

GOA INFORMATION COMMISSION

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

Appeal / 51 / SIC / 2008 / _____.

Shri Laxman D. Ghadi,
Hno: 130, Naikawada,
Pernem - Goa.

..... Appellant

V/s

1. The Public Information Officer,
The Secretary,
Village Panchayat of Paliem,
Paliem, Pernem - Goa.

..... Respondent No.1..

2. The First Appellate Authority,
The Block Development Officer,
Pernem Taluka,
Pernem - Goa.

..... Respondent No.2..

CORAM:

Shri G. G. Kambli

State Information Commissioner

(Per G. G. Kambli)

Dated: 18/08/2008

Appellant in person.

Adv. Shri Prasad Shahapurkar for the Respondent No. 1.

J U D G M E N T

The Appellant vide his request dated 28/03/2008 sought the information from the Respondent No. 1 under the Right to Information Act 2005 (for short the Act) on 9 points pertaining to the developmental works undertaken by the Village Panchayat of Paliem in different wards of the Panchayat during the period from 2002 till date under the RDA Scheme, Gramin Vikas Yojana Scheme and MPLAD Scheme.

2. The Respondent No.1 furnished the information to the Appellant vide letter dated 22/04/2008. Having not satisfied with the information furnished by the Respondent No. 1, the Appellant preferred an Appeal before the Respondent No. 2. As the Appellant did not receive any decision from the Respondent No. 2 within the stipulated period, the Appellant has filed the present Appeal before this Commission.2/-

3. The appellant alleges that the Respondent No. 1 did not provide him complete and correct information. On going through the memo of Appeal the Appellant has not specified clearly as regards to the incomplete and false information given by the Respondent No. 1. Similarly, in the Appeal filed before the First Appellate Authority, the Appellant did not give the details of the information, which according to him was not complete or false.

4. Upon issuing the notices, the Respondents No. 1 and 2 appear before this Commission. The Respondent No. 2 filed a copy of the order passed by him. The Appellant filed his written submissions and the matter was fixed for arguments on 08/08/2008. On 08/08/2008 the Appellant was present in person. The Respondent No. 1 was represented by Advocate Shri Prasad Shahapurkar and the Respondent No. 2 was absent. The arguments of the Learned Adv. for the Respondent No. 1 and the Appellant were heard.

5. As stated earlier the case of the Appellant is that the Respondent No. 1 did not provide the Appellant complete and correct information. In the written submission filed by the Appellant certain details are given by the Appellant to substantiate his case. Coming now to the information provided by the Respondent No. 1 on point No. 1, the Appellant pointed out that the Respondent No. 1 did not provide him the information in respect of the work executed by the Panchayat during the years 2002, 2003 2004 and 2006. His case is that he has sought the information in respect of the works undertaken by the panchayat from the year 2002 on wards. On perusing the reply of the Respondent No.1, it is seen that 7 works were undertaken under RDA and Gramin Vikas Yozana Scheme and 3 works were undertaken from the Panchayat funds. This is with reference to point No. 1. However, the Respondent No. 1 is silent as to whether these are the only works undertaken by the Panchayat during the years 2002 till the date of the reply. The Appellant has further stated in his written submission that the Village Panchayat of Palyem had invited quotation for 12 number of works under tender notice dated 10/03/2006 and two numbers of works vide corrigendum tender notice dated 06/07/2007. As per the reply furnished by the

Respondent No. 1 only 10 works were undertaken from the RDA scheme as well as the Panchayat funds. It is, therefore, necessary for the Respondent No. 1 to clarify on these points. The Appellant in support of his contention has produced tender notice dated 10/03/2006 and corrigendum dated 06/07/2007. It is not clear whether all the works tendered have been executed. On perusing the tender notice it is seen that the time limit provided for the completion of work ranges from 30 to 90 days. It means that work might have been completed if the tender was accepted and the work orders were issued. It is, therefore, necessary that the Respondent No.1 should clarify this position.

6. The Grievances of the Appellant is that the Respondent No. 1 has not provided the names of the occupants. On perusing the point No. 2 it is seen that the Appellant did not seek the names of the occupants but only requested for the Sy. Nos. which the Respondent No. 1 had given except in two cases where the Respondents has informed that the same are not available in the concerned construction file. Therefore, I do not see any wrong on the part of the Respondent No. 1 in providing the information on point No. 2.

7. The Respondent No. 1 has provided the information on points No. 3, 4 and 5 stating that except in one case, in all remaining cases NOC's were obtained and as can be seen from the reply the copies of NOC's were enclosed. Hence, the Appellant has not substantiated as to how the information provided by Respondent No. 1 on these 3 points are false or incomplete.

8. The Appellant at point No. 6 sought the copies of the tender, bill and estimates of the various works. As can be seen from the reply, the Xerox copies of the tender, estimate and bill copies were sent to the Appellant except the works under taken under RDA Scheme and Gramin Vikas Yojana Scheme were tenders are not invited. The Appellant had made the grievances that he has been provided only valuation certificates and not provided pre-receipts bill submitted by the constructor. The Appellant has

produced the Xerox copies of the valuation certificates countersigned by the Respondent No. 2. The Appellant has also produced the Xerox copies of the note of various works where certain measurements are recorded. As can be seen from the reply, the Respondent No. 1 has provided the copies of the bill which the Appellant is disputing.

9. As regards to the information pertaining to the point No. 7, the Respondent No. 1 has asked the Appellant to approach the concerned Authority. So far as the information regarding point No. 8 is concerned, the Respondent No. 1 has given the amount right from the year 2002 till 28/03/2008. The Respondent No. 1 has also stated that the amount of grants received have been fully utilized except an amount of Rs. 56,000/- which remained unutilized. Hence, the Respondent No. 1 has provided the information to the Appellant. Regarding the information pertaining to point No.9 the Respondent No. 1 had informed that there is no place called Ghadiwada. During the course of the hearing the Appellant also admitted that there is no ward known as Ghadiwada in the Village Panchayat of Paliem.

10. Shri Prasad Shahapurkar, the learned Advocate for the Respondent No. 1, submitted that the Respondent No. 1 has provided the complete and correct information as per the records available in the office of the Village Panchayat. The First Appellate Authority filed the copy of the order dismissing the appeal filed by the Appellant on 06/06/2008. The Appeal was filed on 08/05/2008 and the Respondent No. 2 issued the notice of the hearing on 3rd day of June, 2008 which was served on the Appellant on 05/06/2008 and the hearing was fixed on 06/06/2008 at 3.00 p.m. Thus the Respondent No. 2 has given just one day notice to the Appellant. The Respondent No. 2 has not explained as to why the Appeal was kept pending for 29 days and the notice was given to the Appellant on the last moment in order to bring the same within the provisions of sub-section (6) of section 19 of the Act. Hence, the notice period given by the Respondent No. 2 is unreasonable. The Respondent No. 2 ought to have given the reasonable notice so as to enable the Appellant to attend the hearing. That apart, the

Appellant has stated that he was sick and could not appear on 06/06/2008 at 3.00 p.m. The conduct and the attitude on the part of the Respondent No. 2 of giving one day notice is not proper and hence he is warn to be more careful in future and to see that the reasonable notice period is given to the parties.

11. Coming now to the merits of the case, it is not clear from the reply given by the Respondent No. 1 whether he has covered all the work undertaken by the Panchayat for the period from 2002 till the date of the application of the Appellant. Similarly, the Respondent No.1 has also not reacted on the written submissions filed by the Appellant regarding the tender issued by the Panchayat and the works undertaken pursuant to the said tender. The Appellant has specifically requested copies of the bills which according to the Appellant have not been provided by the Respondent No. 1.

12. As regard the information pertaining to the points No. 2, 3, 4 , 5, 8 and 9 the Appellant has failed to substantiate the allegation. So far as point No. 6 is concerned the Respondent No. 1 should clarify about the furnishing of the bills. The reply given by the Respondent No. 1 to approach the concerned Authority to seek the information was not proper and not in accordance with the provisions of the Act. In fact the Respondent No. 1 ought to have transferred that part of the Application to the concern Authority under section 6 (3) of the Act within 5 days instead of asking the Appellant to approach the concerned Authority.

In view of the above, the following order is passed:-

ORDER

The Appeal is partly allowed. The order dated 06/06/2008 passed by the Respondent No. 2 is hereby quashed and set aside. The Respondent No. 1 is directed to clarify whether the reply given by him also contains the information pertaining to the full period from the year 2002 on wards till the

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date of the application. The Respondent No. 1 is also directed to clarify whether the works tendered were executed and completed and whether they are reflected in the reply given to the Appellant. The Respondent No. 1 shall provide copies of the bills of the contractor if not furnished earlier. The Respondent No. 1 is also directed to send the copy of the application of the Appellant to the concerned authority within 5 days regarding the point No. 7 of the application of the Appellant. The other prayers of the Appellant are rejected. The Compliance report shall be filed before this Commission on 11/09/2008 at 11.00 a.m.

Pronounced in the open Court on this 18th day of August 2008.

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