

GOA INFORMATION COMMISSION
Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

2nd Appeal No 147 / 07-08 /

Shri Subodh S. Sawant,
B-2, Shanti Campus, Near Mehul Talkies,
Near Mahesh Tutorials,
Mulund - West, Mumbai - 400 080.

..... Appellant

V/s

1. The Public Information Officer,
Shri Pramod D. Bhat,
The Mamlatdar of Bicholim Taluka,
Bicholim - Goa.

..... Respondent No.1..

2. Shri Pramod D. Bhat,
The Administrator of Devasthans,
Bicholim Taluka,
Bicholim - Goa.

..... Respondent No.2..

CORAM:

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

(Per G. G. Kambli)

Dated: 07/07/2008.

O R D E R

This Appeal is filed by the Appellant against Shri Pramod D. Bhat in the capacity as the Public Information Officer in the Office of Mamlatdar of Bicholim and Administrator of Devasthan Bicholim Taluka for the deemed refusal to pass an order in respect of his application bearing reference No. 3 dated 04/02/2008. The facts of the case in brief are that the Appellant vide his application dated 04/02/2008 sought certain information from the Respondent No. 1 pertaining to Shree Saptakoteshwar Devasthan under the Right to Information Act, 2005 (for short the Act). The Respondent No. 1 transferred the said application to the Administrator of Devasthans Office of Mamlatdar under section 6 (3) of the Act under intimation to the Appellant. Since the Appellant did not receive the information from the Respondents, the Appellant has filed the present Appeal before this Commission.

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2. The notices were issued and the hearing was fixed on 21/04/2008 on which day, the Appellant remained absent. However, the Appellant has presented an application for adjournment in the Office of the Commission on 17/04/2008. The representative of the Respondent No. 1 was present. Hence, the case was adjourned to 08/05/2008. On 08/05/2008 the Appellant remained absent. The Respondent No. 1 and 2 filed the reply and the matter was adjourned to 06/06/2008. The Appellant again presented an application on 4/06/2008 seeking adjournment of the hearing fixed on 06/06/2008 and prayed that the hearing may be fixed on 01/07/2008 or 02/07/2008 or on 22/07/2008. Accordingly the hearing was adjourned and fixed on 01/07/2008. On 01/07/2008 the Appellant again remained absent. In terms of sub-rule (2) of Rule 7 of the Goa State Information Commission (Appeal Procedure) Rules, 2006, the Appellant at his discretion, at the time of the hearing of the appeal, be present in person or through his duly Authorized Representative or opt not to be present. Hence, the attendance of the Appellant for the hearing is not mandatory. The Appellant opted to remain absent on the date of the hearing and, therefore, the Commission proceeded with the matter.

3. The Respondents in para 11 of their reply has submitted that the Appellant is aggrieved by the act of omission of the Public Information Officer and therefore, he should approach the Dy. Collector who is designated as the First Appellate Authority and not this Commission. In terms of sub-section (3) of section 19 of the Act, an Appeal lies to the Commission against the decision made by the First Appellate Authority under sub-section (1) of section 19 of the Act. Admittedly, the Appellant is not challenging any decision of the First Appellate Authority made under sub-section (1) of section 19 of the Act. The Appellant has directly approached this Commission against the Public Information Officer. As per the said sub-section (3) of section 19 of the Act, no Appeal lies to this Commission against the omission or Commission of the Public Information Officer. Section 19 (1) of the Act clearly contemplates that any person who does not receive the decision within the time specified in sub section (1) of clause (a) of sub-section (3) of section 7 of the Act or is aggrieved by a deemed refusal by the Public Information Officer, may prefer an Appeal

within 30 days from the expiry of such period or from the receipt of such a decision to such office who is Senior in rank to the Public Information Officer. The Respondent No. 1 in his reply submitted that the Dy. Collector has been designated as First Appellate Authority and therefore, the Appeal against the deemed refusal or the refusal by the Public Information Officer lies to the First Appellate Authority under section 19(1) of the Act.

4. The Appellant has directly approached this Commission against the deemed refusal by the Public Information Officer instead of approaching the First Appellate Authority under section 19 (1) of the Act and therefore, no 2nd appeal lies to the Commission directly against the deemed refusal by the Public Information Officer. On this ground alone, the appeal filed by the Appellant reserves to be rejected. We are, therefore, not discussing the merits of the case. Hence, we reject the present appeal of the Appellant.

Pronounced in the open Court on this 7th day of July, 2008.

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

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

