

## **GOA INFORMATION COMMISSION**

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

Appeal No. 144/2007/VP.

Mrs. Sonal Datta Kamat,  
H. No. 469, Goankarwada,  
Kudne - Goa.

..... Appellant.

V/s.

1. Public Information Officer,  
The Secretary,  
Village Panchayat of Cudnem,  
Bicholim – Goa.
2. First Appellate Authority,  
The Block Development Officer,  
Bicholim Taluka, Bicholim – Goa.

..... Respondents.

### **CORAM:**

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

(Per A. Venkataratnam)

Dated: 26/05/2008.

Shri. Datta Kamat, authorized representative for the Appellant.

A group of 5 Advocates for the Respondent No. 1. Respondent No. 2 absent.

### **ORDER**

This second appeal is against the Respondent No. 1, Public Information Officer. Shri. Honaji Morajkar was the Public Information Officer at the time of filing of request for information by the Appellant on 15/11/2006 under the Right to Information Act, 2005 (for short the RTI Act). A reply was given by the then administrator of Village Panchayat on 15/02/2007 in response to the request filed with the Public Information Officer. The Appellant contends that neither the then administrator is a competent authority to furnish information nor was the information furnished by him was complete in all respects. The first appeal was, thereafter, filed by the Appellant on 27/11/2007 after around 9 months from the date of the receipt of the reply from the administrator of the Village Panchayat who is not the Public Information Officer. According to section 19(1) of the RTI Act, the first appeal has to be filed within the 30 days from the date of the decision by the Public Information Officer or from the date of the deemed refusal of the reply by the Public Information Officer. As we have mentioned earlier when the application for information was filed on 15/11/2006, the reply is due

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from the Respondent No. 1 on or before 15/12/2006. Considering no such reply was given, the Appellant should have appealed before the Respondent No. 2 on or before 15<sup>th</sup> January, 2007. On the other hand, he has appealed on 27<sup>th</sup> November, 2007.

2. There is no record of any order passed by the Respondent No. 2. He has also not responded to the notice issued by this Commission either by filing any statement or by arguing his case personally. However, there is one memorandum issued by the Respondent No. 2 to Respondent No. 1 dated 30<sup>th</sup> November, 2007, i.e. 3 days after filing the first appeal directing the Respondent No. 1 to furnish the information. We also presume that neither the Appellant nor the Respondent No. 1 were heard, as the memorandum was issued by the Respondent No. 2 in 3 days after filing of first appeal and no mention was made of any hearing. However, the first appeal was mentioned and a direction was given to the Respondent No. 1 to supply the information. We presume that the delay in filing the first appeal was condoned by the Respondent No. 2.

3. In response to the memorandum issued by the Block Development Officer, the Public Information Officer has issued the information by a letter dated 28/12/2007. By this time, the Village Panchayat Secretary who was at the time of the receipt of the request for information, namely, Shri. Honaji Morajkar was transferred out and the reply by the Public Information Officer was given by his successor. The Appellant has a grievance against the earlier Village Panchayat Secretary and filed the present second appeal praying this Commission that Shri. Morajlkar should be punished for not giving reply in first place and causing a delay of around 398 days for giving a final reply by his successor at the intervention of the Block Development Officer, Respondent No. 2 herein.

4. As mentioned above, the Appellant was represented by an authorized representative by name Shri. Datta Kamat. An affidavit was filed on behalf of Respondent No. 1 and a vakalatnama was filed containing 5 names of Advocates and accepted by one of them. We are not in a position to find out who is this Advocate who represented the Respondent No. 1. It is expected that the Advocate, accepts the vakalatnama write his full name below his signature. We, therefore, hope that in future while signing the vakalatnama, invariably the name is written below the signature so as to identify the Advocate. A reply was filed by the Respondent No. 1 signed by him. By this reply, the Respondent No.1, the

present Public Information Officer stated that a reply was already provided to the Appellant, and if the Appellant had any grievance, earlier she has not appealed in time and therefore, this appeal has to be dismissed. As to fixation of responsibility for non-reply by the then Public Information Officer, Shri. Morajakr is not impleaded as a party by the Appellant.

5. We have seen that the first appeal though delayed has been accepted by the Block Development Officer and the final order passed allowing it. In any case, the delay before the first Appellate Authority is not for us to comment. Taking 30<sup>th</sup> November, 2007 as the first Appellate Authority's order, the date of filing of second appeal on 19/3/2007, is beyond 90 days. We, therefore, uphold the objection of the Respondent No. 1 that the second appeal filed is beyond time. The Appellant is also conscious of this fact and has filed request to condone the delay by his written synopsis of arguments submitted by her. However, no reasons were cited by her. Para No. 11 of this submissions calculates the period of limitation of 90 days from 20/08/2007 the date on which the information was provided to her by the new Village Panchayat Secretary. Hence, she contends that the present second appeal is within time. This is not correct. The period of limitation starts from the date of the appellate order and not the date of the furnishing of the information by the Public Information Officer. However, the request of the Appellant to condone the delay if any as mentioned in para No. 9 of the second appeal does not mention any reasons. We also do not find any justification to condone the delay on the part of the Appellant when she is seeking punishment to the Public Information Officer for delay in furnishing information to her. We, therefore, hold that the second appeal is time barred and hence, should be rejected. Even on merits, though there is delay in submission of the information, the person against whom the prayer is made for taking punitive action, namely, Mr. Honaji Morajkar was not made a formal party. On this count also appeal fails. We, therefore, reject this second appeal.

Pronounced in the open court on this 26<sup>th</sup> day of May, 2008.

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

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

