

GOA INFORMATION COMMISSION

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

Appeal No. 136/2007-08/

Shri Premanant G. Phadte,
46/E, Arlem – Raia, Salcete – Goa.

.....

Appellant.

V/s.

The Public Information Officer,
Executive Engineer, WD-VI
PWD, Fatorda, Margao,

.....

Respondent No. 1.

The First Appellate Authority,
SSW, PWD, Altinho,
Panaji – Goa.

.....

Respondent No. 2.

The Public Information Officer,
The Secretary, Village Panchayat,
Raia, Salcete - Goa.

.....

Respondent No. 3.

The First Appellate Authority
BDO, Salcete Taluka,
Margao- Goa.

.....

Respondent No. 4.

CORAM:

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

(Per G. G. Kambli)

Dated: 08/05/2008.

Appellant in person.

Respondents No. 1 & 2 absent.

Shri Shankar Naik, Gram Sevak and Shri Girish Chari, L.D.C. represented
the Respondent No. 4.

Respondent No. 3 absent.

JUDGMENT

The present 2nd appeal is directed against the 4 Respondents. Respondent No. 1 and 2 are the Public Information Officer and First Appellate Authority of the Public Work Department, respectively. The Respondent No. 3 and 4 are the Public Information Officer and First Appellate Authority respectively of the Village Panchayat Raia, Salcete - Goa.

...2/-

2. The Appellant has filed the present common appeal against these two separate and independent public authorities. In fact, each application gives separate cause of action for which separate first appeal and 2nd appeal need to be filed. The Appellant has joined 2 different independent Public Authorities in the common appeal of different applications. Hence, the present appeal itself suffers for misjoinder of parties and causes of actions and thus liable to be dismissed in limine.

3. We will first deal with the appeal against the Respondents No. 3 and 4. The Appellant herein moved an application dated 20/06/2007 seeking information under the Right to Information Act, 2005 (for short the Act) on 5 points regarding the development of Road and gutters from the house of Shri Kishor Raikar to Shri Premanand Phadte. The Respondent No. 3 by his letter dated 18/07/2007 informed the Appellant that the Panchayat has decided to develop the road and the gutter and passed a resolution No. 46/F and 46/E to that effect which were forwarded to the Executive Engineer, PWD, Margao. Having not satisfied with the reply of the Respondent No. 3, the Appellant preferred an appeal before the Director of Panchayat, which was forwarded, to the Respondent No. 4 for disposal. The Respondent No. 4 passed an order on 20/09/2007 and held that the Respondent No. 3 has already provided the information to the Appellant, which is available. In the meantime, the Respondent No. 3 has also provided some information to the Appellant vide letter dated 12/09/2007 and 20/9/2007.

4. It will be seen from the above that the Respondent No. 4 had passed an order on 20/09/2007 and the present 2nd appeal is filed before this Commission on 03/03/2008 i.e. after 164 days from the date of passing of the order. As per the provisions of section 19 (3) of the Act the 2nd appeal against the decision of the FAA lies to this Commission within 90 days. The present appeal has been filed after 164 days and thus there is a delay of 74 days from the date of the order of the Respondent No. 4, which has not at all been explained by the Appellant. On this count alone, the appeal against the Respondents No. 3 and 4 is barred by law of limitation.

5. Coming now to the appeal filed against the Respondents No. 1 and 2, the Appellant by his application dated 26/10/2007 requested the Respondent No. 1 to provide action taken report on the resolution of Village Panchayat of Raia forwarded by the Respondent No. 3 to the Respondent No. 1 regarding the development of road and gutter in question. As the Respondent No. 1 failed to provide the information to the Appellant, the Appellant has approached the Respondent No. 2 by way of appeal dated 5/12/2007, which was disposed off by the Respondent No. 2 vide his order dated 18/12/2007 directing the Respondent No. 1 to provide the correct and appropriate information on the application dated 26/10/2007. In fact as per the records as available on the file the Respondent No. 1 vide his letter dated 29/11/2007 had informed the Appellant that the work on improvement on road and gutter are taken up based on the priority received from the local MLA/PWD Minister. Since, the work in question is not in the priority list the same cannot be taken up. By another letter dated 7/01/2008, the Respondent No. 1 also informed the Respondent No. 3 with a copy to the Applicant that the work of improvement of Road and gutter in question is not figuring in the priority list of 2007-08 and hence, he expressed his inability to take up the work. The Respondent No. 1 also requested the Respondent No. 3 to take up the work under Village Panchayat/RDA or Zilla Panchayat fund. There is nothing on record to show whether the Road and gutter in question belong to the Government or Village Panchayat. The fact that the Respondent No. 1 has informed the Respondent No. 3 to take up the work from the fund of VP/ZP implies that the Road does not belong to the PWD.

6. On 30/04/2008, Mrs. Nilima Narvekar, Government Counsel filed memo of appearance on behalf of the Respondent No. 1 and also filed written synopsis of reply/arguments.

7. The main grievances of the Appellant is regarding the development of Road and Gutter. The Respondent No. 1 has clearly informed the Appellant and expressed inability to take up the work from the PWD funds as the said work is not found in the priority list. The Respondent No.1 has given

suitable reply to the Appellant and no further information could be given from his level. We, therefore, do not find any merit in the 2nd appeal. Consequently, the following order is passed.

ORDER

The 2nd appeal filed by the Appellant is hereby dismissed.

Pronounced in the open court on this 8th day of May, 2008 at 11.00am.

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

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

Adv Mrs Nilima Narvekar filed her memo of appeal along with written synopsis of reply/arguments. The matter was already heard on 23/04/2008.