

GOA STATE INFORMATION COMMISSION

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

Appeal No. 100/2006/Dy.Col.

Shri C. S. Barreto
H. No. 206, Mazalvaddo,
Assagao, Bardez - Goa.

..... Appellant.

V/s.

1. Public Information Officer
The Deputy Collector & SDO,
Office of the Deputy Collector/SDM,
Bardez, Mapusa - Goa.
2. First Appellate Authority
The Additional Collector - I (North),
Collectorate Building, Panaji - 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: 23/04/2007.

Appellant in person.

The authorized representative of Respondent No. 1 present.

Respondent No. 2 present.

ORDER

The Appellant approached the Public Information Officer by his request for information dated 16/1/2007 asking him information on only one question as to how the Public Information Officer has issued a conversion sanad to a foreign national by name Mr. Gerhard Franz Lencher without verifying whether he has complied with the requirements of Section 2(v)(i)B of FEMA, 1999. The Public Information Officer replied to the Appellant on 31/1/2007 to inform him under which section of Right to Information Act, 2005 (for short the RTI Act) the information is requested. In that letter asking information from the Appellant, the Public Information Officer mentioned about an earlier case of dismissal of the first appeal by the Additional Collector, the Respondent No. 2 herein. He has also threatened the Appellant that no action will be taken on his request for

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information and the application is "filed". Aggrieved by this aggressive reply of the Respondent No. 1 a first appeal was moved on 7/2/2007. The Respondent No. 2, herein, the first Appellate Authority, sent a notice on 14/3/2007 to both the Appellant and the Respondent No. 1 for personal hearing before him on 21/3/2007. On that day what happened was still more interesting. The first appeal was dismissed for non attendance of the Appellant and a small note was written on note sheet put by his office. As the Appellant did not recover any communication from the Respondent No. 2 within 30 days. The present second appeal is filed to this Commission by the Appellant on 12th March, 2007. On that day, the Respondent No. 2 has not even taken cognizance of the first appeal even though 30 days time limit was already over. As mentioned earlier, he has issued notice for personal hearing only on 14/3/2007.

2. Notices were issued to all the parties and the case was fixed for hearing before the Commission on 9/4/2007 on which day the Respondent No. 2 has filed his written statement and on subsequent date 17/4/2007, the Respondent No. 1 has filed his written statement.

3. The case of the Respondent No. 1 is that on the same subject, the Appellant has filed an earlier application on 13/9/2006, which he withdrew on 14/10/2006. He tried to confuse this Commission by creating an impression that the Appellant appealed to the first Appellate Authority against his order on the earlier application and not on his latter order dated 31/01/2007 on the second application dated 16/01/2007 of the Appellant. On the present appeal, he has nothing to say except that he wanted the Appellant to inform him "under which section of RTI Act the Appellant sought relief in revoking conversion Sanad". The Respondent No. 2 is more humble and claims to have dismissed appeal for default of appearance of the Appellant.

4. We have time and again held in our various orders that the citizen need not prove his locus standi and need not disclose why he seeks particular information. As we have seen above, the Appellant wanted to know why and how the conversion Sanad was issued to a foreign national who has not followed the proper procedure under a special law called FEMA, 1999. Nowhere in the request for information dated 16/1/2007 did the Appellant ask for revocation of the Sanad of the foreigner. This is a new invention by the Public Information

Officer before this Commission. Instead of giving a reply to the Appellant, the Public Information Officer has cross-questioned the Appellant to show him the section under which the application is made and also mentioned irrelevant correspondence about previous application, which was withdrawn. There is no need for a citizen to inform the Public Information Officer under which section of the RTI Act he is seeking the information. We have also held in the number of cases that the Public Information Officer is only supplying the information and is not adjudicating the disputes. Therefore, the question of the dismissal/ withdrawal of an earlier application even on the same subject has no bearing on a fresh application. It is very clear that the Public Information Officer wanted to cover his tracks by denying the information. It is precisely for this reason the RTI Act is enacted, namely, to fix accountability. There is, therefore, no justification for refusing information to the Appellant.

5. The order of the dismissal for default by the first Appellate Authority is also incorrect in the first place. He has not taken any action on the first appeal under the RTI Act within the statutory time period of 30 days. He had issued notice for personal hearing only 30 days after the due date for final order and after filing of the second appeal. The appeal rules framed for the Commission state clearly that an appeal cannot be dismissed even if the Appellant is absent. We have held, before, that these rules have to be followed by the first Appellate Authority as far as possible. We, therefore, find no merit on the order of dismissal of the first appeal passed by the Respondent No. 2. We hereby set aside the letter dated 31/1/2007 of Respondent No. 1 and the order dated 21/3/2007 of the Respondent No. 2. We direct the Public Information Officer to give specific reply as to how the Sanad was issued to the foreigner who has not complied with the requirements of law. This reply should be given within one week from the date of this order. Parties should be informed.

(A. Venkataratnam)
State Chief Information Commissioner

(G. G. Kambli)
State Information Commissioner

