

GOA INFORMATION COMMISSION

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

Appeal No. 101/2007-08/IFB

Shri. Pratap Mardolkar,
Shiv Sena - South Goa Chief,
H. No. 84, Alto Dabolim,
Mormugao - Goa.

..... Appellant.

V/s.

1. The first Appellate Authority,
The Chief Inspector,
Inspectorate of Factories & Boilers,
Altinho, Panaji - Goa.
2. The Public Information Officer,
Shri. R. T. Korgaonkar,
The Inspector of Boilers,
Inspectorate of Factories & Boilers,
Altinho, Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 28/02/2008.

Adv. Shivan Desai for Appellant.

Respondents No. 1 and 2 in person.

ORDER

This disposes off a second appeal filed against the order dated 15th October, 2007 of the Respondent No. 1 (hereinafter called the impugned order) passed under section 19(1) of the Right to Information Act, 2005 (RTI Act for short). The grievance of the Appellant is that the first Appellate Authority has not applied his mind, did not give proper reasons for dismissing the appeal of the Appellant. The impugned order exhibited at A-3 by the Appellant himself partly allows the first appeal in as much as certain directions were given to the Public Information Officer to obtain the information requested by the Appellant and furnish it to the Appellant. That part of the impugned order which dismisses the appeal relates to the information in respect of 4 points originally requested by the Appellant to the Public Information Officer, Respondent No. 2 herein on 28/06/2007. The impugned order states that the replies on 4 points has been given whereas the Appellant submits that it is not so. The perusal of

the original request and reply by the Public Information Officer reveals that the information asked for by the Appellant relates to 3 letters enclosed by him to the request for information originally addressed to the ZACL (not before us) filed by a trade union of that factory called ZACLEU. Neither the trade union nor the factory ZACL are parties to this appeal. The Public Information Officer in his reply dated 3rd August, 2007 stated that the Chief Inspectorate of Factories and Boilers did not receive any of the 3 letters enclosed by the Appellant in respect of which he is now seeking the information. Accordingly, he has not given any information on point No. 1 regarding the inspections conducted by the Chief Inspectorate of Factories and Boilers. Though no information was given to the Appellant the Respondent No. 1 presumed that they are given. The question was whether any inquiry/investigation/inspections was conducted by the Inspectorate on the issues raised by the trade union. Even if the letters of the trade union were not received by the Inspectorate earlier, the reply could be specifically given after they are enclosed by the Appellant to his original request. The information regarding inspections is a matter of record and the Public Information Officer could have enquired with the officer concerned and replied to the Appellant. He is directed to do so now.

2. The questions 2 and 3 of the original request are regarding the "safety trips system" installed in the factory and whether they are operational (working)". Even these two questions also are questions of fact, which were not replied by the Respondent No. 2. However, he has informed the Appellant that the working of the safety trip system in the plants of the ZACL are not checked up by the Department. He has replied that the Inspectorate takes cognizance of the safety audit conducted by the factory itself and certain external agencies. Whether this is a correct procedure or not is not for us to enquire under RTI Act. We take that the two questions are answered satisfactorily. The 4th question is regarding the employees working "in excess of the statutory rules", which was replied by the Public Information Officer that there are no official records on the subject. The 5th question is regarding the reply to the letters of the trade union addressed to the management and copy to the Inspectorate of Factories and Boilers. The Public Information Officer has not replied to this point whereas the first Appellate Authority thought that the reply was given already. However, as this is the correspondence between the factory management and their trade union, we do not consider that it is necessary and obligatory on the part of the Public Information Officer to furnish this information.

3. There is one point on which the first Appellate Authority has directed the

Public Information Officer to obtain the information from the ZACL and inform the Appellant that is regarding the contravention of Rule 120 of the Goa Factory Rules for the years 2004-05, 2005-06 and 2006-07. In response to this direction, the Public Information Officer has entered into correspondence with ZACL and after a lot of persuasion could get a reply from the factory that the data is maintained calendar yearwise and not financial yearwise and that there is no data for years 2004 and 2005 as there is no data prior to calendar year 2006; that there was no violation in the calendar year 2006. Regarding the calendar year 2007 they have not yet informed Public Information Officer and hence, he could not furnish information to the Appellant as directed by the first Appellate Authority. Obviously, it appears that the Inspectorate of Factories and Boilers is not maintaining data on this point. We are not aware whether they are required to do so or not as per Factories Act as neither the Appellant nor the Respondents stated either way. What we know is that there is no need for obtaining this information from factory and to give it by the Public Information Officer if it is not available with the Department. A specific reply to this point has to be given by the Public Information Officer whether or not the Inspectorate of Factories and Boilers is responsible for checking up violation of Rule 120 of Factories Rules and or whether any periodical return is to be submitted by the factories under any statute or rules framed thereunder. If so, the reasons for not having the record also should be informed to the Appellant. If there is no such statutory requirements, there is no need to obtain information from the factory only to inform the Appellant under the RTI Act. The Public Information Officer should categorically inform what is the correct position and who is responsible for checking violation by the factory under Rule 120 of the Factories Rules.

4. With these observations, we direct the Public Information Officer to give the information on point Nos. 1 and 4 of the original request dated 28/06/2007 of the Appellant within 15 days. As mentioned earlier, replies to points 2 and 3 have already been given by the Public Information Officer and reply to point 5 need not be given. Hence, the appeal is partly allowed.

Announced in the open court on this 28th day of February, 2008.

Sd/-
(A. Venkataratnam)
Chief Information Commissioner, GOA.

Sd/-
(G. G. Kambli)
State Information Commissioner, GOA.