

GOA INFORMATION COMMISSION

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

Appeal No. 07/2007-08/VP

Shri Hilario Sequeira
Saiba Vaddo, Piedade, Goltim,
Divar - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Secretary,
V. P. Goltim/Navelim,
Divar - Goa.
2. First Appellate Authority,
Block Development Officer,
Tiswadi Taluka,
Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 18/07/2007.

Appellant in person.

Respondents No. 1 and 2 also in person.

ORDER

This disposes off the second appeal dated 12/4/2007 filed by the Appellant alleging that neither the Public Information Officer nor the first Appellate Authority have disposed off his request for information dated 01/02/2007 and the first appeal dated 9/3/2007 respectively within the statutory time limit. Notices were issued to the parties and they have appeared in person.

2. The case of the Appellant is that in his original request dated 01/02/2007, he has raised nine points which were not replied to by the Public Information Officer. However, he has made a reference to a number of his earlier applications and the replies given by the Respondent No. 1 in the same matter of alleged illegal construction of a house by Shri Waman M. Naik in survey No. 5/10 in Goltim Village, Tiswadi Taluka. The case of the Appellant is that the house,

...2/-

though illegal, was given the H. No. 161 by the Goltim Village Panchayat and the electrical and water connections were given based on the NOCs by Village Panchayat. He has earlier approached the Block Development Officer of Tiswadi Taluka and according to him the Block Development Officer, who is presently the Respondent No. 2, did not take any action. The written statements were filed by the Block Development Officer who is the Respondent No. 2, and the Appellant. The statement by the Respondent No. 1 is not on record. However, the Block Development Officer stated that the information was already given by the Respondent No. 1 by his letter dated 28/2/2007. There is, however, no acknowledgment of the Appellant or proof of posting submitted by the Respondent No. 1. A copy of it is available served on the Appellant at the time of hearing of second appeal on 7/5/2007. As the information is submitted already by the Panchayat Secretary, both the Respondents prayed for dismissal of the appeal. Infact, in his reply Block Development Officer stated that the Commission has already disposed off the matter on 6/6/2007 which is not correct. On that day, the case was reserved for orders but again the process was issued based on a request by the Appellant.

3. The grievance of the Appellant is about the non-action by the Village Panchayat Secretary and the Block Development Officer for not demolishing the alleged illegal construction made by Shri Waman Naik. This is not a forum for deciding this issue. However, the Appellant stated in his written submissions that reply to point No. 3 of his request dated 01/02/2007 given by the Respondent No. 1 by his letter dated 28/2/2007 is wrong and misleading and hence, he wanted us to take punitive action against Respondent No. 1 as also to award him compensation.

4. The query No. 3 of request states as follows: -

“What steps have been taken to get the illegal construction demolished as per Panchayat Raj Act/Panchayat Building Rules in force”. The reply given by the Respondent No. 1 is “As to the date, it is not justified whether the alleged structure is illegal”. It is this reply which is misleading according to the Appellant. He comes to this conclusion based on two documents. The first one is a reply by the same Respondent No. 1 dated 20/10/2006 to an earlier query by the Appellant on 10/10/2006 which states as follows: -

“1. Construction plan and approval: Necessary search has been made with the concern file. However no such plan on approval documents are available/traced.

2. Since no plans, Licence documents are available or cannot be traced it is presumed that no permission might have been granted.

3. As per the records of village panchayat the house bearing No. 161 is registered in the name of Shri Waman M. Kannaik at Saibawado Goltim.”

5. Secondly, he has also cited an order dated 18/10/2006 passed by the then Dy. Collector and SDO, Panaji Mr. A. A. J. Fernandes. In that order, the learned Dy. Collector while deciding the case under the Land Revenue Code, dismissing the case before him, held that a part of the property to an extent of 50 sq. mts. Survey 5/10 held by Shri Waman Naik, father of Laxmikant Naik, in the same property (house 161), is used without prior permission from appropriate authority. He has given further directions that it should be regularized within six months from the date of his order obtaining various permissions from the authorities concerned. The Appellant relied on both these documents to state that the construction was already held to be illegal both by the Respondent No. 1 and the learned Dy. Collector, Panaji. In such a case, the present reply to query No. 3 of the request dated 01/02/2007 by the Respondent No. 1 is false and misleading. There is no statement from the Respondent No. 1 countering these allegations. An adverse inference, therefore, has to be drawn against Respondent No. 1. As per proviso to Section 20 of the Right to Information Act, it is for the Public Information Officer to prove that the information given by him is not misleading, incorrect and/or incomplete. We, therefore, direct the Respondent No. 1 to show cause as to why the Commission should not proceed against him under Section 20 of the Right to Information Act, 2005 for giving false and misleading information. The case to come up on 9th August, 2007 at 11.00 a.m. for further hearing on the question of imposition of the penalty.

(A. Venkataratnam)
State Chief Information Commissioner

(G. G. Kambli)
State Information Commissioner

/sf.
sf./km.

