

GOA INFORMATION COMMISSION

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

Appeal No. 107/2007-08/PWD

Shri. Allan Falleiro,
H. No. 400, Toleband,
Loutolim, Salcete – Goa.

..... Appellant/Complainant.

V/s.

The Public Information Officer,
Mr. R. M. Deshpande,
The Executive Engineer,
Public Works Department,
Works Div. XXV,
Fatorda, Salcete – Goa.

..... Respondent/Opponent.

CORAM:

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

(Per A. Venkataratnam)

Dated: 18/02/2008.

Appellant in person.

Respondent also in person.

ORDER

The Appellant, at the time of hearing, submitted that he does not have any grievance against the first Appellate Authority, namely, Superintending Surveyor of Works, P.W.D. Panaji. This case is about the non-execution of the order dated 13/9/2007 of the first Appellate Authority by the Public Information Officer, Shri. R. M. Deshpande, Executive Engineer, Works Division XXV, Fatorda. He has, thereafter, moved the first Appellate Authority about non-execution of the order by the Public Information Officer. The first Appellate Authority had given a direction dated 8th October, 2007 to the Public Information Officer to give the complete information to the Appellant. He has also warned Public Information Officer that he is liable for penalty to be imposed by the State Information Commission in case of non-compliance. As the second appeal can be filed before this Commission under section 19(3) of the Right to Information Act, 2005 (for short the RTI Act), can lie against the decision of the first Appellate Authority, the Appellant has

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prayed for the conversion of second appeal into complaint under section 18 of the RTI Act which we allow. Accordingly, the Appellant is considered as a Complainant and the Respondent as Opponent.

2. Notice was issued to the Public Information Officer. On the first occasion on 14th January, 2008, he asked for time as he wanted a Government Counsel to defend him. On the next date of hearing on 31st January, 2008 he has filed a written statement. Accordingly, the matter was fixed for orders.

3. The Complainant by his original request dated 24th July, 2007 asked the following information from the Public Information Officer/Opponent: -

“A) Names and designation of officers of the PWD that were involved in land acquisition and as well as those involved in illegally cutting of mangroves and land filling of 3 Kms. Stretch by constructing a road alongside Carmona River in Salcete Goa. What are the present projects being undertaken by these officers.

B) What is the action taken to comply with the GCZMA instruction to restore the land to its original condition and the mangroves to be reforested in the area reclaimed? What is the tentative date of completion of restoration and reforestation?

C) What is the total amount paid till date to M/s Thasma Constructions Pvt. Ltd. to carry out the construction of the road alongside the Carmona River in Salcete. What is the amount that will be spent to restore the land to its original condition.”

4. The Public Information Officer initially sent him an interim reply that he is collecting the information from subordinate officers and could not give the information within statutory time limit of 30 days. Thereafter, when the Complainant filed his first appeal and an order was passed by the first Appellate Authority on 13/9/2007, a reply was given by the Opponent on 4/10/2007. The replies are found to be not complete and relevant by the Complainant. Even before us, he maintained the same stand. It is, therefore, necessary to go into the questions posed and the replies given to find out whether the information given is complete and correct.

5. The question (A) is about the names and the designation of officers of the P.W.D. involved in land acquisition and illegally cutting of mangroves

and land filling of 3 Kms. alongside of the Carmona River. Initially, the Public Information Officer in his reply dated 5/10/2007, in compliance of the first Appellate Authority's order, has given his own name and name of the Asst. Engineer and others. This is clearly incorrect as the Complainant wanted the information in respect of the officers at the time of construction of the road, earlier. Thereafter, in his written statement before us at the time of hearing, he stated the names of the Executive Engineer and Asst. Engineer at that point of time as Shri. J. P. D'Souza and Shri. A. R. C. Fernandes and further submitted before us that the former is now a Superintending Engineer and the later has retired. Even this information as well as earlier incorrect information dated 5/10/2007 was not given by the Public Information Officer to the Appellant/ Complainant. The written statement itself was signed on 31st January, 2008 by some other officer "for the Executive Engineer". It is, therefore, clear that the Opponent/Public Information Officer is careless in his replies and or not willing to give the information which was already in his possession initially even on date of application namely 24/07/2007. This is clearly not a bonafide act of the Public Information Officer, Shri. R. M. Deshpande.

6. The question (B) is about the action being taken by the P.W.D. to comply with GCZMA instructions to restore the land to its original condition i.e. to reforest the area with mangroves. Further, the Complainant wanted the expected date of completion fixed for the restoration of the land. One should have thought that this is a simple question because when any work is undertaken by the P.W.D., an estimate is prepared, it is approved technically and financially and is either tendered for execution by a contractor or is undertaken departmentally. In either case, a probable date for completion of work is already fixed in advance by the Works Division. As against this, the Public Information Officer submitted before us that a report is submitted to the Government and unless further guidelines are received by him, he being the Junior Officer, is not in a position to give a reply. This is further adding insult to the injury. It is clear that he prepared some kind of report to the Government. The least he could have given the copy of that report or to take the relevant information from that report to answer the (B) question. It is not as if the restoration work is not taken up. In his earlier reply dated 4/10/2007, he said that the work of reforestation and the restoration of the land to its original use has already commenced and is in progress. He has even submitted compliance report to the Principal Chief Engineer on

19/9/2007. If that is so, we are not able to understand his inability to furnish the reply to the question (B). This again is an effort to avoid responsibility by him. The entire conduct of the Public Information Officer raises a presumption that either he is acting to save his own skin or the skin of his predecessor in office. Finally, the question (C) is about the amount paid to the contractor for the construction of road and the estimated amount required to restore the land to its original use. While earlier he has mentioned the amount paid to the contractor for constructing the road, he is not able to say even now what is the approximate amount and time required for the restoration of land. As we have observed earlier, this is a condition precedent before any work is undertaken by any Works Division of the P.W.D. We are, therefore, surprised that the Public Information Officer does not have this information. It is not as if some other Division is executing the work. It is his Division which constructed the road earlier destroying the mangroves and it is the same Division which is now restoring the land to its original use. It is clearly not acceptable to us that he does not have this information.

7. As per the above discussion, we find that the information given belatedly after the first Appellate Authority's order is incomplete for questions (B) and (C). We, therefore, direct the Public Information Officer to furnish this information within next 10 days from the date of this order.

8. The Complainant has also requested to this Commission to penalize the Opponent. We have already observed that the deemed refusal on the part of the Public Information Officer for not furnishing information in time, and to furnish the incomplete information after the first Appellate Authority's order does not appear to be bonafide. We, therefore, direct Shri. R. M. Deshpande, Executive Engineer to show cause why a penalty of Rs.250/- per day for delay from 24/08/2007 till the information is provided should not be imposed on him. Case to come up for compliance as well as reply to the show cause notice on 3rd March, 2008 at 11.00 a.m.

Pronounced in the open court on this 18th day of February, 2008.

Sd/-
(A. Venkataratnam)
State Chief Information Commissioner

Sd/-
(G. G. Kampli)
State Information Commissioner

