

## **GOA INFORMATION COMMISSION**

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

Appeal No. 54/2007-08/VP

Shri John Carmo Rodrigues  
H. No. 280, 2<sup>nd</sup> Palvem,  
Chinchinim - Goa.

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Appellant.

V/s.

1. Public Information Officer,  
The Secretary,  
Village Panchayat of Chinchinim-Deussua,  
Chinchinim - Goa.
2. First Appellate Authority,  
The Block Development Officer,  
Salcete Taluka,  
Margao - Goa.

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Respondents.

### **CORAM:**

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

(Per A. Venkataratnam)

Dated: 01/11/2007.

Appellant present in person.

Respondents No. 1 and 2 are also in person.

### **ORDER**

This disposes off the appeal filed by the Appellant on 8<sup>th</sup> August, 2007. He made a request on 22<sup>nd</sup> February, 2007 to the Respondent No. 1 asking for certain information on the action taken by the Village Panchayat on his various representations against the illegal construction close to his compound wall of a soak pit and septic tank by his neighbour. Having received no reply from the Panchayat Secretary, he approached the Dy. Director of Panchayats for relief. In the original request, he mentioned that the application was made under the Right to Information Act, 2005 (for short the RTI Act). He did not mention in his letter to the Dy. Director of Panchayats that it is first appeal under the RTI Act. However, the Dy. Director of Panchayats passed on the grievance of the Appellant on 14<sup>th</sup> March, 2007 to the Block Development Officer, Salcete, Respondent No. 2 herein. The Block Development Officer has directed the

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Respondent No. 1 to provide the information by his letter dated 25<sup>th</sup> April, 2007. Incidentally, the Block Development Officer is first Appellate Authority and the Dy. Director of Panchayats is not the first Appellate Authority under the RTI Act.

2. Notices were issued to the parties and they appeared in person. A written reply was submitted by the Respondent No. 1. He mentioned that a reply was already given by him to the Appellant on 1<sup>st</sup> March, 2007 in response to his application dated 22/02/2007. However, what was informed by him on that day was only an invitation to the Appellant to come to the Panchayat for discussion. This cannot be taken as a reply to the RTI query. It is the case of the Respondent No. 1 that the matter was explained to the Appellant orally and he was satisfied.

3. At this stage, it is necessary to look at the request verbatim. The request is for the following information;

- “1. Why you have not provided me the requisite information asked for
2. If the letter of the Medical Officer Incharge, PHC, Chnichinim was discussed in your regular meetings.
3. Why you have not inspected the site and taken appropriate action on the complaint”.

By the above questions, the Appellant wants to know the reasons for inaction by the Village Panchayat of Chnichinim-Deussua in the matter of his grievances.

4. The point is whether there is any provision in the RTI Act compelling the Respondent No. 1 to perform his legal duties. It has come on record that the neighbour of the Appellant, on his own tried to mitigate the nuisance caused by his construction of soak pit by further modifying it and increasing its size. The efforts put in by the Panchayat to mitigate the nuisance are not on record. No doubt, the Health Officer of the area stated that the construction is “illegal” based on the fact that the neighbour has not taken NOC either from the Panchayat or from the Health Officer. He did not suggest any solutions to the problem.

5. There is no doubt that there are no records in the Panchayat of the action taken by the Panchayat on the complaints made by the Appellant. As there are no records, no information could be given by the Respondent No. 1. However,

the reason for not initiating action on the complaints of the Appellant has to be informed to the Appellant under Section 4(1)(d) of the RTI Act. The provision states as follows: -

Section 4 - Obligations of Public Authorities. - (1) Every public authority shall-

“(d) provide reasons for its administrative or quasi-judicial decisions to affected persons”.

According to us, this case falls squarely under the above section as the non-action or inaction or wrong action by the public authority against a citizen in its jurisdiction is also a decision of the public authority and it has to explain the reasons for its inaction to the affected person. The word “decision” will according to us include the decision not to take any action or omission to perform its legal duties by the public authorities. However, this remedy is available only to the affected persons and not to all the citizens under section 3 of the RTI Act because this cannot be classified as “information” as defined under the Act.

6. We, therefore, direct the Village Panchayat of Chinchinim-Deussua, Salcete Block to take action as deemed fit on the complaints made by the Appellant within a period of one month and report back to this Commission.

Pronounced in the open court on this 1<sup>st</sup> day of November, 2007.

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

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

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