

GOA INFORMATION COMMISSION

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

Appeal No. 117/2007-08/GIDC.

Shri. Franky Monteiro,
H. No. 501, Devote,
Loutolim, Salcete - Goa.

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Appellant.

V/s.

1. The Public Information Officer,
Mr. A. D. Naik,
The Chief General Manager,
Goa Industrial Development Corporation,
Patto, Panaji – Goa.
2. The first Appellate Authority,
Mr. A. V. Palekar,
The Managing Director,
Goa Industrial Development Corporation,
Patto, Panaji – Goa.

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Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 17/03/2008.

Appellant in person.

Respondent No. 1. present in person.

Respondent No. 2 is represented by Law Officer, Shri. Mandar Shirodkar.

ORDER

This second appeal is filed by the Appellant against the impugned order dated 30/11/2007 passed by the Respondent No. 2 under the Right to Information Act, 2005 (RTI Act for short). By his application dated 11/09/2007, the Appellant has requested the Public Information Officer, Respondent No. 1 herein to provide the information to him on 7 points. The Public Information Officer has given the information on 5 points except the points 4 and 6 thereof. On a first appeal before the Respondent No. 2, the impugned order was passed directing the Respondent No. 1 to write to the third party whether the information provided by them to the GIDC can be given to the Appellant. He has fixed a date on 7th December, 2007 before which the letter was to be written by the Public Information Officer. He further directed the Public Information Officer, Respondent No. 1 herein, to take a final decision within one week after receiving the reply from the third party. We are not aware whether this was complied with by the Public Information Officer.

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2. In the second appeal before us, the grievances of the Appellant are that he was charged excessive fee of Rs.6200/- and thereafter, it was revised to only Rs.566/-. The remaining amount of Rs.5634/- was already refunded to him. However, the Appellant feels that this has been deliberately done to harass him and he had to actually borrow the money to pay to the GIDC. There is also a grievance about rejection of information on points 1, 2, 4 and 6.

3. The first query is regarding providing the certified copies of the project reports submitted by five companies mentioned by him. The Appellant wanted the project reports submitted alongwith the applications by the companies and not the applications proper. The Respondent No. 1 has supplied the certified copies of the applications. The project reports as were not given to the Appellant.

4. The second query is regarding whether the Central Government or State Government has approved the SEZ's of any of the above five companies if so to give him the certified copies of the said approvals. The Public Information Officer simply stated that the approvals are given by the Central Government. He did not mention whether the copies of the approvals are available with him or if available he refused to give them for any reasons.

5. The 4th question is about the diversion of the land of the GIDC acquired for industrial purpose in Phase IV at Verna and Loutolim, for the establishment of the SEZs. The 6th question is about the resolution passed by the GIDC to change the purpose of the acquisition from the industrial to SEZ purpose. Instead of giving specific replies to both the questions, the Public Information Officer has mentioned that the points are not clear and whether the documents can be obtained under the RTI Act. He further promised the Appellant that he will provide the same "if available" and if they are required under RTI Act. In fact, this reply is misleading and is an effort to avoid to provide the reply. The Public Information Officer should take a decision, whether right or wrong, as to the applicability of the provisions of the RTI Act to the request contained in paras 4 and 6. Further, he answered that he will provide the same "if available". It means that he has not made any efforts to search his records whether they are available or not. As we have already mentioned, there is nothing for him to get confused as regards to both the requests. Regarding directions, if any, given by the State Government to the GIDC to grant land for SEZs, there can be only two answers, namely, (i) whether any such directions are given or (ii) the directions are not given. This, of course, requires consultation among officials in the GIDC who are supposed to keep such records. The other request about the change of the purpose of acquisition from industrial to SEZ, is also very clear. The question is regarding the resolution taken by the GIDC Board of Directors. It is not about whether any such diversion is possible or required. All the resolutions taken by the Board of Directors of GIDC is a matter of

record which could have been verified by the Public Information Officer and reply given to the Appellant. Even if no resolution was taken, it does not automatically mean that the change of purpose of acquisition from industrial to SEZ is required. There is no need for hesitation by the Public Information Officer to state the factual position.

6. We, therefore, set aside the impugned order and direct the Public Information Officer to furnish the information regarding all the 4 questions 1, 2, 4 and 6 within a period of 15 days.

7. Regarding the overcharge by Rs.5634/- to the Appellant, the Respondent No. 1 submitted that it is a bonafide mistake. In order to avoid such mistakes in future, the Public Information Officer should calculate actual cost of information to be provided by him and enclose the costing sheet alongwith his letter informing the Appellant to pay the fees for the documents requested. Till the payment is made, he need not photocopy the records and keep them ready. The period between the intimation of cost and the payment by the citizen will be excluded from the maximum time limit of 30 days given to the Public Information Officer.

8. The appeal is partly allowed. We defer the decision as far as initiating the penalty proceedings are concerned against the Respondent No. 1 till the order is complied with. The case is posted for further hearing on compliance on 4th April, 2008 at 11.00 a.m.

Pronounced in the open court on this 17th day of March, 2008.

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

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