

GOA INFORMATION COMMISSION

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

Appeal No. 30/2008

Shri. C. S. Barreto,
H. No. 206, Mazalvaddo,
Assagao, Bardez – Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Additional Director,
Directorate of Vigilance,
Altinho, Panaji – Goa.
2. The first Appellate Authority,
The Director,
Directorate of Vigilance,
Altinho, Panaji – Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 13/08/2008.

Appellant in person.

Respondents absent.

ORDER

This disposes off the second appeal of the Appellant dated 9th May, 2008. Earlier the Appellant has made two requests, one on 17/01/2008 under the Right to Information Act, 2005 (RTI Act for short) asking for the status of his earlier complaint and referring to the Respondent No. 1 letter dated 4/4/2007 and second request dated 16/02/2008 asking for certified copies of certain documents. It appears that the Public Information Officer who is the Respondent No. 1 was on leave from 11/02/2008 to 25/02/2008 when the second request was filed. Thus, he has not seen the second request dated 16/2/2008 till the first appeal memo alongwith the orders of the first Appellate Authority were received by him on 3/4/2008. He did not mention anything about the first request. Not receiving any reply from the Respondent No. 1, the Appellant has put in his first appeal on 20th March, 2008 to the Respondent No. 2 who has passed an order on the appeal memo itself on 3/4/2008 directing the

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Respondent No. 1 to issue the documents within 2 days. Thus, Shri. Barreto has no grievance against the first Appellate Authority. However, his request for the documents still remains and hence, he has filed the second appeal.

2. Notices were issued. The Appellant appeared in person. The Respondents have remained absent. However, the Respondent No. 1 has filed a written statement. The main point is about an illegal construction made by Mr. D. S. Sahaney and his wife which is termed as a "farm house" and was certified to be as per the plans and the conditions approved by the Town and Country Planning Department. Such a completion certificate was issued by the Junior Engineer and Asst. Engineer of P.W.D. who are the technical officers appointed to verify the constructions within Village Panchayat jurisdiction. On a point having been made that there is a violation of the condition of the approval laid down by the Town and Country Planning Department, both the Engineers were warned by their respective disciplinary authorities. A copy of the recordable warning issued to them was requested by the Appellant by his second request dated 16/2/2008. These were furnished by the Asst. Public Information Officer after the receipt of the orders of the first Appellate Authority on 3/4/2008 as mentioned above.

3. By this request of 16/2/2008, the Appellant has also asked for the action taken report of the Director of Panchayats regarding the construction of a flat roof in the place of sloped roof approved by the licensing authority in respect of the same construction by Shri. Sahaney. Now this information has been asked by the Respondent No. 1 to the Director of Panchayats and he now claims he did not receive any report from the Director of Panchayats. It is the case of the Respondent No. 1 that such a record do not exist and he is not in a position to give the copy of the document.

4. This appeal brought out some interesting points. As per section 7, the liability of disclosing the information to a citizen is personal to the Public Information Officer. We have held in a number of cases that this liability cannot be delegated to the Asst. Public Information Officer. The duty of the Asst. Public Information Officer is laid down under section 5(2) of the RTI Act. Even if the Public Information Officer goes on leave or tour, this responsibility has to be given to some other officer by the public authority. Similarly, the Public Information Officer cannot take the plea that the Asst. Public Information Officer has not shown him the requests under RTI Act in his absence. An arrangement has to be made by him for maintaining a separate register for RTI requests and

he should watch their disposal. The argument of the Public Information Officer for not replying to the Appellant in the statutory time limit is, therefore, not tenable. The Public Information Officer is warned to be more careful in future in dealing with the requests under RTI Act.

5. We find that the document requested by the Appellant is not available with the Vigilance Department. He should, therefore, approach the Director of Panchayats for obtaining the copy of the action taken report and or status of the direction given by the Vigilance Department in the case of Mr. Sahaney.

6. With this discussion, we dismiss the appeal as nothing survives in the present appeal.

Pronounced in the open court, on this 13th day of August, 2008.

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

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