

GOA INFORMATION COMMISSION

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

Appeal No. 61/2007-08/VP

Shri. Nazaziano Paes,
H. No. 16, Banda, Assolna,
Salcete - Goa.

..... Appellant.

V/s.

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

..... Respondents.

CORAM:

Shri G. G. Kambli
State Information Commissioner

(Per G. G. Kambli)

Dated: 27/12/2007.

Appellant in person.

Respondent No. 1 alongwith his Adv. Silvano Estibeiro present.

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

ORDER

In this appeal, I will confine to the application dated 13/10/2006 of the Appellant addressed to the Respondent No. 1 seeking certain information though the Appellant has made references to various letters and has produced copies of some correspondence which are not at all relevant.

2. It is to be noted that the Appellant has made various applications under the Right to Information Act, 2005 (for short the Act) seeking information from the Respondent No. 1 and also common appeal has been filed before the first Appellate Authority (B.D.O.). In fact each application under the Act gives a separate cause of action and separate appeals has to be filed because of the limitation period prescribed under the Act for the disposal of applications and appeals by the first Appellate Authority and also for filing appeals. Alongwith the appeal memo, the Appellant has produced self attested copy of the appeal memo which does not carry any date. It appears that the said application was

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produced by the Appellant during the course of the proceedings in Appeal No. 69/2006 filed before this Commission instead of filing separate appeal. In the said appeal, the Commission has disposed off the application dated 11/7/2006 of the Appellant made to the Respondent No. 1. The said appeal was disposed off by the Commission by its order dated 29/3/2007. In the said order, the Commission had made observations that in respect of other requests of the Appellant, the Appellant could file second appeal after exhausting the remedies available under the Act.

3. The Appellant has produced a copy of the memo of appeal dated 13/4/2007 filed before the first Appellate Authority i.e. Block Development Officer wherein in para 1 of the said appeal, the Appellant had made reference to the various letters dated 16/12/2006, 17/4/2006, 28/4/2006, 1/5/2006, 1/5/2006. In para 5 reference has been made to the application dated 13/10/2006 which is the subject matter of the present appeal. The Appellant has also made a reference to the application dated 11/7/2006 though the same was disposed off by the Commission in second appeal referred to above. In the prayer clause or relief sought by the Appellant, the Appellant prayed for direction for the issue of the information requested by him through various letters dated 16/2/2006, 27/4/2006, 28/4/2006, 1/5/2006, 1/5/2006, 11/7/2006 and 13/10/2006. This appeal has been filed after the order was passed by the Commission on the application dated 11/7/2006. Therefore, there was no need for the Appellant again to include the application dated 11/7/2006 which was already disposed off by the Commission.

4. As stated above, each application gives a separate cause of action and therefore, the Appellant should have filed separate appeals in respect of each application on the contrary, the Appellant mixed up all the applications and filed the common appeal before the first Appellate Authority which in fact suffers from misjoinder of causes of action. The first Appellate Authority i.e. Respondent No. 2 disposed off the said appeal dated 13/4/2007 vide order dated 12/6/2007. The Respondent No. 2 gave directions to the Respondent No. 1 to provide the correct, upto date and certified information to the Appellant under the signature of the Respondent No. 1 within the time limit. Subsequently, the Appellant made a complaint on 5/7/2007 stating that the Respondent No. 2 has not made any reference to the application dated 13/10/2006 in his order. Having

not satisfied with this order of the Respondent No. 2 the Appellant has filed the present appeal on the grounds set out in the memo of appeal with the following prayers: -

1. Information sought for vide application dt. 13.10.06.
2. Necessary action against Respondent No. 1 for using the services of an Advocate to waste the time and mislead the court.
3. Issue any order or direction which the commission in addition to compensation for the torture and harassment caused to SENIOR CITIZEN by directing them again and again to make appeals to the First Appellate Authority for the failure of their duties and responsibilities.

5. Coming now to the application dated 13/10/2006 and the replies given by the Respondent No. 1 in response to the said application it would be appropriate to transcribe the interrogations and the replies given by the Respondent No. 1 as follows: -

II. 1. What action will the panchayat take?

Ans. With reference to your query No. I(1) it has been seen from the records that no action has been taken and therefore the same was discussed in the meeting held on 30/01/2007 and it has been resolved to call the Party for amicable settlement if possible.

2. When will the action be taken?

Ans. With reference to query No. I(2), incase no amicable settlement is arrived at the Panchayat will take further course of action after constitution of new Panchayat body.

3. Who will take the action?

Ans. With reference to query No. I(3), the Authority empowered under the Panchayati Raj Act, will take action in accordance with law.

4. Since the mud is dumped with a resolution are the BDO and DRDA responsible for action on your instructions?

Ans. With reference to query No. I(4), I am not in a position to answer your said query, as the same is beyond my limits.

5. Have you intimated the BDO and DRDA as per rules?

Ans. With reference to query No. I(5), from the Panchayat records there is no such intimations issued to BDO, I am not in position to answer your said query and not to my knowledge.

6. The BDO and DRDA are already aware of the violation of the illegal filling. This was made known to them in the process of the inquiry of the Dy. Collector.

Ans. With reference to query No. II(1), No.

II. 1. Have the panchayat investigated the matter of the illegal constructions in Sy. No. 118/12 & 13 at Bainful, Assolna and intimated the Town & Country Planning Department during the course of 6 months?

Ans. With reference to query No. II(1), No.

2. What action has the panchayat taken?

Ans. With reference to query No. II(2), Nothing.

3. Have you offered your comments regarding keeping an access of 3 meters to the Cristiny House on the rear of Sy. No. 118/15.

Ans. With reference to query No. II(3) No.

6. It is seen from the reply dated 9/3/2007 of the Respondent No. 1, there are various overwriting in ink on the said letter. During the course of the arguments, the Appellant had admitted that whatever is written in ink was made by the Appellant. In fact, the Appellant should not have written anything on the reply of the Respondent No. 1 which creates an impression that it is of the Respondent No. 1. In the beginning the Respondent No. 1 has given the reply in response to the application dated 13/10/2006 to the Appellant vide letter dated 9/11/2006 informing the Appellant that the documents requested by the Appellant could not be traced since the Appellant has not specified the same. By query No. 1, the Appellant wanted to know what action will the Panchayat take on the letters written by the Dy. Collector dated 18/7/2006 regarding the filling up of the nallah in Survey No. 119/2. The Respondent No. 1 informed the

Appellant that the Panchayat had discussed the matter in its meeting held on 13/01/2007 and resolved to call party for amicable settlement if possible and no action was taken. The second query relates to as to when will the action will be taken. The reply given by the Public Information Officer is that in case no amicable settlement is arrived at, the Panchyat will take further course of action after the constitution of new Panchayat body. The query No. 3 relates as to who will take the action. The reply is that the authority empowered under the Panchayati Raj Act will take action in accordance with law. In response to query No. 4, the Respondent No. 1 replied that he is not in a position to answer the said query as the same is beyond his limits. Regarding the query No. 5, the Respondent No. 1 expressed his inability to answer the query as the records of the Panchayat do not show whether any intimation was issued to the BDO. The query No. 6 is replied in the negative.

7. The query No. 1 of second part is answered in the negative and similarly question No. 2 of the second part is also answered in the negative and query No. 3 of second part is also answered in the negative.

8. The Respondent No. 1 filed the reply. The Respondent No. 2 has raised the preliminary objection stating that the appeal filed before this Commission is barred by law of limitation and the application dated 13/10/2006 of the Appellant is disposed off by this authority. As regards the merits, the Respondent No. 1 submitted that whatever information sought by the Appellant has been furnished under letter dated 9/3/2007.

9. Before I deal with the matter on merits, I would like to deal with the preliminary objection raised by the Respondent No. 1. The Appellant has filed the present appeal before this Commission on 31/8/2007 against the order dated 12th June, 2007. The time limit provided for filing the appeal before this Commission is 90 days. The impugned order is dated 12th June, 2007 and the appeal has been filed on 31/8/2007 therefore, the appeal has been filed within the time limit prescribed under the Act. The other objections taken by the Respondent No. 1 that the application dated 13/10/2007 has been disposed off by this authority is also overruled as the Commission has disposed off the application dated 11/7/2006 and not 13/10/2006 by its order dated 29/3/2007 in Appeal No. 69/2006/VP.

10. On merits, it is seen that the Respondent No. 1 has replied that the matter was placed in the Panchayat meeting held on 13/1/2007. The Appellant wanted to know the future course of action which the Panchayat would take. The Public Information Officer cannot inform or provide the information on future course of action. The Public Information Officer's duty is to provide the information whatever is available in the office records. Hence, there is no fault on the part of the Respondent No. 1. The Appellant also wanted to know as to when the action will be taken. The Respondent No. 1 has replied that the action will be taken after the constitution of new Panchayat body and therefore, the Respondent No. 1 has also provided the information on this point. Regarding the reply to query No. 3 the Appellant wanted to know as who will take the action. This is in the form of seeking advice or opinion of the Public Information Officer which is not permissible under the Act. By query No. 4 the Appellant wanted to know whether the BDO and DRDA are responsible for their action. Here again the Appellant is seeking the advice of the Respondent No. 1 as to whether the BDO or DRDA is responsible. The Respondent No. 1 has rightly informed the Appellant that this is beyond the scope of the Public Information Officer. The query No. 5 is also replied by the Respondent No. 1 stating that no such intimation has been issued to the BDO as per the records of the Panchayat. The Appellant did not seek any information by query No. 6. As regards information pertaining to part II of the application, the Respondent No. 1 has provided the information.

11. Thus, it will be seen that the Respondent No. 1 has provided the information to the Appellant as per the request dated 13/10/2006. The role of the Public Information Officer is limited in providing the information available in the office records and the Public Information Officer need not be decision taking authority on any grievances of the citizen. The Public Information Officer cannot express any opinion or comments for the omission or commission of any Authority in the Public Authority.

12. The Appellant has prayed, among others, for taking action against the Respondent No. 1 for using the services of an Advocate. In this context, it is stated that the Act does not prohibit or debarred an appearance of an Advocate before the Commission. Hence, this request is rejected. Since the Appellant has been provided with the complete information as per the request dated

13/10/2006, nothing survives in the present second appeal which deserves to be dismissed. Accordingly, the appeal is dismissed.

13. I am disposing off this case as a single bench as per the order dated 21/11/2007 issued by the Chief Information Commissioner in pursuance of the powers vested in him under section 15(4) of the Act.

Announced in the open court on this 27th day of December, 2007.

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

/sf.