

GOA INFORMATION COMMISSION

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

Appeal No. 66/2007-08/CMC

Shri. Alex Fernandes
Karmaliwada Cacora,
Curchorem - Goa.

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Appellant.

V/s.

1. Public Information Officer,
The Chief Officer,
Curchorem - Cacora Municipal Council,
Curchorem - Goa.
2. First Appellate Authority,
The Director,
Directorate of Municipal Administration,
Panaji - 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: 22/11/2007.

Appellant in person.

Shri Ashank M. Naik Dessai, Junior Engineer, authorized representative of Respondent No. 1 and Smt. Sneha Morajkar, Additional Director, authorized representative of Respondent No. 2 present.

ORDER

The Appellant has moved three applications to the Respondent No. 1 requesting information on 6 points in each application on 29th January, 2007 and another application dated 28/03/2007 under the Right to Information Act, 2005 (hereinafter called RTI Act for short). The Public Information Officer replied on 26/03/2007 to the three applications. As the information was not satisfactory, the Appellant approached the first Appellate Authority on 20th April, 2007. The Respondent No. 2 herein, the first Appellate Authority, allowed the appeal by his order dated 3/5/2007 giving direction to the Respondent No. 1 to furnish the information within 10 days. This was complied with by the Public Information Officer by his letter dated 11/5/2007. The Public Information Officer replied to

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the request dated 28/03/2007 by his letter dated 17/4/2007. Against this, first appeal was filed on 7th May, 2007 and an order was passed on 14th June, 2007 by the first Appellate Authority. This order was also in favour of the Appellant. However, he contends that he did not receive the complete reply. Hence, this second appeal is filed on 11th September, 2007 in respect of all four requests for information.

2. Notices were issued and the replies were filed by both the Respondents. The Appellant has further maintained that the complete information was not given for all the applications made by him on 29th January and 28th March, 2007.

3. In respect of the three applications dated 29th January, 2007, the Public Information Officer informed clearly and pointwise the replied by his letter dated 11/5/2007 to all six points in all three applications. We do not find any infirmity in the reply.

4. The request dated 28th March, 2007 contains nine points which were replied pointwise by the Public Information Officer's letter dated 17th April, 2007. Now the grievance of incomplete information is on five points as follows: -

Q. No. 2 "Whether any inspections were being carried out by the officials of the Council against illegal constructions in the jurisdiction of the CCMC in the last six months w.e.f. October 1, 2006 till date?" (March 28, 2007).

Answer by the Public Information Officer: - "Yes, 13 complaints of illegal construction are received". The case of the Appellant is that he has asked whether any inspection have been carried out by the Council against the illegal construction in its jurisdiction whereas the reply given is about the complaints received regarding the illegal construction within that period. Obviously, the reply is not relevant to the question posed. If the Council is not inspecting suo moto whether any illegal constructions are going on in its jurisdiction it should have said so and after it is not inspecting, it could have given the relevant information. We, therefore, direct the Public Information Officer to give proper reply.

Q. No. 5 "Furnish the number of houses, people with their names and addresses?" (In the case of illegal construction observed by the Council).

Answer by the Public Information Officer: - "Same as point No. 3". Here the Public Information Officer is referring to the details of the 13 cases in which the complaints were made by the citizens regarding the illegal construction. It is not the list of illegal construction observed by the Council suo moto. It is the case of the Appellant that 3 illegal constructions made by Shri Albert Fernandes, Shri Maurice Fernandes and Shri Tony Fernandes are not listed in the reply. The Council has replied to him earlier that no licences were issued to these 3 persons and yet constructions have come up. Here again, the Public Information Officer has not replied to question properly. It is possible to reply one way or the other. Whether the 3 illegal constructions mentioned by the Appellant have come to the notice of the Council and if so, what action they have taken.

Q. No. 6 "Are any of the houses within your jurisdiction without any licenses issued by the Council? If yes, furnish the number of houses with the names and addresses of person?"

Answer of Public Information Officer:- "Yes". The Appellant contends that the second part of the question namely the details of names and addresses of such persons who have constructed the houses without licenses from Municipal Council has not been mentioned by the Public Information Officer. He should do so now.

Q. No. 7 "Whether any show cause notices has been issued to such illegal houses since their completion and occupation. If yes, the names and addresses of the house? If no, the reasons for not issuing show cause notice to such houses?"

Answer of Public Information Officer: - "Record is not available". A specific reply is possible to be issued by the Public Information Officer to first two questions regarding the show cause notices and to whom they have been given. The reasons for not issuing the show cause notice though the illegal construction have come to the notice of the Municipal Council should be stated if they are on record otherwise the factual position should be informed.

Q. No. 8 "If selected house were sent show cause notices, on what basis were such selected houses sent show cause notices for illegal construction? What practice were adopted for sending the show cause notice?"

Answer by the Public Information Officer: - "No. Same as point No.1." Here the question is about the criteria followed by the Municipal Council while sending

the show cause notices as it is general in nature, the reply given to the first question which is also in the same aspect can be taken as sufficient and complete reply.

Q. No. 9 "Is any action planned to be initiated against the illegal houses. If yes, the schedule time frame with specific dates. If no, the reasons thereof?

The reply given by the Public Information Officer is that a final notice is sent if the reply to the original notice is not satisfactory within 15 days. No further reply is necessary.

5. The whole thrust of the questions raised by the Appellant is about the taking up action by the Municipal Council selectively in some cases of illegal constructions and remaining inactive in case of others. While the RTI Act does not compel the public authority to take a particular course of action, wherever it is possible to give a specific reply based on records and facts, it should be given. The questions 2, 5, 6, 7 of the request dated 28/3/2007 of the Appellant should be replied within next 15 days by the Public Information Officer. Consequently, the appeal is partly allowed.

Announced in the open court on this 22nd day of November, 2007.

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

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

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