

GOA INFORMATION COMMISSION

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

Appeal No. 120/2007/VP

Mrs. Sangeeta Pednekar,
H. No. 477, Canca Abas wado,
Bardez - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Secretary,
Village Panchayat of Verla Canca,
Bardez – Goa.
2. First Appellate Authority,
The Block Development Officer,
Bardez Taluka, Mapusa – Goa.

..... Respondents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner

(Per A. Venkataratnam)

Dated: 12/06/2008.

Adv. Anthony D'Souza for the Appellant.

Adv. R. C. Chodankar represented Respondent No. 1. Respondent No. 2
absent. The then Public Information Officer Shri. S. K. Kambli in person.

ORDER

This disposes off the second appeal filed on 7/01/2008 against order dated 1/11/2007 (hereinafter referred as the impugned order) of the Respondent No. 2 who is first Appellate Authority under the Right to Information Act, 2005 (RTI Act for short). Notices were issued and the parties were represented as stated above. The brief facts are that the Appellant approached the Public Information Officer, Respondent No. 1 herein on 13/08/2007 asking for the copies of two resolutions of V.P. Verla Canca, Bardez namely, Resolution No. 6(25) dated 15/02/2002 and Resolution No. 3(7) dated 15/06/2002. An interim reply was given by the then Public Information Officer on 5/9/2007 stating that he is making a search of the records and will revert back to the Appellant in course of time. After having waited for little over one month, the statutory time period under the RTI Act to provide the information, the Appellant moved the Respondent No. 2 herein by his first appeal dated 21/09/2007. The first Appellate Authority who is duty bound to decide the matter within another 30

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days has issued notice on 10/10/2007 fixing the matter on 17/10/2007 before him. On the appointed date, in the presence of both the parties, first Appellate Authority has passed an order directing the Respondent No. 1 to furnish information within 10 days from the date of that order. He has also adjourned the case to 31st October, 2007 though it is not mentioned for what purpose. As a clear order was given by him allowing the first appeal by giving direction to the Respondent No. 1 to furnish the information, and even fixing a time limit, I presume that the further hearing on 31st October, 2007 is only for observing the compliance of his order. Thereafter, the proceedings before the first Appellate Authority took a curious turn. Instead of waiting till 31/10/2007, suddenly, the Respondent No. 2 took up the hearing on 22/10/2007 and the proceedings were recorded in the roznama. He noted that the Appellant was absent while the Respondent was present. However, no hearing could take place on that day as the Respondent No. 2 is not available in the office and the matter was further adjourned to 1st November, 2007. It is not mentioned what happened on 31st October, 2007 as earlier fixed. However, on 1st October, 2007, a further curious order was passed by the Respondent No. 2, in the following words "Respondent submitted a copy of the complaint filed by Respondent regarding the misplacement of the Resolutions proceedings book. Therefore, I am of the opinion that until the investigation take place by the police officials till that no information will be available therefore, I hereby adjourned the matter till the police officials finds it". This is the impugned order challenged in the second appeal.

2. On receiving the notice, Shri. Ratnakar Mayenkar, who is the Public Information Officer at present filed an affidavit-cum-reply on 10/03/2008 before us that he had taken charge only on 14/01/2008 and he is not aware of the contents of the request for information and that he was not given the records requested by the Appellant by the previous Secretary, Shri. Kambli. Thereafter, the Appellant moved an application on 27/03/2008 requesting to implead the former V. P. Secretary Shri. S. K. Kambli as a party. However, Shri. S. K. Kambli was not made a formal party, but a notice was issued to him to know the factual position.

3. Meanwhile, as Shri. S. K. Kambli is related to the State Information Commissioner, the State Information Commissioner has recused himself from the case and the matter is heard by the Chief Information Commissioner subsequently.

4. On the next date of hearing on 25/04/2008, Shri. S. K. Kambli filed an affidavit-cum-reply, and a copy of the charge report he has received from his predecessor while taking charge of the post of the Secretary at Village Panchayat Verla Canca, Bardez on 13/03/2007. A perusal of the charge report handed over by K. D. Pagui shows that the minutes book prior to 20/6/2002 was not handed over to Shri. S. K. Kambli. He, therefore, pleaded his inability to comply with the request for information. However, after he received the first order of the first Appellate Authority dated 17/10/2007, he filed a report of missing documents with the Police Inspector of Mapusa on 24/10/2007. Joining issue, the learned Adv. D'Souza argued on behalf of the Appellant that the Respondent No. 1 should have filed a police complaint immediately after receiving the request for information and not wait till the orders of the first Appellate Authority. As the intervening period between request dated 13/8/2007 and the date of the first order of the first Appellate Authority dated 17/10/2007 being insignificant, I ignore this argument of delay in filing the Police complaint. Thereafter, the learned Advocate argued that the complaint lodged with the police is not a complaint at all but is a letter informing the police that certain records are missing. A clear sentence to that effect in the letter No.VP/VC/F-1 2007-08/783 dated 24/10/2007 confirms this. It is mentioned therein that "This (letter) is for your(the Police Inspector's) kind information". It is the case of the Advocate that the Panchayat has not asked for any investigation in the first place and it is likely that police would not take cognizance of it as it is only a letter of information. According to him, the learned Block Development Officer, Respondent No. 2 is wrong in adjourning the case sine die till the police finds the proceedings books especially after a final order is passed by him earlier. He submitted that if this trend continues, all the Public Information Officers will escape with the excuse that the records are not traceable. He has also stated that every Resolution of the Panchayat is submitted to the Block Development Officer for information. So, if the Resolutions asked for by the Appellant, are not traceable in the Panchayat, they will be available in the office of the Block Development Officer.

5. I agree with the learned Advocate that the procedure followed by the first Appellate Authority, is not in accordance with the law. Having already allowed the appeal, I am not in a position to understand how the matter is adjourned sine die. I do not have the benefit of the views of the Block Development Officer as he has neither attended the hearing nor filed any reply nor clarified any matter. I, therefore, give the following directions to the Block Development

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Officer, the first Appellate Authority: -

- a) The Block Development Officer, Bardez should search his own office records and furnish the copies of the Resolutions asked for to the Appellant;
- b) Investigate and fix up the responsibility for the misplacement of the important records like the minutes books of the Village Panchayat Verla Canca and issue instructions to all the Panchayats in his jurisdiction for the safe custody of such important documents;

6. The Public Information Officer is directed to re-construct the records of the grant of the two separate House Nos. 477/A and 477/B in the names of Shri. Anant N. Shetgaonkar and Suhas N. Shetgaonkar from house tax register as well as "transfer of house tax files" which was handed over by Shri. Pagui to Kambli at item 15 of the charge report dated 13/03/2007. The compliance report should be submitted to the Commission within a period of one month from the date of this order.

7. In view of the above discussion, the appeal is allowed. The impugned order dated 01/11/2007 is set aside.

Announced in the open court on this 12th day of June, 2008.

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