to why he has returned the appeal memo in original filed before him in this very case.

4. A perusal of the request dated 18/5/2006 by the Appellant reveals that the information is requested is about the total number of mutation cases executed in favour of foreign nationals of non-Indian origin for the period 1st June, 2000 till the date of application. It is true that separate records are not maintained in respect of foreign nationals and Indian nationals much less about foreign nationals of non-Indian origin. The question is not whether such separate records are maintained or why the mutations in respect of foreigners of non-Indian origin are effected in revenue records. Though mutations in favour of foreigners are part of the same records, they can be identified from the available

records. However, this will, no doubt, take considerable time and effort. Such an exercise has been done by other Mamlatdars in the State who also have the same difficulties. In any case, it cannot be a ground for rejection of the request. It is one thing to say that it is difficult to take out the information in the time available and another to deny the information, though available, to the appellant. The denial is couched in polite language calling for information from the appellant instead of giving him the information. In the case of the first Respondent, the objection by the PIO is technical one, as he did not even has started compiling the information. We are of the view, that the information requested has to be given as it is available with Mamlatdar and is possible to be sifted from the records. His objection regarding maintainability has no basis in law. The non-payment of Rs.10/- is a remediable defect and hence the objection on maintainability is overruled.

5. The cases cited by Respondent 1 in the written statement, namely 1996(1) Mh.L.J. 209, BLR Vol 99(3) 479,-1997; AIR 1997 SC 2181, 1998(1) GLT 382 are not relevant for the collection of information requested. In the present case, the Appellant has not requested names of the owners of the land but the names of only the foreigners of non-Indian origin whose names are entered in the mutation registers during the given period. Hence, the purpose of mutation of survey records and their non-maintenance are based on nationality are of no relevance. We are, therefore, of the view that the appeal is maintainable and the Appellant has a right to get the information requested. The Respondent 1 has not submitted any other reason for refusing the information.

6. We, therefore, allow the appeal and set aside the letter dated 23/05/06 of the Respondent No. 1 and letter dated 14/06/06 of Respondent No. 2. We direct the Respondent No. 1 to furnish the information in period of 1 month from the date of receipt of order. The appellant, is directed to pay of Rs.10/- alongwith the cost of the information as intimated by the PIO before collecting the information.

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

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

