

GOA INFORMATION COMMISSION

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

Appeal No. 47/2008

Shri. V. A. Kamat,
G-1, Ravindra – A,
Next to Hotel Ameya,
Opp. St. Inez Church,
St. Inez, Panaji – Goa – 403001.

..... Appellant.

V/s.

1. Public Information Officer,
The Landscape Architect,
Town & Country Planning Department,
Patto, Panaji – Goa.
2. The first Appellate Authority,
The Chief Town Planner,
Town & Country Planning Department,
Patto, Panaji – Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 30/07/2008.

Appellant present in person.

Respondent No. 1 present in person.

Respondent No. 2 absent.

ORDER

This disposes off the second appeal filed by the Appellant on 18th June, 2008 against the order dated 9/5/2008 by Respondent No. 2 herein, who is the first Appellate Authority under the Right to Information Act, 2005 (hereinafter referred to as the RTI Act for short). The order dated 9/5/2008, hereinafter called the impugned order, while upholding the order of the Public Information Officer, at the same time directed the Public Information Officer to give additional information. We, therefore take it that the Appellant is challenging the upholding of the contention of the Public Information Officer that he has already given the information requested by the Appellant. The Appellant has a grievance even now that the complete information requested is not given. The grounds on which he challenges the impugned order are in the appeal memo and he has prayed that the second appeal be allowed and the Respondent No. 1 be directed to furnish correct and complete information.

2. Notices were issued and the Respondent No. 1 submitted his reply and also argued himself. The Appellant has submitted his written arguments. Initially, the Appellant had approached the Public Information Officer on 24/03/2008 with following

...2/-

two questions: -

- “1. Who is the designated/competent authority empowered to take action against violation of section 17(A) and section 17(B) of the Goa Town and Country Planning Act, 1974.
2. Who is the designated/competent authority empowered to take action against illegal construction in contravention of section 16(A) of the Goa Town and Country Planning Act, 1974.”
3. The Public Information Officer’s letter dated 01/05/2008 replied to both questions stating that the Goa Town and Country Planning Act, 1974 (TCP Act) does not disclose the details sought by the Appellant. As the Appellant considered that this is not a reply to his questions, he has moved his first appeal leading to the impugned order as stated above. Even a cursory reading of information sought by the Appellant reveals that he has not asked for information contained in the Goa Town and Country Planning Act at all but has sought the information as to who is the designated authority empowered to take action against violation of section 16-B, 17-A and section 17-B of the TCP Act which are declared as cognizable offences. The question, therefore, of replying that the TCP Act does not disclose this information does not arise, and obviously no reply at all. Subsequently, based on the direction of Respondent No. 2, Respondent No. 1 has further informed the Appellant that “in practise the T&CP department through the setup of officers/officials at district/Taluka level offices, files a FIR with the Police on receipt of a complaint after a site inspection against the alleged violations”. He went on to further explain that after the FIR is registered by the department officials, investigation is carried out by the Police Department and further sanction for prosecution under the TCP Act is given by the Sr. Town Planner, after which a chargesheet is filed. He has, therefore clarified, though subsequently, that it is the district and taluka level offices of TCP department which lodges a complaint with the Police as well as Sr. Town Planner of the Department who gives the sanction for prosecution after the investigation is completed. This substantially and completely answers the queries posed by the Appellant.
4. The Appellant has made out a grievance in the present second appeal that the FIR can be lodged with the Police Station only as per procedure laid down in section 154 of Criminal Procedure Code on behalf of the State. It is also his contention that only an officer specifically authorized by the Government can file the FIR and even Dy. Collector and SDO, Executive Magistrate in his own right, could not file the FIR under the Goa Town & County Planning Act with the Police because he is not authorized to do so. We are not concerned whether the procedure adopted by the Town & Country Planning Department is correct or not. Under the RTI Act, a citizen can seek information and the public authority has an obligation to reply the information as it obtains on the records of the public authority. In this case, the Public Information Officer has informed the Appellant as to who files the FIR and who sanctions criminal prosecution of an offender.

The Appellant, therefore, cannot make a grievance that the Government authorization is required to designate officials who can file the FIR. This is outside the scope of the RTI Act. If the Appellant is of the view that what the Department is doing is illegal or incorrect, it is for him to seek remedy elsewhere. This Commission cannot address his grievances. As far as we are concerned, the correct and complete information sought by the Appellant has already been furnished, though after the first Appellate Authority's order is passed.

4. In view of the above discussion, the second appeal is dismissed.

Pronounced in the open court, on this 30th day of July, 2008.

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

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