

GOA INFORMATION COMMISSION

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

Appeal No. 148/2007-08/

Shri Pratap Madolkar,
Shiv Sena- South Goa Chief,
H.No. 84, Alto Dabolim,
Margao – Goa.

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Appellant

The First Appellate Authority,
The Chief Inspector,
Inspectorate of Factories & Boilers,
Altinho, Panaji – Goa.

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Respondent No. 1.

The Public Information Office,
R. T. Korgaonkar,
The inspector of Boilers,
Inspectorate of Factories & Boilers,
Altinho, Panaji – Goa.

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Respondent No. 2.

CORAM:

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

(Per G. G. Kambli)

Dated: 19/06/2008.

Appellant is represented by Shri R. G. Furtardo.

The Respondent No.2 in person.

The Respondent No. 1 absent.

J U D G M E N T

This is a 2nd Appeal filed under sub-section (3) of section 19 of the Right to Information Act 2005 (for short the Act).

2. The facts of the case, in brief, are that the Appellant vide his application dated 10/08/2007 sought certain information from the Respondent No. 2 and also requested for inspection of files under the Act.

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The Respondent No.2 vide his letter dated 10/09/2007 informed the Appellant that he may inspect the files on 10/09/2007 at 12 hrs. Thereafter, the Respondent No. 1 by his letter dated 22/10/2007 informed the Appellant that the dealing hand Shri H. R. Peshwe expired and one Shri S. M. Paranjape has taken the charge and requested for time of 15 days to furnish the information as the information is voluminous and time consuming. Subsequently, by letter dated 22/11/2007, the Respondent No. 2 had informed the Appellant that the information sought by the Appellant has been compiled and also the relevant files are available for scrutiny and inspection. The Respondent No. 2, therefore, requested the Appellant to call on his office on 28/11/2007 at 10.00 a.m. Thereafter, the Respondent No. 2 vide his letter dated 28/11/2007 forwarded the annexure stating that the information sought by the Appellant on all the 11 points are given in the Annexure.

3. In the meantime, the Appellant filed Appeal before the Respondent No. 1 on 22/11/2007 against the Respondent No. 2. The Appellate Authority by his order dated 16/01/2008 dismissed the appeal filed by the Appellant on the ground that all the information sought by the Appellant was provided by the Respondent No. 2 in totality. Feeling aggrieved by the order of the Respondent No. 1, the Appellant has preferred this 2nd appeal on various grounds as set out in the Memo of appeal.

4. The Respondent No. 2 filed the reply, stating that the information sought by the Appellant has been provided and prayed for the dismissal of the appeal. The Appellant filed rejoinder. Both the Appellant as well as the Respondent No. 2 filed their written submissions.

5. Coming now to the merits of the case, it is seen that the Appellant vide his request dated 10/08/2007 sought information on 11 points. Out of the 11 points the point at serial No. 3, 6, and 11 pertains to the inspection of files. The remaining points relating to the various dates. The Respondent No. 2 by his letter dated 10/09/2007 requested the Appellant to call on his office on the same day at 12 hrs to inspect the files. The said letter has been

issued by the Respondent No. 2 on the 31st day of the application of the Appellant. The Respondent No. 2 requested the Appellant to call on his office the very same day. It is not explained as to why the Respondent No. 2 could not issue the letter earlier and waited till the expiry of 30 days. As can be seen from the subsequent letter dated 22/10/2007, the Appellant visited the office of the Respondent No. 2 on 10/09/2007 and 48 files were offered to him for scrutiny and inspection. The Appellant also collected 162 numbers of certified copies from the Respondent no. 2 on 15/10/2007. It is pertinent to point out here that the Appellant nowhere in the memo of appeal has stated that he has applied for certified copies of certain documents after carrying out the inspection on 10/09/2007. In the absence of such application before us, it is not clear what were the documents sought by the Appellant after inspection.

6. The Respondent No. 2 vide his letter dated 22/11/2007 requested the Appellant to call on his office on 28/11/2007 at 10.00 a.m. for scrutiny and inspection besides the information was compiled and kept ready. The Appellant did not visit the office of the Respondent No. 2 and filed an appeal before the Respondent No. 1 on 22/11/2007. Thereafter, the Respondent No. 2 forwarded an annexure giving replies on all the 11 points. So far as the point No. 1 is concerned, the Respondent No. 2 has written the date of submission of Form 1 application but the same has been cancelled and there is no initial on the said cancellation. However, the date of approval is indicated in the next column. Therefore, the Respondent No. 2 has not provided the complete information on point No. 1. As regards the information pertaining to points No. 2, 4, 5, 7, 8, 9 and 10 the Respondent No. 2 indicated the dates. Regarding the inspection requested at point No. 3, 6 and 11, the Respondent No. 2 informed the Appellant that he “may do so”.

7. The Appellant made the grievances that this annexure is not signed by the Public Information Officer. Being so, the Respondent No. 2 though belatedly provided the information to the Appellant on points No. 2,4,5,7, 8,9 and 10 and part of the information on point No. 1. So far as the request for inspection is concerned, it has come on record that the Appellant

inspected 48 files on 10/09/2007 and he was provided 162 numbers of certified copies on 15/10/2007. This fact is suppressed by the Appellant in the memo of Appeal. The Appellant's case is that the Respondent No. 2 has not produced the files after the year 1998. On perusal of the request dated 10/08/2007 of the appellant, the Appellant has not indicated any date or the period of the records, which he wanted to inspect. The other grievances of the Appellant, is that the file pertaining to the issue of the stability certificate was not produced for inspection. In fact, the Appellant has requested the inspection of the files relating to the issue of stability certificate including renewals at point No. 6.

8. The Appellant has made further grievances that under the Goa Daman and Diu Factory Rule 1985 (Factory Rules) the Zuari Industrial Limited has to comply with various rules namely Rule 3, 4, 5, 7, 8 and 9. Assuming that these rules are not complied with by the company, the Commission cannot force the Company to comply with the statutory rules. It is for the competent Authority to take suitable action in the matter. The other contention of the Appellant is that where the Public Authority has an access to the information even of the private body under any other law for the time being in force, the same falls within the definition of the term "information" and it is the obligation of the Public Authority to obtain that information from the private body and provide the same to the citizen, if requested. We are not inclined to agree with the contention of the Appellant. We are of the view that if the Public Authority holds any information of the private body under any statute in force, in such case the Public Information Officer has to provide the information to the citizen.

9. However, in the present case, we are restricting ourselves to the application dated 10/08/2007 of the Appellant. As stated earlier the Respondent No. 2 has provided the information, regarding the dates except on point No. 1. Regarding the issue of certified copies, the Appellant has not produced before us a copy of the application seeking copies of documents nor the Appellant has made any grievances of the said application. Even if the application was made by the appellant seeking

certified copies pursuant to the inspection, it could have been a totally different case as the cause of action is different and the time limit for providing the information will commence from the date of such application. The Appellant also requested in his written submission to convert the present appeal into a complaint with which we are not inclined to agree.

10. Admittedly, there has been a delay in providing the information by the Respondent No. 2 to the Appellant. It has come on record that Shri H. Peshwe, Factory Inspector who was in possession of the records expired and new official had taken the charge who requested for 15 days time. This fact is not denied by the Appellant. Besides the Respondent No. 2 made available 48 files for inspection on 10/09/2007 and issued 162 certified copies. Further, on perusing the annexure furnished by the Respondent No. 2, it contains dates way back from the year 1973 onwards. These dates were required to be taken from the old records, which is cumbersome, work and time consuming. Therefore, we do not see any malafide on the part of the Respondent No. 2 for the delay.

In view of the above we pass the following order.

O R D E R

The appeal is partly allowed. The Respondent No. 2 is directed to provide part of information on point No. 1 i.e. the date of the submission of application. The Respondent No. 2 is also directed to make available the file pertaining to the issue of stability certificate for inspection to the Appellant, if it is not given for inspection as yet. The Respondent No. 2 also directed to attest the annexure furnished to the Appellant. These directions are to be complied by the Respondent No. 2 within a week's time.

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

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

