

GOA INFORMATION COMMISSION

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

Appeal No. 123/2007-08/Dy. Col.

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

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Appellant.

V/s.

1. Public Information Officer,
Shri. Sanjeev C. G. Dessai,
The Deputy Collector (Revenue),
South Goa, South Collectorate Building,
Margao – Goa.
2. First Appellate Authority,
Mr. G. P. Naik,
The Collector & District Magistrate,
South Goa, South Collectorate Building,
Margao - 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: 15/04/2008.

Appellant present in person.

Adv. Mrs. Harsha Naik present for Respondents.

ORDER

This disposes off the second appeal dated 15th January, 2008 filed by the Appellant against both the Respondents. The brief facts are that on 13th September, 2007, Appellant has approached the Respondent No. 1 for information on 4 points. The Respondent No. 1 has rejected the request by his rather elaborate letter dated 28/09/2007. At the same time, he has offered to make available his office records to the Appellant for inspection. The ground of rejection is that information asked is not covered by the definition of "information" under section 2(f) of the Right to Information Act, 2005 (hereinafter referred to as the RTI Act for short). On a first appeal by the Appellant before the Respondent No. 2, the Respondent No. 2 by his order dated 21st November, 2007 directed the Public Information Officer, Respondent No. 1 herein, "to provide the information which is available/held in any electronic form including material data". By a further letter dated 7th December, 2007, the Public Information Officer, Respondent No. 1 herein, has reiterated his stand that the information requested is not available/stored and hence, he is not in a position to issue certified copies under the RTI Act. Against the impugned order of Respondent No. 2 and the subsequent rejection of Respondent No. 1, the present second appeal is filed.

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2. Notices were issued and the written submissions were placed on record by all the parties. In addition, the Appellant has also submitted an unattested and unsigned Writ Petition filed by him and two others by way of P.I.L. in the Hon'ble High Court of Bombay, Panaji No. 146/2007 wherein an order granting ad-interim relief by the Hon'ble High Court was placed on record.

3. It is necessary to get into the type of information asked and the stand of the Respondents in denying the information before we arrive at any conclusion. The first request is for providing a certified copy of letter of Sarpanch of Village Panchayat of Loutolim dated 14/8/2007 addressed to the Collector requesting "to scrap the 20 point programme in Loutolim village". The stand of the Respondent No. 1 is that there is no such letter dated 14/8/2007 from the said Sarpanch. However, he admitted having received a letter dated 25/8/2007. He did not give this letter as it was not asked. However, he did not also say what is the subject matter of the letter dated 25/8/2007. It is contended by the Appellant that it is the same letter which he has asked because the subject matter is same though the date of the letter does not tally. We, therefore, hold that this request is wrongly rejected by Respondent No. 1 and direct the Respondent No. 1 to give a copy of this letter immediately, in any case, not later than 5 days from the date of this order.

4. The second query is "whether illegal occupants in 20 point project in Seraulim village have been regularized or are in the process being regularized". Obviously, the authority to allot land under the 20 point programme is the Collector of the District, the Respondent No. 2 herein. The land is identified by the Collector, the allotment is made by the Collector according to the guidelines of the scheme. The legality or otherwise of occupation of such land at Seraulim village is a matter for the Collector to determine and take action either to evict or regularize their occupation. It is in this context, a specific information about the Seraulim village and the action that the Collector has taken regarding the illegal occupants of the 20 point programme is asked. The Appellant asked for the status of the action and not the reasons for taking action one way or other. It is not, therefore, correct for both the Respondents to reject the request on the grounds that no such records exist in his office and hence, no certified copy can be given of the documents. On the other hand, we are also not able to agree with the contention of the Respondent No. 1 that it is not information as defined under section 2(f) of the RTI Act. It is not denied that there is no 20 point programme project in Seraulim village. If there is such a project, the list of all allottees is bound to be in the office of Respondent No. 2. There is a document produced by the Appellant of a copy of the letter dated 18/10/2007 of the Under Secretary (Revenue – II), Government of Goa directing the Respondent No. 2 to "cancel the allotments of all 85 allottees who are not in occupation at present after following due process of law" and "not to disturb possession of illegal occupants". It is in this context, the present question No. 2 has to be seen what further steps the

Respondent No. 2 has taken and to provide the information to the Appellant. All he is asking is whether the proceedings of regularization of the present occupants found to be in illegal possession, is being taken up by the Respondent No. 2 or not. To deny this information on the ground that there is no document on record is not in accordance with the objectives of the RTI Act. We, therefore, direct the Public Information Officer to give a specific reply of the steps being taken to regularize the illegal possession of land of the occupants in the 20 point programme of Seraulim village. This information also be given to him within the next 5 days as it does not require collection of any material from any source.

5. The third question is regarding the terms and conditions of the handing over the land in Verna and Loutolim villages for housing project of workers of the said villages by the Collector to the GSIDC. This question also is quite simple and straight forward. It is not denied by the Respondents that they have handed over certain land to the GSIDC for development. They can, therefore, inform the Appellant what are the terms and conditions of the handing over of the land and likely financial requirement for the development. Even if no terms and conditions are worked out and financial burden is not identified, this has to be informed to the Appellant in as many words. We are not inclined to agree with the Respondents that as there is no document, no certified copy can be given. The Appellant has not asked for any document but sought only information specifically.

6. The 4th question is regarding the authority for preparing a lay out of the plot of land for locating the allottees under 20 point programme. Obviously, such a settlement has to have the roads and open places and some other common facilities and requirements have to be planned and developed. The Appellant is asking the names of the technical authority who is preparing such lay outs. This also can be replied though it is a general question, as the guidelines of the allotment of land and its development are already laid down by the Government and implemented by the Collector. This is not a specific information of a particular locality but is a part of the scheme for the development of the land for locating the allottees of 20 point programme. This also requires furnishing of reply.

7. It is further contended by the Respondent No. 1 that there is a stay by the Hon'ble High Court in the matter. The Appellant has already submitted an unsigned copy of the Hon'ble High Court's order which has stayed the allotment of the plots to the persons enlisted by the Respondent No. 6 in the Writ Petition No. 146/2007 namely, Shri. Alex Sequeira. It does not stop the Respondents from giving information about the correct status of the position to the Appellant.

8. We are, therefore, not in a position to agree with the Respondents that the information requested by the Appellant is not information within the definition of the RTI Act. We, therefore, direct the Public Information Officer, Respondent No. 1 herein, to furnish all the information within next 5 days.

Pronounced in the open court on this 15th day of April, 2008.

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

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