

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

Appeal / 46 / SIC / 2008 / _____.

Adv. Vaman G. Kurtikar,
Office No. 32, First Floor,
Ponda Commerce Centre,
Tisk, Ponda - Goa.

..... Appellant

V/s

1. The Public Information Officer,
The Mamlatdar of Ponda Taluka,
Office of the Mamlatdar,
Ponda - Goa.

..... Respondent No.1..

2. The First Appellate Authority,
The Deputy Collector & SDM,
Ponda Taluka,
Ponda - Goa.

..... Respondent No.2..

CORAM:

Shri G. G. Kambli
State Information Commissioner

(Per G. G. Kambli)

Dated: 10/07/2008.

Appellant in person.

Respondent No. 1 is represented by Adv. Maria Lourdes Rodrigues

Respondent No. 2 present in person.

JUDGEMENT

The present appeal is filed by the Appellant under section 19 (2) of the Right to Information Act 2005 (for short the Act) as the Respondent No. 2 did not dispose off the Appeal filed by the Appellant before him within the time limit specified in sub-section (6) of section 19 of the Act. Though the Appellant has filed this appeal under section 19(2) of the Act, I treat this Appeal under section 19 (3) of the Act.

2. The facts of the case, in brief, are that the Appellant approached the Respondent No. 1 for the attestation of Power of Attorney executed before the Notary Public which was rejected by the Respondent No. 1 without assigning any reasons. Therefore, the Appellant by his application dated 29/02/2008 requested the Respondent No. 1 to provide him a copy of the

....2/-

Circular/Order, if any, from the State Government whereby the Mamlatdar/Joint Mamlatdar are not authorized to carry out the attestation of power of Attorney executed before the Notary Public under the Act. The Respondent No. 1 by his letter dated 18/03/2008 informed the Appellant that the Respondent No. 1 did not come across any Government Circular/Order wherein Mamlatdar are directed to attest the document etc.

3. Aggrieved by this letter of the Respondent No. 1, the Appellant preferred an appeal before the Respondent No. 2 under section 19 (1) of the Act. The Respondent No. 2 did not dispose off the said appeal of the Appellant within the time limit specified in sub-section (6) of section 19 of the Act. Hence, the present 2nd Appeal.

4. Upon issuing the notices, the Appellant appeared in person. The Respondent No. 2 also appeared in person. The Respondent No. 1 was represented by Adv. Maria Lourdes Rodrigues. The Appellant submitted that the Respondent No. 2 did not pass any order on his Appeal and therefore strict strictures should be passed against the Respondents for not complying with the provisions of the Act. He also submitted that the Respondent No. 1 has wrongly rejected his request. He also pointed out that the Joint Mamlatdar attested his document and therefore, the Respondent No. 1 was wrong in rejecting his request for attestation. The Respondent No. 2 submitted that due to inadvertence the Appeal remain to be disposed off as the Clerk incharge did not put up the same to the Respondent No. 2 and the concerned Clerk was also on leave for some period. He further contented that he will dispose off the 1st Appeal in case it is remanded back.

5. The Appellant had sought a copy of the Circular/Order if any issued by the Government whereby the Mamlatdar/Jt. Mamlatdar are not authorized to carry out the attestation of the Power of attorney executed before the notary Public. The Respondent No. 1 replied that the Respondent No. 1 did not come across any Government circular/order issued by the Government wherein the Mamlatdar are directed to attest the documents etc. In fact the Appellant had sought the copy of the circular/order, if any, whereby the Mamlatdar/Jt. Mamlatdar have not been authorized to carry out the attestation of documents whereas the Mamlatdar has replied that he has not

come across any circular/order authorizing the Mamlatdar to attest the documents. The Appellant did not seek the copy of the circular/order whereby the Mamlatdar have been authorized to carry out the attestation of documents. Hence, the reply of the Respondent No. 1 to the Appellant was not to the point.

6. The Appellant has sought a copy of circular/order if any. This shows that the Appellant is not aware of the circular/order issued by the Government not authorizing the Mamlatdar to attest the document. Thus, the request of the Appellant was not specific. It is pertinent to note here that the Appellant has not pointed out any provisions of law or circular/order issued by the Government whereby the Mamlatdar/Jt. Mamlatdar are required to attest any document. On query by this Commission, the Appellant has failed to satisfy that one of the functions/duties of the Mamlatdar is to attest the document either under any statute or circular/order issued by the Government.

7. The duty of the Public Information Officer (PIO) is to provide the information, which is available in the records of the Public Authority. The PIO is not expected to provide a copy of any document, which is not in existence. It is seen from the reply of the Respondent No. 1 that there are no Government circular/order of the Government directing the Mamlatdar to attest the document etc. Being so it cannot be said that the attestation of the document by a Mamlatdar is part of their duty either under any law or under any instructions issued by the Government.

8. It will be seen from the above that the Respondent No. 2 did not pass any order on the Appeal filed by the Appellant within the time limit laid down in sub-section (6) of section 19 of the Act. The Respondent No. 2, during the course of the hearing, submitted that he will dispose off the Appeal if it is remanded back by this Commission. In this context, it may be pointed out that there are no provisions in the Act to remand the case to the First Appellate Authority. That apart, the time limit specified in section 19 (6) of the Act also expired. Therefore, I direct the Respondent No. 2 to ensure in future that the application/appeals filed under the Act are disposed off within the time limit specified in the Act.

9. The request of the Appellant was not specific. He did not give the details of the Circular/Order i.e. its number, date etc. The words if any used by the Appellant in his request itself suggest that the Appellant was not aware of the details of the document of which he has sought copy. Hence, in the absence of such details, it is not possible for the Public Information Officer to trace the document.

10. In view of the above, I pass the following order:-

O R D E R

The Appeal is dismissed.

Pronounced in the open court on this 10th day of July 2008.

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