

## GOA INFORMATION COMMISSION

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

Appeal No. 03/2007-08/

Smt. Surekha S. Bute.  
Zoidervaddo, P. O. Aldona,  
Nachinola - Goa

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Appellant

V/s.

Public Information Officer,  
Dy. Conservator of Forests (North),  
Ponda - Goa

.....

Respondent No. 1

First Appellate Authority,  
Conservator of Forests,  
Office of the Chief Conservator  
of Forests, Panaji – Goa

Respondent No. 2

### CORAM:

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

(Per G. G. Kambli)

Dated: 29/06/2007

Appellant is represented by her husband, Shri. Satish B. Bute, authorized representative,

Both the Respondents in person

### **Judgment**

This disposes off the appeal filed under section 19(3) of the RTI Act, 2005 (herein after referred to as the Act) against the Respondents. The case of the Appellant is that the Appellant moved an application on 7-11-2006 to the Public Information Officer of the Chief Conservator of Forest seeking copy of the survey report and copy of deposit receipt under the Act. The Public Information Officer of the Chief Conservator of Forests informed the Appellant that the matter pertains to the North Goa Division Ponda, vide letter dated 15-11-2006 a copy of which was endorsed to the Deputy Conservator of Forest, North Goa Division Ponda, along with the copy of the application dated 7-11-2006 of the Appellant to supply the information at

the earliest. The Deputy Conservator of Forest, that is the Respondent No. 1 herein forwarded copy of the application to the Range Forest Officer, Panaji requesting to furnish the requested information vide letter dated 28-11-2006. The Range Forest Officer, Panaji submitted the information to the Respondent No. 1 vide letter dated 30-11-2006. As the report submitted by the Range Forest Officer was incomplete additional information was sought by the Respondent No. 1 vide letter dated 6-12-2006 followed by reminder dated 18-12-2006 and on the receipt of the said report from the Range Forest Officer the Respondent No. 1 informed the Appellant to collect the certified copy and the deposit receipt on payment of Rs. 2/- vide letter dated 27-12-06.

2. In the meantime the Appellant preferred an appeal before the Respondent No. 2 on 14-12-2006 since the information sought was not provided within the specified time of 30 days, presuming that his request stood refused. The Appellant received the notice of the hearing before the Respondent No. 2 informing that the hearing of the Appeal was fixed on 15-02-2007 at 11.30 a.m. In response thereof the Appellant informed the Respondent No. 2 that the time limit provided for the disposal of appeal was over and the notice of the hearing has been received after the expiry of the period as laid down in section 19(6) of the Act. Since both Respondents failed to discharge their statutory duties as laid down in the Act within the statutory period, the Appellant filed the second appeal before this Commission on various grounds as set out in the Memo of Appeal and the Appellant prayed that the penalty of Rs. 250/- per day delay be imposed on the Respondent No. 1 and Appellant be compensated to the extent of Rs. 5000/- for suffering harassment and mental torture.

3. Upon issuing the notices to the Respondents both the Respondents filed the replies. The Respondent No. 1 in his reply submitted that the application of the Appellant was received in his office on 23-11-2006 though the office of the Chief Conservator of Forest forwarded it vide letter dated 16-11-06 this is evident from the entry endorsed on the said application. The Respondent No. 1 submitted that the Respondent No. 1 immediately

sought information from the Range Forest Officer, Panaji, in terms of section 5(4), 5(5) and 6(3) of the Act vide letter dated 28-11-06 and the incomplete information was received from the Range Forest Officer, Panaji on 1-12-2006 and thereafter the complete information was received from the Range Forest Officer, Panaji on 20-12-2006 and the Appellant was informed to collect information vide letter dated 27-12-2006.

4. As regards the Respondent No. 2 is concerned, the Respondent No. 2 in his reply has submitted that the appeal filed by the Appellant on 14-12-06 reached the table of the Respondent No. 2 on 28-12-2006 that is after 14 days of the date of filing. The Respondent No. 2 raised certain queries and returned file on 4-01-2007. From 5-01-2007 the Respondent No. 2 was on official tour to Delhi and returned on 15-01-2007 and file reached on the table of the Respondent No. 2 again on 29-01-07 that is again after 14 days from the date of the return from the tour. Thus the file was kept pending initially for 14 days after filing without action and again there has been a delay of 14 days for putting up the appeal file to the Respondent No. 2. The Citizens are not concerned with the internal movement of the file. The powers conferred on the Public Information Officers and the First Appellate Authority are of quasi-judicial in nature and they are to be exercised by these authorities independently without taking any advice either from a superiors or subordinates. The procedure followed by the Respondent No. 2 in handling this appeal filed by the Appellant, was not proper. The said appeal has been dealt with like other administrative matter. The queries raised by the Respondent No. 2 on the file were also not proper under the provision of section 19 of the Act. The Respondent No. 2 has also stated that he was appointed as First Appellate Authority (FAA) vide notification dated 5-07-06 and as such he was not well acquainted and conversant with the role of the FAA visa-vis the powers under the Act. He therefore submitted that the delay in taking up the matter for hearing on the part of the Respondent No. 2 was not deliberate and there was no malafide intention behind it.

5. Admittedly, there has been a delay in providing the information to the Appellant by the PIO and delay in disposing off the first appeal by the

Respondent No. 2. As far as the Respondent No. 1 is concerned from the records, it is seen that the information was available with the Range Forest Officer, Panaji who has not provided the complete information to the Respondent No. 1 who has to also send the reminder to the Range Forest Officer. Therefore, there has been a delay on the part of the Range Forest Officer, Panaji in providing information to the Respondent No. 1 which has consequently caused the delay. We therefore, treat the Range Forest Officer, Panaji as the PIO in terms of sub-section (5) of section 5 of the Act for contravening the provisions of sub-section (1) of section 7 of the Act thereby causing the delay in providing the information to the Appellant.

6. We hope that the Respondent No. 2 will be careful in future in disposing off the Appeals within the time limit specified in sub-section (6) of section 19 of the Act independently without taking any advice except clerical assistance such as registration of appeals, issue of notices, communication of orders etc.

7. We have observed that the Appellant submitted the application on 7-11-2006 which reached the Respondent No. 1 on 23-11-06 that is almost after 15 days. Sub-section (3) of section 6 of the Act provides that the application should be forwarded within 5 days. Thus, there has been a delay in the office of the Chief Conservator of Forest in transferring the application to the Respondent No. 1. There has been also delay in providing the information to the Appellant. Hence, we are satisfied that the Appellant has been harassed in the present case and therefore, the Appellant has to be compensated adequately. We feel that the compensation of Rs. 1000/- will be fair and reasonable in the facts and circumstances of the matter.

8. In these circumstances, we pass the following order:-

### **O R D E R**

The Appeal is partly allowed. We treat the Range Forest Officer, Panaji as the Public Information Officer and direct him to show cause as to why the penalty of Rs. 250/- per day delay should not be imposed on

...5/-

him in terms of section 20 of the Act, on 24-07-2007 at 11.00 a.m. We also direct the Department of Chief Conservator of Forest, to compensate the Appellant to the extent of Rs. 1000/-, which is to be paid within a period of 2 months from the date of the receipt of orders. The prayer of the Appellant for imposing the penalty on the Respondent No. 1 is hereby rejected.

Inform the parties.

Sd/-  
Shri G.G. Kambli  
State Information Commissioner

Sd/-  
Shri A. Venkataratnam  
State Chief Information Commissioner

