

GOA INFORMATION COMMISSION

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

Appeal No. 39/2007/

Shri Balchandra R. Naik,
H.No. 9, Madabhat at Kalimati,
Bhoma – Goa.

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Appellant

V/s

1. The Secretary,
The Village Panchayat of
Bhoma- Adcolna,
Bhoma, Ponda – Goa.

....

Respondent No.1

2. The First Appellate Authority,
Block Development Officer,
Ponda – Goa.

....

Respondent No.2

CORAM:

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

(Per G.G. Kambli)

Dated: 23/08/2007.

O R D E R

This is the 2nd appeal filed by the appellant under sub-section (3) of section 19 of the Right to Information Act 2005 (for short the Act) against the order dated 14/06/2007 passed by the Respondent No. 2 (hereinafter referred to as the impugned order).

2. The facts leading to this 2nd appeal are that the Appellant vide application dated 19/02/2007 requested the Respondent No. 2 to provide copies of the construction licenses issued to one Shri Rajendra K. Naik for construction of 2 houses in survey No. 50/10 of the village Bhoma. As the Appellant did not receive any decision from the Respondent No. 1, the Appellant preferred the 1st appeal before the Respondent No. 2. The Respondent no. 2 by his impugned order dated 14/06/2007 allowed the appeal

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of the Appellant. While doing so the Respondent No. 2 rejected the prayer of the Appellant for imposition of penalty for want of jurisdiction.

3. The Respondent No. 1 upon the receipt of the notice from the Respondent No. 2 delivered the letter dated 10/06/2007 at the resident of the Appellant informing the Appellant that the Village Panchayat has not issued any Construction Licence/permission to construct the house to Shri Rajendra K. Naik in survey No. 50/10, Madabhat, Kalimati, Bhoma-Goa. Dissatisfied with the impugned order of the Respondent no. 2 the Appellant has filed the present 2nd appeal on the grounds as set out in the memo of appeal.

4. The Respondent No. 1 filed the reply, the Respondent No. 2 remained absent throughout the proceedings. In the reply, the Respondent No. 1 stated that the information sought by the Appellant was kept ready on 01/03/2007. However, the Appellant did not collect the same on payment of application fees. The Respondent No. 1 also stated that the Appellant did not pay the application fees of Rs. 10/- as required by rule. However, the Respondent No. 1 has not produced any documentary evidence to show that the Respondent No. 1 has informed the Appellant to collect the information on payment of application fees as well as the cost of the information. Therefore, it is difficult to believe the Respondent No. 1 that the Respondent No. 1 had kept the information ready on 01/03/2007. In terms of clause (a) of sub-section (3) of section 7 of the Act, the Public Information Officer has to calculate the fees payable by the applicant and inform the same. The Respondent No. 1 has not produced any proof of the compliance of the said provisions. It is to be noted that the burden lies on the Public Information Officer to prove that he has acted diligently and promptly.

5. The Respondent No. 1 in his reply has stated that “ the information sought had not been of such an urgency so that prejudice or hardship would have been caused to the Appellant if had not been supplied in time” This statement of the Respondent No. 1 is highly objectionable. The Respondent No. 1 should bear in mind that the Act is beneficial legislation of the citizens and the duty is cast on the Public Information Officer to ensure the compliance of the provisions of the Act. The Act has laid down the maximum time limit within which the information is to be provided to the citizens.

Infact, the information is to be provided as expeditiously as possible and not later than 30 days as per sub-section (1) of section 7 of the Act. The Public information Officer is not supposed to determine whether there is an urgency or not for the information seekers.

6. The above statement of the Respondent No. 1 shows that the Respondent No. 1 has not given any importance of the application of the Appellant and it can be construed that the Respondent No. 1 has not acted diligently. The Respondent No. 1 cannot say that there was no urgency for the Appellant or no prejudice or hardship was caused to the Appellant in not providing the information in time. This type of attitude on the part of the Respondent No. 1 should be curbed. If the information was kept ready on 01/03/2007, we fails to understand as to why the same was not provided to the Appellant inasmuch as the Appellant is also residing in the same village Bhoma.

7. The Appellant had challenged the order of the Respondent No. 2. We do not find any fault in the impugned order of the Respondent No. 2 as no powers have been vested with the 1st Appellate Authority to impose penalty on the Public Information Officer and, therefore the Respondent No. 2 has rightly rejected the prayer of the Appellant.

8. The Appellant has already been provided with the information by the Respondent No. 1 through belatedly. Since it is the first instance, we take lenient view and warn the Respondent No. 1 not to repeat such instances and ensure that the information sought by the applicants is provided as expeditiously as possible and not later than 30 days, as per the provisions of section 7 of the Act.

9. With these observations, we dismiss the appeal. The prayer of the Appellant for imposing the penalty on the Respondents is hereby rejected.

Pronounced in the open Court on this day of 23rd August, 2007.

Sd/-
Shri G.G. Kambli
State Information Commissioner

Sd/-
Shri A. Venkataratnam
State Chief Information Commissioner

