

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

2nd Appeal No: 17 / 08-09 /

Mrs. Sanyogita Kashinath Shetye,
Rabino Building,
Alto - Fondrem,
Ribandar, Tiswadi - Goa.

..... Appellant

V/s

1. The Public Information Officer,
The Secretary,
Village Panchayat Panchayat of Pilerne - Marra,
Pilerne - Marra,
Bardez - Goa. Respondent No.1..

2. The First Appellate Authority,
The Block Development Officer,
Mapusa - Goa. Respondent No.2..

CORAM:

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

(Per G. G. Kambli)

Dated: 30th July, 2008.

Shri Kashinat Shetye represented the Appellant.

Advocate Gokuldas Naik for the Respondent No. 1.

Respondent No. 2 absent.

JUDGEMENT

The Appellant challenges the order dated 18/02/2008 passed by the Respondent No. 2 in Appeal No. 105/2008/784 on various grounds as set out in the Memo of Appeal.

2. The case of the Appellant is that the Appellant through her Advocate Shri Ryan Menezes requested the Respondent No. 1 to provide

...2/-

certain information vide letter dated 10/10/2007 under the Right to Information Act, 2005 (for short “the Act”). The Appellant also requested for the inspection of the records and document pertaining to the house of Ramakant Malik. The Respondent No. 1 by his letter dated 16/11/2007 informed the Advocate of the Appellant that the required fees have not been paid. Subsequently by another letter dated 29/11/2007, the Respondent No. 1 informed the Advocate for the Appellant to deposit an amount of Rs. 22/- towards prescribed fees and Xerox charges. The Appellant states that the Appellant deposited a fee of Rs. 12/-. The Respondent No. 1 handed over the letter dated 10/12/2007 alongwith 5 copies of the tax receipts. Not satisfied with the Respondent No. 1, the Appellant preferred the first Appeal before the Respondent No. 2 who by his judgment and order dated 18/02/2008 directed the Respondent No. 1 to make available the requested information to the Appellant if not left to be furnished which is there in the custody of the Respondent and whatever the information is available with some other Public Information Officer, with reference to Right to information Act the application should be forwarded to the concerned Public Information Officer within 48 hrs from the passing of the order.

3. Aggrieved by the said order of the Respondent No. 2, the Appellant has filed the present 2nd Appeal. The notices were issued to the Respondents. The Respondent No. 1 filed the reply. The Respondent No. 2 did not file any reply and remained absent at the time of the final hearing. In the reply, the Respondent No. 1 stated that the order of the First Appellate Authority has been complied with in toto.

4. The Appellant was represented by Shri Kashinath Shetye and Gokuldas Naik the learned Advocate appeared on the behalf of the Respondent No. 1. During the course of the proceeding, the Appellant raised the preliminary objection stating that the Public Information Officer that is the Respondent No. 1 cannot be represented by an Advocate. The said application of the Appellant was disposed off by judgment and order dated 09/07/2008. The Appellant also informed that he has filed the Writ Petition stamp No. 2003 dated 15/07/2008 and he had requested for the

circulation of the matter to be taken up on 16/07/2008 at 10.30 a.m. in the court room No. 1 before the Division Bench of the Hon'ble High Court of Bombay at Goa.

5. The Appeal was taken up for hearing on 16/07/2008 for arguments on merit as fixed earlier. Shri Kashinath Shetye argued the matter personally and Shri Gokuldas Naik, learned Advocate on the behalf of the Respondent No. 1. Shri Kashinath Shetye submitted that the Respondent No. 1 has not provided the complete information to the Appellant and also did not allow the inspection of the records as requested by the Appellant through her Advocate. On the other hand, the learned advocate for the Respondent No. 1 submitted that whatever information is available with the Respondent No. 1 has been provided to the Appellant. In respect of remaining points namely point No. 5, 7 and 8, the Respondent No. 1 has forwarded the copy of the letter of the Advocate of the Appellant to the Town Planner, Mapusa under section 6 (3) of the Act for necessary action. The Respondent No. 1 has also informed the Public Information Officer of the North Goa District Office, Mapusa Goa about the transfer of the application and requested him to obtain further details from the Appellant if requires. In turn the Public Information Officer, North Goa District, Town and Country Planning Department, Mapusa requested the Respondent No. 1 to provide the details such as file numbers or the NOC number and date to enable them to trace out the records. Subsequently, by another letter dated 07/04/2008 the Public Information Officer of the North Goa District, Mapusa requested the Respondent No. 1 to provide the reference number of NOC and its date.

6. We will now discuss the merits of the Appeal. As stated earlier, the Appellant through her Advocate Ryan Menezes had sought the following information.

1. Approved plan of the construction of the house and a separate garage (Ground floor +first floor)
2. Copies of the receipts of the house tax paid by them since 1990 till date.

3. Whether permission/license granted by the Panchayat for repair/reconstruction/extension of the said garage? If so certified copies of such permission/license.
4. License granted for construction of staircase on the road adjacent to their house emerging from N.H. 17 to Pillerne.
5. Total area of the plot, the built up area as per the plan and also the actual built up area at site.
6. Occupancy certificate along with the completion certificate issued by the Panchayat and the letter applying for the occupancy certificate.
7. What is the permitted set back area according to approved plan of garage on the first floor of the garage?
8. Whether the said permitted set back is maintained on the southern side of the Garage?

7. The Respondent No. 1 has provided the 5 receipts in respect of the house tax. This is with reference to point No. 2 of the request. As regard the point No. 1, 3, 4 and 6, the Respondent No. 1 informed the Advocate for the Appellant that these records are not traceable. However, in order to ascertain and provide the exact and correct information, the Respondent No. 1 requested the Advocate for the Appellant to make available the details thereby indicating construction license number/Occupancy number, date and year issued by the Village Panchayat and on the receipt of the details, information the points number 1, 3, 4 and 6 will be made available. As regard the information pertaining to points No. 5, 7, and 8, the Respondent No. 1 informed that the same are not available in the office of the Panchayat and the same can be obtained from the competent Authority. Subsequently, the Respondent No. 1 transferred a copy of the application of the appellant to the Public Information Officer of the North District Office, Town and Country Planning Department, Mapusa as per the direction of the First Appellate Authority.

8. At point No. 1, the Appellant had sought the copy of the approved plan of the construction of the house and separate garage (ground floor and

1st floor). The Appellant has not given any details of the approved plan or even not mentioned the year in which the plans were approved. Therefore, as rightly pointed out by the Respondent No. 1 it was not possible for the Respondent No. 1 to trace out the same. At point No. 3, the Appellant wanted to know whether any permissions/license was granted by the Panchayat for repair/reconstruction/extension of the garage. Here again the Appellant has not given the details as to when the license/permission was given by the Panchayat. At point No. 6, the Appellant wanted to have the occupancy certificate along with the completion certificate issued by the Panchayat and the letter for applying occupancy certificate. The Appellant has not provided the details. Thus it will be seen that the Appellant has not provided the details of the information sought at points No. 1,3, 4 and 6. The request for information should be specific to enable the Public Information Officer to trace out the same and provide the same to the citizen. The Appellant has not given any details in respect of the information sought at points No. 1, 3, 4 and 6 and therefore, the Respondent No. 1 has rightly asked the Appellant to provide the details.

9. Coming now to the point No. 5, the Appellant wanted to know the total area of the plot, the built up area as per the plan and also the actual built up area at site. It is the duty of the Public Information Officer to provide the information, which is available in the records of the public Authority. The Appellant wanted to know even the actual built up area at the site. It is to note that the Public Information Officer is not expected to visit site and create a document and then provide to the citizen. The Public Information Officer's duty is to provide the copies of the documents, which are available with the Public Authority. The total area of the plot as well as the built up area should be on the plan. In the absence of the details such as the date and year of the approval it is not possible for the Authorities to trace the records. At point No. 7, the Appellant is seeking an opinion or advice of the Public Information Officer, which is outside the purview of the Act. At point No. 8, the Appellant wants the Public Information Officer to visit the site and confirm the set back, which is also outside the purview of the Act.

10. The Appellant has also requested for the inspection of the documents. The Respondent No. 1 vide his letter dated 29/11/2007 had informed the Advocate of the Appellant that records and documents will be made available for inspection on deposit of amount as required under rule 4 of the Goa Right to Information (Regulation of fees and costs) Rules 2006. Hence, the inspection was also not denied by the Respondent No. 1. The Appellant is free to inspect the records with prior notice to the Respondent No. 1 on payment of prescribed fees and the Respondent No. 1 should fix date and time of inspection.

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

O R D E R

Appeal is dismissed.

Pronounced in the open Court on this 30th July, 2008.

Sd/-
(G. G. Kambli)
Goa State Information Commission

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