

GOA INFORMATION COMMISSION

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

Appeal No. 14/2007/

Shri Pandu Shetgaonkar
Alias Pandurang Shetgaonkar
R/o Munangwada, Morjim,
Pednem, Goa.

....

Appellant

V/s.

1. The Public Information Officer,
Dy. Collector & SDO,
Mapusa, Bardez – Goa.

....

Respondent No. 1

2. First Appellate Authority,
Additional Collector,
North Goa District,
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: 17/07/2007.

J U D G M E N T

This is a 2nd appeal filed by the Appellant under sub-section (3) of section 19 of the Right to Information Act 2005 (for short the Act) against the judgment and order dated 2/5/2007 passed by the Respondent No. 2 in appeal No. 31/152/2007/RTA (hereinafter referred to as the impugned order).

2. The facts of the case, in brief, are that the Appellant vide his application dated 15/11/2006 had sought the information on the following 5 points from the Respondent No. 1 under the Act.

“1. Copy of Memo of Appeal in case No. ADC/LRC/MUT/APL/2/2000.

...2/-

2. Copy of Judgment and order passed in the above Appeal.
3. Copy of Roznama in the above Appeal.
4. Copy of Memorandum dated 20/10/2006 issued to A. K. Shri Redkar, attached to office of Mamlatdar of Pednem.
5. Whether Shri. Redkar had appeared before you on 27/10/006 and what explanation he had submitted.”

3. The Respondent No. 1 vide reply dated 15/12/2006 informed the Appellant that inspite of the tremendous efforts, the file bearing No. ADC/LRC/MUT/APL/2/2000 is not traceable and as soon as it is traced the Appellant will be informed. Feeling aggrieved by the said communication dated 15/12/2006 of the Respondent No. 1, the Appellant filed the appeal before the Respondent No. 2 who by his impugned order directed the Respondent No. 1 to provide the information on points No. 4 and 5 and further held that on account of the non-availability of the file the Respondent No. 1 could not furnish the information to the Appellant.

4. The Appellant challenges the impugned order of the Respondent No. 2 on various grounds as set out in the memo of appeal. The Respondent No. 1 filed his reply to the memo of Appeal.

5. It will be seen from the above, the Appellant sought information on 5 points. The case of the Respondent No. 1 is that the file No. ADC/LRC/MUT/APL/2/2000 was not traceable inspite of the efforts. However, the Respondent No. 1 has not explained as to why the information on points No. 4 and 5 could not be provided to the Appellant. The Respondent No. 2 in its order has also directed the Respondent No. 1 to provide the information to the Appellant on these two points. However, it is not clear whether the information on points No. 4 and 5 have been provided to the Appellant or not. The Respondent No. 1 is also silent in this regard.

6. Turning now to the points at 1, 2 & 3, the Respondent No. 1 has submitted that the said file is not traceable and the concerned dealing hand presently working in the office of Mamlatdar of Pednem was also called to

trace the file. On perusal of the impugned order, as well as from the reply filed by the Respondent No. 1, it is seen that the matter was also reported to the Collector of North Goa about the missing file who advised the Respondent No. 1 to hold an enquiry and also to file a First Information Report. It is seen from the enclosures appended to the reply, the Respondent No. 1 after holding an inquiry came to the conclusion that one Shri Redkar Ex.A.K. had misplaced the file. However, it is not clear whether the Respondent No. 1 has filed any First Information Report with the Police as per the direction of the Collector of North Goa District.

7. On perusal of the judgment and order of the Respondent No. 2 it is seen that the Appellant has sought the certified copy of the Judgment and order dated 09/10/2006 passed in case No. ADC/LRC/MUT/APL/2/2000. The Respondent No. 1, in his reply has stated that the Appellant had asked the certified copy of the order passed in the said case vide application dated 09/10/2006. That means, that the Appellant sought the certified copy of the judgment and order much before passing the same. The Judgment and order is dated 19/10/2006 of which certified copy was sought. Therefore it is to be presumed that the relevant file at least was available on 19/10/2006 when the order was made and therefore we fail to understand as to why the certified copy was not furnished to the Appellant in as much as the Appellant had made an application before passing the judgment and order. The said application dated 09/10/2006 of the Appellant is not the subject matter in the 2nd Appeal nor it was the subject matter of the 1st Appeal before the First Appellate Authority. In this appeal, we are concerned only with the application dated 15/11/2006. The Judgment and order of which the certified copy was sought by the Appellant is dated 19/10/2006 and the application was moved by the Appellant on 15/11/2006 which is within a month from the date of the passing of the order.

8. We fail to understand as to how suddenly within a period of one month the Court file can be said to be not traceable. It is also not clear from

the reply of the Respondent No. 1 as to whether any first information Report has been filed with the police. The reply of the Respondent No. 1 states that Shri Redkar has carried out the search and he cannot trace the file. He has not given the details of the other officials who have carried out the search. As can be seen from the explanation given by Shri Redkar, beside the Respondent No. 1 there are other additional Dy. Collector who are also disposing off the case under the Land Revenue Code. It is not known whether the records of other Additional Dy. Collector at Mapusa were also searched. It appears that no such efforts have been made by the Respondent No. 1 to trace the relevant file. In case the main file is not traceable, it is not known whether any copy of the judgment and order is kept in the guard file for reference. It is also not clear whether the order dated 19/10/2006 was communicated to the concerned parties or whether it was announced in the open court.

9. The Respondent No. 1 has not explained as to why the information on points No. 4 and 5 was not given to the Appellant and therefore we feel that the Respondent No. 1 has failed to discharge his mandatory obligation imposed under the Act diligently.

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

ORDER

(i) The Appeal is partly allowed. The Respondent No. 1 is directed to provide the information to the Appellant on points No. 4 and 5 immediately within 4 days from the date of receipt of the order, if not provided so far.

(ii) The respondent No. 1 shall carry out a detailed search with the help of his officials of the entire records of his office as well as the office of the Additional Dy. Collectors and submit a certificate to that effect to this Commission on the next date of the hearing.

(iii) The Respondent No. 1 shall also recommend the disciplinary proceeding against the erring Official(s) to the Collector North Goa District within a period of 1 month from the date of the receipt of this order. ...5/-

(iv) The Collector of North Goa District who is the appointing and disciplinary authority is requested to initiate disciplinary action against the erring Official(s).

(v) The Respondent No. 1 is directed to show cause as to why the penalty proceeding should not be initiated against him for not providing the information to the Appellant on points No. 4 and 5 of the application of the Appellant dated 15/11/2006. Next hearing is fixed on 06/08/2007 at 11.00 a.m.

Inform the parties.

Sd/-
Shri G.G. Kambli
State Information Commissioner

Sd/-
Shri A. Venkataratnam
State Chief Information Commissioner

