

GOA STATE INFORMATION COMMISSION

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

Appeal No. 60/2006/VP Canca Benaulim

I. Samuel Raju
H. No. 706/A, Aksona,
Pendolpem - Benaulim,
Salcete - Goa . 403716

..... Appellant.

V/s.

1. Public Information Officer
Secretary, V.P. Canca Benaulim,
Salcete - Goa.

2. First Appellate Authority,
The Director of Panchayats,
Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 15/02/2007.

Appellant in person.

Respondents are also in person.

ORDER

This disposes off a second appeal dated 25/12/2006 filed by the Appellant against the order dated 21/12/2006 of the first Appellate Authority, the Respondent No. 2 herein. By his request dated 10/9/2006, the Appellant approached the Respondent No. 1 to inform him "as to why your office (the Village Panchayat of Canca Benaulim) had forwarded Mrs. Maria D'Souza's revised plan to the Town Planner at Margao inspite of knowing the facts and the action taken by you (Respondent No. 1) in this regard". The Respondent No. 1 replied on 7/10/2006 and 10/10/2006 stating that no revised plans of Mrs. Maria D'Souza were processed by the Panchayat. Thereafter, the Appellant filed his first appeal on 31/10/2006 before the Respondent No. 2 stating that the Respondent No. 1 has furnished the false information because he has the letter of

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the Panchayat dated 1/7/2006 forwarding the revised plans to the Town Planner. While the appeal was pending before the Respondent No. 2, the Respondent No. 1 by another letter dated 21/11/2006 informed the Appellant that his earlier two letters were wrong and that the revised plans have indeed been forwarded to Town and Country Department by him on 1/7/2006. In the same letter, he has also informed that "the information sought vide your application dated 10/9/2006 cannot be furnished as the same is not available on record". He has also regretted the inconveniences caused by him to the Appellant. By his order dated 21/12/2006, the learned Director of Panchayats has closed the case as the information has already been supplied by the Respondent No. 1 and also warned the Respondent No. 1 that strict disciplinary action will be initiated against him in future if such lapses on his part occurred again.

2. The prayer of the Appellant before this Commission is to initiate action against the Public Information Officer for not furnishing the information sought and for giving a vague reply.

3. The notices were issued and the written statements were filed by both the Respondents. It is necessary to understand some more facts of this case before we proceed further. It appears that an application was made on 4/12/2003 by Shri Anthony D'Souza in respect of H. No. 698, as Power of Attorney holder on behalf of Maria D'Souza for the construction of a septic tank and soak pit. It also appears that there is a well of potable drinking water in the property of his neighbour, who is the present Appellant. Accordingly, Maria Esperanca Fernandes e Raju, filed a complaint to the Panchayat against the proposed construction by Maria @ Rosy D'Souza. The correspondence is made by Anthony D'Souza on behalf of Maria D'Souza and I. Samuel Raju on behalf of Maria Fernandes. It appears from the records that the site was inspected by the Panchayat and the Primary Health Officer of Margao. The latter objected in writing to the Panchayat by his letter dated 8/12/2004 that the proposed soak pit is within 11 mts. of the well of the Appellant. According to the Rules, a distance of 15 mts. has to be maintained. Clearly, therefore, the proposed construction was illegal. Accordingly, a Resolution No. 4 (19) was passed by the Panchayat on 11/12/2003 asking Maria @ Rosy to submit revised plans showing required distance of soak pit and septic tank from the well. When the revised plans were

submitted by Maria on 28/6/2006, they were forwarded by the Panchayat to the Town and Country Planning Department on 1/7/2006. Having come to know of this development, the Appellant wrote to the Respondent No. 1 to furnish him the reasons how the revised plans were forwarded to the Town and Country Planning Department. It should be made clear here that Respondent No. 1 has not submitted anything in writing or orally that the plans were revised showing the correct legal distance from the well nor did he deny the statement and allegation of Appellant that the revised plans were not indeed revised and the same plans showing the 11 mts. distance from the well were forwarded by the Panchayat to the Town and Country Planning Department on 1/7/2006.

4. This being the case, the replies dated 7/10/2006 and 10/10/2006 of the Respondent No. 1 flatly denying that the plans were re-submitted by Rosy to the Town and Country Planning Department and subsequently owning up the mistake by his revised reply dated 21/11/2006 are suspicious. Even now, he has stated that the information sought by the Appellant cannot be furnished, as the same is not available on record. What is not available on record is also not stated specifically. By reading the whole record, it is clear what for the Respondent No. 1 wants to state is that the reasons for forwarding the same old plans of Maria @ Rosy D'Souza inspite of knowing that the required distance is not maintained is not available.

5. It is true that whatever record is not available cannot be furnished. However, here the Appellant has not clearly stated whether the plans were revised by Maria D'Souza in accordance with rules or not if so what is the distance shown by her between the soak pit and the well of the neighbour in the revised plans. This information can definitely be given as the copies of the revised plans should be available with the Panchayat. This should be done in the next one week under intimation to this Commission.

6. There is no doubt that the original replies dated 7/10/2006 and 10/10/2006 by the Respondent No. 1 appears to be misleading and are meant to hide the truth. We are also led to believe that the revised information dated 21/11/2006 by the Respondent No. 1 to the Appellant could not have been issued but for (i) the Appellant mentioning the exact forwarding letter number and date of the Village Panchayat and (ii) the filing of the first appeal before the

Director of Panchayats. This is not a desirable trend in the Panchayat administration. However, we take a lenient view in this case and are not inclined to take any further action under Section 20 of the Act against the Public Information Officer.

Pronounced in the open Court on 15th February, 2007.

(A. Venkataratnam)
State Chief Information Commissioner, GOA.

(G. G. Kampli)
State Information Commissioner, GOA.