

## **GOA INFORMATION COMMISSION**

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

Appeal No. 33/SCIC/2008/

Shri. Ajendra Kumar,  
S. V. Road, Boca de Vaca,  
Panaji - Goa.

..... Appellant.

V/s.

1. Public Information Officer,  
Corporation of the City of Panaji,  
Panaji – Goa.
2. Assistant Public Information Officer,  
Corporation of the City of Panaji,  
Panaji – Goa.

..... Respondents.

### **CORAM:**

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

(Per A. Venkataratnam)

Dated: 14/07/2008.

Appellant in person.

Adv. Shivan Desai on record for Respondents.

## **ORDER**

The short point in this case is whether the Respondent No. 1, the Public Information Officer has discharged his duty under section 7(1) of the Right to Information Act, 2005 (hereinafter referred to as the RTI Act). A request was made by the Appellant on 28/09/2007 which was replied by the Respondent No. 2 on 29/10/2007 by registered post. The letter was not delivered to the Appellant and hence, he approached the Public Information Officer's office to inquire. He collected information in person from the office of the Public Information Officer. The registered letter alongwith its envelope (which was stated to have been sent by the Respondent No. 2 to the Appellant earlier but which was returned undelivered) was also given to the Appellant.

2. Notices were issued and a vakalatnama was produced on behalf of the Respondents but no Advocate has appeared. On the day of hearing, the Appellant was present in person but none of the Respondents were present. One official from the Corporation of the City of Panaji was present. An interim order was passed earlier on 23/06/2008 directing for production of the original records of the Corporation as well as to explain the role of the Superintendent of Corporation who signed the earlier letter as well as subsequent letter to the Appellant. It was not mentioned in the reply of

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Respondent No. 2 whether he acted on behalf of Public Information Officer, Respondent No. 1 herein, or on his own. It was not indeed not even mentioned whether he was Asst. Public Information Officer.

3. A reply signed by the Respondent No. 1 was filed as stated earlier by the Clerk of the Corporation.

4. In the reply, it was mentioned that Mr. Octaviano Dias is the Asst. Public Information Officer and was competent to reply and furnish information, relying on section 2(m) of the RTI Act read with section 5 and section 7. This is not the correct position of law. Section 7 stipulates that the Public Information Officer only should reply to the citizens. The inclusive definition of the Asst. Public Information Officer under section 2(m) of the RTI Act is only for the purpose of receiving the applications from the citizens and for forwarding them to the Public Information Officer's office and for contravention of the provisions of the RTI Act. This position is laid down at section 5(2) cited by the Respondent No. 1 himself in his reply. For this purpose, additional 5 days time limit is given to the Public Information Officer for replying to the citizens. This position has already decided by us in a number of cases. The letter signed by Mr. Octaviano Dias, therefore, is not a reply by the Public Information Officer to the request of the Appellant. Beside, the very attitude of the Public Information Officer and the Asst. Public Information Officer not even to remain present for the second appeals shows very clearly the casual attitude they have taken in disposing off the application under the RTI Act.

5. Section 5(2) makes it very clear the role of the Asst. Public Information Officer is only to receive the application on behalf of Public Information Officer. This is the facility provided to the citizens in case they cannot go up to the Public Information Officers office and the Asst. Public Information Officers are required to be stationed at the sub-divisional headquarters. The question of locating an Asst. Public Information Officer by the Corporation of the City of Panaji at the sub-divisional level does not arise. Though the Public Information Officer can seek the assistance from any other officer to help him in his work, he cannot simply delegate his work under the RTI Act to the officer so designated as Asst. Public Information Officer and relax. This is against not only letter but also the spirit of the RTI Act.

6. On the main issue of giving the information, the Appellant has no grievances except the delay in receiving the information. The Corporation also did not take even the preliminary precaution of retaining the "returned envelope" which was stated to have been sent by registered post by them. However, we take that the information was sent by Octaviano Dias though late and unauthorized under the RTI Act.

7. Looking at the overall situation, we are not inclined to start the penalty proceedings under section 20 of the RTI Act. However, as inconvenience and hardships are caused to the Appellant, a compensation of Rs.2000/- should be paid to him by the Corporation under section 19(8) of the RTI Act. The Corporation is free to recover this amount from the person found responsible for the lapse.

Pronounced in the open court, on this 14<sup>th</sup> day of July, 2008.

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

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