

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

Appeal / 56 / SIC / 2008 / _____ .

Shri Alexinho F. Monsarrate,
Santarbat, Piedade,
Divar, Ilhas Goa.

..... Appellant

V/s

1. The Public Information Officer,
The Administrator, Central Zone,
Office of the Comunidade,
Panaji - Goa.

..... Respondent No.1..

2. The First Appellate Authority,
The Additional Collector,
Office of the Collector,
North Goa Collectorate,
Panaji - Goa.

..... Respondent No.2..

CORAM:

Shri G.G. Kambli
State Information Commissioner

(Per G.G. Kambli)

Dated: 18/08/2008.

Appellant in person.

Advocate M. H. Fernandes for the Respondent No. 1.

J U D G E M E N T

The Appellant by his request dated 17/03/2008 sought the information from the Respondent No. 1 on six points pertaining to the property bearing Sy. No. 189/7 of Village Navelim. The Appellant sought the details regarding the allotment of this property which was the plot No. 67/A under old plan No. 16158 of Navelim Comunidade in favour of Lucinda Maria G de Noronha de Menezes. The Respondent No. 1 vide reply dated 18/04/2008 informed the Appellant that the information sought could not be furnished since the documents are not traceable in the office of the Administrator of Comunidades Central Zone Panaji as well as in the Comunidade of Navelim as per their letter dated 11/04/2008.

...2/-

2. Having not satisfied with the reply, the Appellant preferred an Appeal before the First Appellate Authority i.e. the Respondent No. 2 herein on 22/04/2008. The FAA by his order dated 03/06/2008 held that the information on point No. 1 could be provided if allotment register is checked. The information at point No. 6 is related to point No.1 and therefore the Respondent No. 2 herein directed the Respondent No. 1 to provide the information to the Appellant on point no. 1 and 6 within a week's time. Thereafter, the Respondent No. 1 vide her letter dated 19/06/2008 informed that the information was furnished after thorough tracing of the documents as well as Comunidade of Navelim. The Respondent No. 1 had also informed the Appellant as well as the Respondent No. 2 i.e. the FAA vide letter dated 7/06/2008 that even after thorough such the information sought by the Appellant could not be provided due to non-viability of the documents.

3. The Appellant therefore has filed the present 2nd Appeal before this Commission. Upon issuing the notices the Respondent No. 1 filed the reply. The Respondent No. 2 neither filed reply nor remained present. The Appellant argued the matter personally and Advocate M. H. Fernandes argued on the behalf of the Respondent No. 1. She submitted that the information sought by the Appellant is not available/traceable in the record and therefore the Respondent No. 1 could not provide the same. She submitted that if the records are not available, the PIO cannot provide the same and in support thereof she has relied upon the decision of the Hon'ble High Court of Bombay Goa Bench in the case of Celsa Pinto V/s Meena Natekar and others.

4. On the other hand, the Appellant contended that he is seeking the information regarding the plot belonging to the Comunidade Navelim and that the Comunidade Navelim must possess the records of the property belonging to it. He also invited the reference to the letter dated 19/06/2008 of the Respondent No. 1 wherein the Respondent No. 1 had informed that the information was furnished after thorough tracing and therefore submitted

that the information was found after thorough tracing. The learned Adv. For the Respondent No. 1 stated that the word “tracing” was typed by mistake and it should be read as “searching”.

5. In the reply, the Respondent No. 1 has taken various preliminary objections stating that the present appeal is not maintainable, this Commission has no jurisdiction to try and decide this Appeal, the Appeal is frivolous, vexatious and abuse of the process of law etc. However, during the course of the arguments, the learned Adv. for the Respondent No. 1 did not substantiate these preliminary objections and hence I overrule these preliminary objection raised in the reply filed by the Respondent No. 1.

6. I shall now discuss the appeal on merits. The Respondent No. 1 had informed the Appellant that the records are not traceable and the same is reiterated before the First Appellate Authority as well as before this Commission. The case of the Appellant is that the plot belonging to the Comunidade has been recorded in the name of private person as a occupant and no records are available as to how this plot has been recorded in the name of the private person. This plot bears the old Sy. No. and, therefore, it is not difficult for the Comunidade of Navelim to trace the old records from the concerned department and find out as to how the said plot of land has been recorded in the name of the private person in the records of rights. It is in the interest of the Comunidade of Navelim the Respondent No. 1 shall give direction to the Comunidade of Navelim to find out the circumstances or the bases on which the said plot of land had been recorded in the name of the private person and take appropriate steps in the matter. With these objections the Appeal stands disposed off.

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

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