

GOA INFORMATION COMMISSION

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

Appeal No. 39/SIC/2008/

Shri Chandrashekar L. Parab,
Near Gawas Flour mill, Ward No. 3,
Headland Sada, Mormugao-Goa

....

Appellant

V/s

The Public Information Office,
The Mamlatdar of Mormugao Taluka,
Office of the Mamlatdar,
Vasco da Gama - Goa.

....

Respondent No. 1.

The First Appellate Authority,
The Deputy Collector & SDO,
Mormugao Taluka,
Vasco da Gama – Goa

....

Respondent No. 2

CORAM:

Shri G. G. Kambli
State Information Commissioner

(Per G. G. Kambli)

Dated: 26th June, 2008.

The Appellant in person.

The Respondent No. 1 is represented by Smt. Argentina Fernandes, Tax
Inspector.

Respondent No. 2 in person.

J U D G E M E N T

This is a 2nd appeal purported to have been filed under sub-section (3) of section 19 of the Right to Information Act 2005 (for short the Act) against the Respondents.

2. The case of the Appellant is that the Appellant vide his application dated 11/03/2008 requested the Respondent No. 1 to issue him a copy of the individual plan showing therein area in respect of Barrack No. 133 PT sheet No. 29 bearing chalta No.63 to 67 which was granted to Shri Laxman Shiva Parab. The Respondent No. 1 vide reply dated 24/03/2008 requested the

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Appellant to approach his office and verify the documents available in the office with respect to Barrack No. 133. Thereafter, the Respondent No. 1 vide letter dated 10/04/2008 informed the Appellant that the entire file was made available to the Appellant for verification and according to the Appellant the plan as requested is not in the file.

3. Feeling aggrieved by the said letter of the Respondent No. 1, the Appellant approached the Respondent No. 2 vide his letter dated 05/05/2008 who is also the First Appellate Authority. The Appellant has also stated in the said letter that the copies of all the correspondence were enclosed for the perusal of the Respondent No. 2. However, the Respondent No. 2 advised the Appellant to prefer appeal as provided under the Act. Hence, the Appellant has preferred this 2nd appeal before this Commission.

4. Upon issuing the notices, the Appellant remained present in person. The Respondent No. 2 is also present in person and filed the reply. The representative of the Respondent no. 1 also presented the reply (after the hearing). The Respondent No. 1 in his reply stated that the respondent No. 1 did not refuse the request of the Appellant for issue of any document. The Appellant himself was unable to show the plan from the file and he was informed accordingly. The Respondent No. 1 also denied of having informed the Appellant that the plan was not traceable. The Respondent No. 2 in his reply submitted that the Appellant did not file the proper appeal before the First Appellate Authority and therefore he advised the Appellant to file proper appeal. In para 2 the Respondent No. 2 stated that since the Appellant did not enclose the copies of the correspondence along with the letter, the said letter was not treated as an Appeal.

5. It is pertinent to note here that the Appellant has sought a copy of the individual plan in respect of sanad granted to Shri Laxman Shiva Parab with regard to the Barrack No. 133 in P.T. sheet No. 29 bearing chalta No. 63 to 67. The Appellant did not seek the inspection of any record. However, the Respondent No. 1 asked the Appellant to inspect the relevant file. In fact, it is the duty of the Respondent No. 1 being Public Information Officer to verify the records of his office through his officials and then

provide a copy of the requested documents to the citizen. It is interesting to note that the Public Information Officer is asking the citizen to verify his office records and to make available a document in respect of which a citizen has asked for a copy. This action on the part of the Public Information Officer is unwarranted. The Public Information Officer cannot ask the citizen to verify the office records and make available the documents in respect of which the citizen has sought a copy. Therefore, the Public Information Officer has not acted diligently and on the contrary putting the blame on the Appellant i.e. the citizen without making any efforts to verify whether the plan, a copy of which was sought by the Appellant is available in the office or not. The action on the part of the Respondent No. 1 therefore was not proper and was not in accordance with the spirit of the Act. If the citizen are asked to verify the records in order to provide the copies of the documents sought by the citizen, the very purpose and object of the Act is defeated.

6. The Appellant approached the Respondent No. 1 by his letter dated 05/05/2008. The Respondent No. 2 states that since the copies of the correspondence were not attached to his letter he could not treat the said letter as an Appeal. Admittedly, the Respondent No. 2 is the First Appellate Authority. The Appellant has made grievances before him against the Respondent No. 1. In case the copies of the correspondence were not enclosed to the letter, the Respondent No. 2 could have very well asked the Appellant to produce the same. The Respondent No. 2, further goes to say that he has not heard the Appellant nor passed any order. If the Respondent No. 2 has not heard and passed any order on the letter dated 05/05/2008 of the Appellant, it is the Respondent No. 2 who has to be blamed for not performing the functions and duties under the Act and not the Appellant. Besides, the Respondent No. 2 could not have issued such a letter without affording any opportunity of being heard to the Appellant. Hence, the said letter was issued by the Respondent No. 2 in gross violation of the principle of natural justice.

7. I have gone through the replies filed by both the Respondents and I am not at all satisfied with the same. Both the Respondents have not dealt with the matter keeping in view the spirit and objective of the Act. The

Respondent No. 1 i.e. the Public Information Officer has asked the Appellant to discharge his functions of verifying office records when it was the duty of the Respondent No. 1 to get the records verified from his office. Both the Respondents have not discharged the functions under the Act. The Respondent No. 1 ought to have given the reply to the Appellant after verifying the records by his office and not on the basis of the verification of the records by the Appellant. Hence, I pass the following order.

O R D E R

The Appeal is allowed. The letter No.MAM/MOR/RTI/B133/08/890 dated 10/04/2008 of the Respondent No. 1 and the letter No.6(3)/RTI/ADM/2008/179 dated 08/05/2008 of the Respondent No. 2 are hereby quashed and set aside. The Respondent No. 1 is directed to provide a copy of the plan as requested by the Appellant on verifying his own records and on payment of fees by the Appellant within 2 weeks from the date of this order and submit the compliance report to the Commission within 3 weeks.

Pronounced in the open Court on this 26th day of June 2008.

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