

GOA INFORMATION COMMISSION

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

2nd Appeal No. 50/07-08

Shri Rabindra A. L. Dias,
Dr. Pires Colony, Block "B",
Cujira, St. Cruz, Tiswadi, Goa.

.... Appellant

V/S

- 1) Public Information Officer,
Village Panchayat Secretary,
V.P. of Sernabatim, Vanelim, Colva & Gandaulim,
Colva, Salcete – Goa.
- 2) First Appellate authority,
Block Development Officer,
Margao, Salcete – Goa.

.... Respondents.

CORAM:

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

(Per G.G. Kambli)

Dated: 22/11/2007.

Appellant in person.

Adv. F. M. Mesquita for Respondent No. 1.

Shri. Girish Chari, LDC, authorized representative for Respondent No.2.

O R D E R

The Appellant vide his request dated 14/08/2006 requested the Respondent No. 1 to provide the information on 6 points. The Respondent No. 1 replied the Appellant vide letter dated 29/08/2006 that the Panchayat is in process of verification of records and that the Appellant would be provided the information after verification. The Appellant thereafter addressed the letter dated 08/03/2007 to the Respondent No. 1 requesting him to expedite the issue of copies sought by the Appellant without any further delay. The Appellant having not received the reply/information from the Respondent No. 1 filed an appeal before the Dy. Director of Panchayat South on 15/05/2007, which was transferred by the Dy. Director of Panchayat, South to the Respondent No. 2 under section 6 (3) of the Act under communication dated 25/05/2007. The Respondent No. 2 after hearing the parties directed the Respondent No. 1 to issue the information to the Appellant as per the request

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letter dated 14/8/2006 within a week's time vide order dated 27/06/2007. Subsequently, the Respondent No. 1 issued a letter to the Appellant enclosing therewith a copy of the letter dated 18/09/2007 of the Panchayat which is said to be issued under the certificate of posting by the Respondent No. 1 which according to the Appellant was received only on 07/07/2007.

2. The grievances of the Appellant is that the Respondent No. 1 has not abided the order of the Respondent No. 2 and that the Appellant has been put to much hardships and expenditure. The Appellant has also made the grievances that even after the lapse of a year the Respondent No. 2 has not ensured that his order has been complied with by the Respondent No. 1. The Appellant, therefore, prays that the Appellant be compensated under section 19 (8)(b) and 19(9) of the Right to Information Act, 2005 (for short the Act) against the Respondent No. 1 for knowingly giving incorrect, incomplete and misleading information and also be penalized for not furnishing the information within specified period of time under section 20 (1) of the Act i.e. @ Rs. 250/- per day delay.

3. The notices were issued to the Respondents. The Respondent No. 1 filed the reply denying the allegation made by the Appellant in the memo of appeal and submitted that the order of the First Appellate Authority was duly complied with and the information has been provided to the Appellant vide letter dated 27/06/2007 under No. VP/SVC/G/609/2007-2008. The Respondent No. 2 has also filed his reply stating that he has passed an order on 27/06/2007 giving direction to the Respondent No. 1 to provide the information to the Appellant within a week's time. The Respondent No. 1 also filed rejoinder. The Respondent No. 2 filed his rejoinder again reiterating the averments made in the reply.

4. The matter was fixed for argument on 07/11/2007. On 07/11/2007 the Appellant remained absent but the Advocate for the Respondent No. 1 sought for time. The Appellant did not agree for adjournment and requested that the matter be fixed for order. As the matter was adjourned on earlier occasions on account of the absence of the Respondent No. 1, the request of the Advocate for the Respondent No. 1 was rejected.

5. Coming now to the merit of the case, the Appellant requested to certified copies of the following documents.

- 1) The minutes of the meeting held on 26th July 2006 and the decisions thereof.
- 2) Whether it had been decided by the Panchayat Body, that the said structure was illegal?

- 3) Whether permission had been attained by the concerned owner, as alleged, from the said Village Panchayat to carry out the construction works, in question?
- 4) Whether NOC had been granted to Laximi Devasthan Trust by Shri Francisco Baretto, as alledged owner? Kindly issue certified copy.
- 5) Whether illegal Structures can be demolished by the Panchayat, if found illegal, as per the Panchayat Raj Act,
- 5) Action taken against my complaint, in the illegal structure/construction carried out by Shri Francisco Baretto in view of the guidelines of the Panchayat Raj Act.

6. Instead of providing the certified copies of the documents to the Appellant, the Respondent No. 1 vide letter dated 29/08/2006 informed the Appellant that the Panchayat is in process of verification of records. The Respondent No. 1 has not explained as to why the Respondent No. 1 could not provide the information sought by the Appellant. The Respondent No. 1 in his letter dated 28/06/2007 has sent a copy of the letter dated 18/09/2006 which is said to have been sent to the Appellant under certificate of posting. On perusal of the copy of the said letter dated 18/09/2006, it is not address to any person and the Respondent No. 1 has also not produced any proof having served the copy of the same to the Appellant. There is also another letter dated 18/09/2006 which is said to have been sent under certificate of posting giving information to the Appellant on all the six points. The Respondent No. 1 has also not produced any proof/evidence to show that the said letter dated 18/09/2006 was served on the Appellant. In case the information was already provided to the Appellant as stated by the Respondent No. 1 under letter dated 18/09/2006, it is not understood as to why the Respondent No. 2 has passed the order giving direction to the Respondent No. 1 to provide the information within a week's time. The Appellant has denied of having received the same and said that he has received the same only on 07/07/2007. On perusal of the reply dated 18/09/2006, it is seen that the Respondent No. 1 has provided the information on first five points. As regards the information pertaining to the point No. 6, the Respondent No. 1 informed the Appellant that the show cause notices had been issued. However, it is not known whether the Panchayat has taken the final decision on the show cause notices. We, therefore, direct the Village Panchayat to take decision on said complaint of the Appellant as well as the show cause notices issued by the Panchayat and communicate its decision with reasons within a period of 2 months from the date of this order. This direction is issued to the Village Panchayat of Colva, Salcete under section 4 (1) (d) of the Act.

7. We have observed that there has been a delay in providing the information to the Appellant by the Respondent No. 1. The Respondent No. 1 has not discharged his burden to show that the letter dated 18/09/2006 was served or issued to the Appellant as alleged in the replies. It is, therefore, necessary to verify the relevant records of the Panchayat before we take any action under section 20 of the Act. We, therefore, direct the Respondent No. 1 to produce the following original documents before this Commission on 13/12/2007 at 11.00 a.m.

- 1) Postage Stamp Register for the month of September 2006.
- 2) Outward register for the month of September 2006.
- 3) Copy of the certificate of posting by which the said letter said to have been sent.
- 4) Any other relevant documents to show that the said letter was sent to the Appellant.

Announced in the open court on this 22nd day of November, 2007.

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

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