

GOA INFORMATION COMMISSION

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

Appeal No. 16/2007-08/

Shri Suryakant Tengali,
E-131, Eugene Vado,
Caranzalem Goa – Pin 403004.

... Appellant

V/S

1) Public Information Officer,
The Registrar of Co-Op Societies,
Government of Goa.
Altinho, Panaji – Goa.

... Respondent No. 1

2) The First Appellate Authority,
The Registrar of Co-Op Societies,
Altinho, 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: 19/06/2008.

Appellant present in person

Shri A. K. N. Desai, Co-operative Officer represented Respondent No. 1.

Respondent No. 2 absent.

JUDGEMENT

The Appellant challenges the letter No. 2008/3349 dated 17/03/2008 of the Respondent No. 2 (hereinafter refer to as an impugned letter) and No. 42/3/2007/TS/RCS/3005 dated 30/01/2008 of the Respondent No. 1 by way of this 2nd Appeal under section 19(3) of the Right to Information Act 2005(for short the Act). The Respondent No. 1 filed reply raising preliminary objections that the Appellant has no locus standi to file this 2nd appeal, that the Appellant has filed the 2nd appeal before wrong forum and therefore the present appeal is bad in law and deserves to be

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dismissed. On merits, the Respondent No. 1 stated that the information sought was furnished to the Appellant whatever is available in the office record and the Appellant was directed to approach the office of the Assistant Registrar Co-operative Societies, North Zone Mapusa for obtaining other details. The Respondent No. 1 also stated that the information sought by the Appellant was neither refused nor denied by the Respondent No. 1. The Respondent No. 2 remained absent and also did not file any reply.

2. Turning now to the preliminary objections raised by the Respondent No. 1, the Authorized Representative who was present on the date of hearing could not explain or justify the preliminary objections. The Appellant sought the information from the Respondent No. 1 under the Act and having not satisfied with the reply given by the Respondent No. 1 preferred an appeal before the Respondent No. 2 who is the First Appellate Authority. The First Appellate Authority advised the Appellant to approach the 2nd Appellate Authority that is this Commission as, the Appellant in its relief has expressed unfairness over the office of the Respondent No. 2 and emphasised the necessity to decide the Appeal by an officer above the rank to the Registrar. Hence the present 2nd appeal before this Commission. Sub-section (1) of section 19 of the Act contemplate that an aggrieved person can prefer an appeal before the FAA and 2nd Appeal before this Commission against the decision of the FAA under section 19 (3) of the Act. The Appellant has rightly filed the 2nd appeal before this Commission. We, therefore, do not see any substance in the preliminary objections raised by the Respondent No. 1. Hence, we overrule the same.

3. The Appellant by his request (No date) sought the information from

the Respondent No.1 under the Act on 9 points. At point No. 1, the Appellant sought the details of duties of Assistant Registrar and how Registrar office supervises the same pertaining to all types of Co-operative Housing Society Ltd. The Respondent No. 1 replied that the duties are specified under relevant Co-operative society Act and notification issued by the Government from time to time. We fail to understand as to why the Public Information Officer could not provide this information to the Appellant. In fact, an obligation has been cast on every Public Authority that they were required to publish, within 120 days from the enactment of the Act, in terms of section 4 (1) (b) of the Act, interalia the following information:-

- (i) the particulars of its organization, functions and duties;
- (ii) the powers and duties of its officers and employees;
- (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) the norms set by it for the discharge of its functions;

4. It is not understood whether the Respondent No. 2 has complied with this statutory mandatory provisions within the time limit specified therein.

Therefore the denial of the information by the Public information Officer at point No. 1 was not justified and was not in accordance with the provisions of the Act.

5. At point No. 2, the Appellant wanted to know the extent of statutory contributory funds received by the Office of the Respondents from NIO, Co-Op Housing Society (Ltd) at Socorro Village. The Respondent No. 1 had informed that no funds are contributed to his office by NIO Co-Op Housing Society (Ltd). We do not see anything wrong in this information furnished on point No. 2.

6. At point No. 3, the Appellant sought the copies of the numbers of letters/complaints pertaining to NIO Co-Op Housing Society (Ltd) at Socorro Village including, senders' name, subject matters, and salient directions sent to the said society/sender along with dispatch details. The Respondent No. 1 instead of providing the information to the Appellant asked the Appellant to call on his office to inspect the files and ask for copies of the available papers. It is to be noted that the Appellant did not seek the inspection of the records and therefore, the Respondent No. 1 was wrong in asking the Appellant to inspect the records. The Respondent No. 1 could have very well provided the copies of the complaints/letters and also the direction issued by the Respondents and the details of the name of the complainant to the Appellant. Being so, the Respondent No. 1 has not provided the information to the Appellant on point No. 3.

7. At point No. 4, the Appellant sought the information pertaining to the NIO Co-Op Housing Society (Ltd) and the Respondent No. 1 has rightly directed the Appellant to obtain this information from the concerned society. At point No. 4(a), the Appellant wanted to know the details of the action taken by the Assistant Registrar (NZ) and Registrar towards the compliance of their directions under the powers vested with them under the Co-Operative Society Act and Rules. The Respondents requested the Appellant to obtain the information from Assistant Registrar of Co-Operative Society North Zone, Mapusa. In fact, at point No. 4 (a) the Appellant sought the information about the details of the action taken, both by the Assistant Registrar and the Registrar and therefore the Respondent No. 1 could have provided the information about the action taken by the Registrar and transfer

other part of the request to the Assistant Registrar, North Zone, Mapusa under section 6 (3) of the Act. Hence, the Respondent No. 1 has not provided information on point 4 (a).

8. At point No. 5, the Appellant sought the advice about the special general body meeting conducted by the NIO Housing Co-operative Society Ltd. This information does not fall within the ambit of the term “information” of the Act. Again at point No. 6, the Appellant sought the opinion of the PIO, which is also not covered under the definition of the term “information” as defined in the Act.

9. At point No. 7, the Appellant wanted to know the obligation/details of verifications to be carried out by Auditors appointed for Annual Auditing pertaining to Co-Op Housing Societies. Respondent No. 1 informed as prescribed under concerned Act and Rules. This is not the correct information. The Respondent No. 1 should have given the correct information on this point to the Appellant.

10. At point No. 8 the Appellant wanted to know the fees paid to the Auditors towards audit of NIO Co-Op Housing Society since year 2000 till now and also the details of the certificate towards paying relevant auditing fees to Auditors. The Respondent No. 1 has replied that the Appellant may see in the Audit Report concerned. This is not the correct reply. The Respondent No. 1 could have provided a copy of the Audit Report or informed the amount of fees paid to the Auditors from the year 2000 onwards. Even if no fee was paid, it should have been so informed in clear terms. Regarding the information sought by the Appellant at point 8 (a) to 8(c) the Respondent No. 1 has informed to obtain this information from the

Society. At point No. 8 (a) the Appellant wanted to have a copy of necessary Authorization from Society to seek construction licence from Statutory Bodies, if Office Bearers acted properly on the same. 8(b) copy of work order issued to undertake construction of Office premises/store room cum office building etc. 8 (c) copies of Bills received and sanction by relevant competent authority. It is not clear whether this information are available in the office of the Registrar if it is available the Respondent No. 1 shall take decision on merits after following the procedure of section 11 of the Act as this information pertains to the Society.

11. Coming now to the information sought at point No. 9, the Appellant has sought various information, which also include the information/advice on various points. The information sought pertaining to the NIO Co-Op Housing Society regarding Audit, deduction of Income tax, scrutiny of bills etc. The Respondent No. 1 replied that the member of Society is entitled to inspect the books of accounts and records if so desires. In fact, there is no specific request for seeking the copies of the documents. Some of the information sought by the Appellant on this point may also be available in the Audit report. If the Respondents are in possession of the Audit report they could have provided the same to the Appellant.

12. As discussed above, we have observed that the Respondent No. 1 has not provided the complete and correct information on all the points to the Appellant. We, therefore, pass the following order:

ORDER

13. The Appeal is partly allowed. The Respondent No. 1 is directed to provide information to the Appellant on point No. 1, 3, 4(a) part, 7 and 8

within 2 weeks from the date of the order. As regards the information on point 8 (a), 8 (b) and 8 (c), if the information is available with the Respondent No. 1, he shall take the decision within 25 days on complying with the provisions of section 11 of the Act. Regarding the information sought at point No. 4 (a) part the Respondent No. 1 is directed to transfer the application of the Appellant to the Assistant Registrar of Co-Op Society, North Zone, Mapusa under section 6 (3) of the Act. Regarding the information on point No. 9, the Respondent No. 1 may provide a copy of Audit report to the Appellant, if available, after collecting the fees.

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

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