

GOA INFORMATION COMMISSION

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

Appeal No. 128/2007-08/Agri.

Shri Pratap Mardolkar,
Shiv Sena- South Goa Chief,
H. No. 84, Alto Dabolim,
Mormugao - Goa

..... Appellant

V/s

1. The First Appellate Authority,
The Director,
Directorate of Agriculture,
Caranzalem, Panaji – Goa.
2. Public Information Officer
Shri Ulhas B. Pai Kakode,
The Deputy Director of Agriculture (Hort.),
Directorate of Agriculture,
Caranzalem, Panaji – Goa.

..... Respondents.

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.

Both the Respondents in person.

J U D G M E N T

This second appeal is directed against the order dated 10/01/2008 passed by the Respondent No. 1 herein in Appeal No. 1/21/251/2007-08/D.Aagri/897 under sub-section (3) of section 19 of the Right to Information Act, 2005 (for short the Act).

2. In brief, the facts of the case are that the Appellant vide his application dated 22/10/2007 sought the information from the Respondent No. 2 on 16 points. The Respondent No. 2 furnished the information to the Appellant vide letter dated 9/11/2007. Having not satisfied with the said reply of the Respondent No. 2, the Appellant preferred an appeal before the Respondent No. 1 who by his order dated 10/01/2008 disposed off the appeal giving directions to the Respondent No. 1 to furnish the details in respect of point No. 1 before

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18/01/2008. As regards the information furnished by the Respondent No. 2 on the other points the Respondent No. 1 came to the conclusion that the Respondent No. 2 has provided available information and that there is no cause to believe that the information provided was incomplete and vague.

3. Upon issuing the notices both the Respondents filed the replies. In the present case, the grievances of the Appellant are in respect of the information provided by the Respondent No. 2 on the points at Sr. No. 7, 8, 9, and 15 of the application dated 22/10/2007. The Appellant at point No. 7 has sought the following information: -

“Are the Fertilizers, stored in the godowns notified to the Registering Authority by Zuari, to be sold in the State of Goa only?”

The Respondent No. 2 furnished the information on this point No. 7 as follows: -

“The godowns are for the general storage of fertilizer.” According to the Appellant the information provided by the Respondent No. 2 on this points is incomplete or vague. In the reply filed by the Respondent before us, the Respondents have clarified that no godowns are earmarked for a fixed type of fertilizer and that there are no fixed godowns for fertilizers for sale/disposal for State of Goa.

4. The Respondent No. 2 having clarified that the godown notified by the Zuari Agro Chemicals Ltd. are not earmarked only for the sale in Goa but it is for the general purpose which also includes sales outside the State of Goa. Hence, we do not find anything wrong in the reply given by the Respondent No. 2 on the point No. 7.

5. Coming now to the point No. 8, the Appellant sought the information regarding the total quantity (yearwise/fertiliserwise) stored in the godown attached to the sale depot from 1/1/2004. The Respondent No. 2 furnished the reply stating that the information is not available. In the reply filed by the Respondent No. 2 before us, the Respondent No. 2 pleaded that no such information is available in the office records of the Respondents and therefore, the Respondents cannot create and provide the same to the Appellant.

6. Shri. R. G. Furtado, authorized representative of the Appellant contended that the fertilizer has been declared as an essential commodity for the purposes of Essential Commodities Act, 1955. Further, the trade, price, quality and distribution of fertilizers are regulated under the Fertilizer Control (Order), 1985 in order to secure the equitable distribution of fertilizers in the States of India. Shri. Furtado further submitted that the manufacturers are required to notify the quantities manufactured and stored in a notified godown and therefore, the Respondent No. 1 being registering authority under the aforesaid order, has an access to the information sought by the Appellant under the said Act and the order. He submitted that the word "information" as defined in clause (f) of section 2 of the Act includes the information relating to any private body which can be accessed by a public authority under any other law for the time being in force. He, therefore, submitted that the Director of Agriculture is a public authority and under the Essential Commodity Act, 1955 and the order issued thereunder, the Director of Agriculture has an access to the information held by the Zuari Agro Chemicals Ltd. and therefore, Respondents ought to have obtained the information from the Zuari Agro Chemical Ltd. and provided the same to the Appellant. His contention is that it is not necessary that the public authority shall provide the information only if it is held by the public authority.

7. We agree with the contention of the authorized representative of the Appellant that as per the definition of the term "information", it includes the information relating to any private body to which the public authority has an access under any other law. The Essential Commodity Act, 1955 is a law and as per the orders issued thereunder, the registering authorities are required to be informed by the manufacturers, traders and dealers dealing with the fertilizers. As per the said fertilizer control orders, numbers of conditions are laid down which are to be observed and complied with. It is not disputed that the Respondent No. 1 do not have an access to the information sought by the Appellant at point No. 7. We, therefore, direct the Respondent No. 1 to obtain the information from the Zuari Agro Chemicals Ltd. and provide the same to the Appellant through Respondent No. 2 within a period of one month from the date of this order.

8. At point No. 9, the Appellant requested the Respondent No. 2 to inform the total rent paid to the owners of the godown (yearwise) by M/s. Zuari Agro Chemicals Ltd. from 1/1/2004 till dated (22/10/2007). The Respondent No. 2 has informed that this information is not available. The Respondent No. 2 also

clarified that this information does not form part of the order issued under the Essential Commodities Act and therefore, the Respondent No. 2 expressed his inability to provide the information. We agree with the Respondent No. 2 that the M/s. Zuari Agro Chemicals Ltd. is not required to inform the rent payable by them to the landlords from whom they have taken the godown on lease. The Appellant also failed to show us any provision of the Essential Commodity Act or the orders issued thereunder that the manufactures, traders or dealers are required to inform the amount of rent payable by them to the landlord of the premises taken on lease to the Registering Authority. Hence, the Respondent No. 2 has rightly informed the Appellant that the information on point No. 9 is not available.

9. The Appellant has sought following information at point No.15: -

“15. As per the third proviso of clause 21 of the FCO 1985 in case fertilizer bags are cut, torn or damaged condition during transportation or mishandling during loading or unloading operations, the manufacturer of such fertilizer may under intimation to the state Government and the Central Government, repack the fertilizer in new bags or restandarised the quantity in terms of declared weight

- a) Has Zuari repacked/restandarised fertilizers since 1.1.06?
- b) Furnish the yearwise/fertilizerwise quantity of fertilizers repacked/restandarised since 1.1.06?
- c) Has intimation been sent to the State Government?
- d) Has intimation been sent to the Central Government?
- e) Furnish the name and address of the CPIO of the Central Government from whom I can obtain the above/any other information regarding compliance of the FCO 1985?”

As regards (a), the Respondent No. 2 has informed the Appellant in the negative that means that M/s. Zuari Agro Chemicals Ltd. has not repacked, restandarised fertilizer since 1/1/2006. Since the reply to the (a) is in the negative, the replies to the (b), (c) and (d) does not arise. Hence, the Respondent No. 2 has rightly informed the Appellant on these three points. It is not the case of the Appellant that the Zuari Agro Chemical Ltd. has repacked/restandarised the fertilizer since 1/1/2006. As regards the point (e), the Respondent No. 2 has provided the information.

10. In view of the above, we pass the following order: -

ORDER

Appeal is partly allowed. The Respondent No. 1 is directed to obtain the information on No. 8 and provide the same to the Appellant through the Respondent No. 2 within the period of one month from the date of this order.

Announced in the open court on this 24th day of April, 2008.

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

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