

## GOA INFORMATION COMMISSION

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

### Appeal No. 127/2007-08

Shri R. G. Furtado,  
F 3/A1, Virginkar Residency,  
Ambaji, Fatorda - Goa

... Appellant

V/s

1. first Appellate Authority,  
The Director,  
Department of Information & Publicity,  
Panaji - Goa

.... Respondent No. 1

2. Public Information Officer  
Shri Ludgero Saldanha,  
Department of Information & Publicity,  
Panaji - Goa

... Respondent No.2.

### **CORAM:**

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

(Per G.G. Kambli)

Dated: 24/04/2008.

Appellant in person  
Adv. K. L. Bhagat for the Respondents

### **ORDER**

We will dispose off this second appeal filed by the Appellant against the Respondents under subsection (3) of section 19 of the Right to Information Act 2005 (for short the Act). The facts of the case are that, the Appellant filed an application before the Respondent No. 2 on 27/09/2007 seeking information as regards the implementation of the provisions of section 4 of the Act. As the Respondent No. 2 failed to provide the

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information sought by the Appellant within the prescribed time limit as laid down in section 7 (1) of the Act, the Appellant preferred the Appeal before the Respondent No. 1 on 12/11/2007. Subsequently, the Respondent No. 2 vide his letter dated 12/12/2007 forwarded a copy of the letter dated 7/12/2007 whereby the Respondent No. 2 requested the other Public Authorities to furnish the information sought by the Appellant within a week's time. The Respondent No. 2 also provided the copy of the certain information regarding the compliance of the provisions of section 4(1) (a) of the Act.

2. Aggrieved by the said reply of the Respondent No. 2 and as the Respondent No. 1 did not dispose off the appeal filed by the Appellant within time limit laid down in sub-section (6) of section 19 of the Act, the Appellant has filed the present appeal before this Commission on the various grounds as set out in memo of appeal. Both the Respondents have filed their replies. The Respondent No. 1, in his reply submitted that he was appointed as the First Appellate Authority of the Department of Information & Publicity on 24/01/2008 and the Appellant had filed the first appeal during the tenure of Shri Menino Peres who should be impleaded as a party in the second appeal who has been now posted as Director of Official Languages. The Respondent No. 1 also stated that if permitted, he would hear the party and pass the appropriate order. The Respondent No. 2 also filed his written reply. In his reply, the Respondent No. 2 submitted that whatever information was available in the office of the Public Information Officer was furnished to the Appellant vide letter dated 12/12/2007. However, he submitted that by mistake he furnished the information under section 4(1)(a) of the RTI Act, instead of section 4(1)(b) of the RTI Act. The Respondent No. 2 also submitted that the information sought by the Appellant was not readily available in the Department and therefore, the Respondent No. 2 had to collect the information from Public Authorities and provide the same to the Appellant.

3. The Appellant vide his application dated 27/09/2007 has sought the information on various points regarding the implementation of provisions of

section 4 of the RTI Act. As per sub-section (1) of the said section 4 of the Act every Public Authority shall maintain all its records duly catalogued and indexed in the manner which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated. Infact this provisions are required to be implemented by every Public Authority. In the Commission's first Annual Report which is submitted to the Government has also, interalia, recommended as follows:

“To issue directions to all the Public Authorities to maintain all the records duly catalogued and indexed in a manner and the form which facilitates the right to information and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources computerized and connected to the network all over the country on different system so that access to such records is facilitated (Section 4 (1)(a))”.

4. The Act has cast an obligation on every Public Authority to maintain all its records duly catalogued and indexed. The Commission did not receive any feedback from the Government as to whether any directions have been issued to the Public Authorities, to implement the recommendation of the Commission. The provisions of section 4 are mandatory in nature and further it is the obligation of every Public Authority to comply with the provisions of section 4 of the Act. The Appellant wanted to know whether any guidelines/format/template/models have been issued to the Public Authorities for arrangement, management, maintenance and preservation of Public records of each Public Information Officer. As informed no guidelines have been issued to the Public Authorities.

5. The Respondent No. 2 has also informed the Appellant in the reply to point No. 3 that besides the Public Records Act, 1993 and RTI Act Government of Goa does not have any Act / Rules etc. Being so, information on points No. 3 stand furnished to the Appellant. By question

No. 4, the Appellant has sought the information on 7 points. This information sought under points No. 4 is regarding the maintenance of records by the Public Authorities. The Department of Information & Publicity is not expected to know the procedure followed and adopted by various Public Authorities for the arrangement, management, maintenance, preservation & destruction of records and the Officers responsible for the same. The Respondent No. 2 has already informed that no, guidelines, formats, templates are laid down for maintenance of records by the Govt. of Goa. At questions No. 5,6,7,8, 9, 10 the Appellant sought the information from the Respondent No. 2 regarding the compliance of the provision of section 4 (1)(a), 4(1)(b) and 4(1)(d) of the Right to Information Act and also sought the list of the Public Authorities, which have complied with requirement of computerizing records and have not complied with computerization of the records. Respondent No. 2 has also furnished the list of Public Authorities which have maintained the information either in the form of CD or floppy as per section 4 of the Act. The Respondent No. 2 also provided the information of the Public Authorities, which have complied or not complied with provision of section 4(1)(a) of the Act. The Respondent No. 2 has also annexed the copies of the Circular issued to the Public Authorities to comply with the provision of section 4(1)(b) of the Act.

6. This Commission in its first Annual report, available on its website "<http://goasic.gov.in>", has also recommended to the Govt. that all the Public Authorities be directed to compile and publish on the website the particulars of the department/organization as required by section 4(1)(b) of the RTI Act within 3 months. As stated earlier, the provisions of section 4 of the Act are mandatory in nature and every Public Authority is bound to comply with these provisions of the Act. The Department of Information & Publicity being incharge of the implementation of the Act as an Administrative Department has to ensure that all the Public Authorities covered under the Act comply with the statutory and mandatory provisions of the Act. The said department shall monitor, from time to time, the implementation of the Act.

7. Infact the Commission in its order dated 30/03/2007 passed in Complaint No. 01/2006 has also given direction to the Director of Information & Publicity who was Respondent No. 2 therein to ensure the compliance of the provision of section 4(1)(b) of the Act. It is unfortunate that Director of Information & Publicity who is the First Appellate Authority and incharge of the implementation of the RTI Act, has not discharge the statutory functions under the Act as he being the first Appellate Authority ought to have disposed appeal filed the by the Appellant, within the time limit. Thus he has shown utter disrespective to the Act and, therefore, he had no moral right to issue directions to other Public Authorities when he himself has not complied with the statutory provisions of the Act. The present Director as the First Appellate Authority has shown his willingness to dispose the present appeals filed by Appellant. However, there are no provisions in the Act to remand the case back to the first Appellate Authority.

8. In the instant case, the Appellant has sought the information regarding implementation of section 4 (1)(a) and implementation of section 4(1) (b) of the Act. We, therefore, direct the Respondent No. 1 to publish the list of the Public Authorities which have complied with the provisions of section 4(1)(a) and 4(1)(b) of the Act within the period of 3 months. Similarly we also direct the Respondent No. 1 to prepare the list of the Public Authorities, which have not yet complied with the provisions of section 4(1)(a) and the section 4(1)(b) of the Act and submit the list thereof to this Commission within the period of 3 months. We also direct the Respondent No. 1 to publish this list on website so that citizens can get easy access through their website to this list. With these observations, the Appeal stands disposed off.

Announced in the open court on this 24<sup>th</sup> day of April 2008.

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

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

