

GOA STATE INFORMATION COMMISSION

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

Appeal No. 73/2006/Comm.

Shri Alexinho F. Monserrate
Santarbatt, Piedade,
Divar, Ilhas - Goa.

..... Appellant.

V/s.

1. Public Information Officer
Administrator,
Office of the Administrator of Comunidades,
Central Zones, Panaji - Goa.
2. First Appellate Authority
Additional Collector - I (North),
Office of the Collector, Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Under Section 19 (3) of the RTI Act, 2005 (Central Act 22 of 2005)

Dated: 10/04/2007.

Appellant in person.

Adv. P. Navelkar represented the Respondent No. 1.

Respondent No. 2 absent.

ORDER

The Appellant by his request dated 20/5/2006 under the Right to Information Act, 2005 (for short the RTI Act) applied to the Administrator of Comunidades of Tiswadi as the Public Information Officer, the Respondent No. 1, herein seeking information on 4 questions. The Respondent No. 1 by his letter dated 13/11/2006 replied to the 4 questions. The Appellant filed his first appeal to the Additional Collector, North Goa, Respondent No. 2, herein against the letter of the Public Information Officer stating that he was given incomplete and misleading information and that he wanted the directions to be issued to the Public Information Officer to give the complete and correct information. The first Appellate Authority by his order dated 21/12/2006 dismissed the appeal

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holding that the information given by the Administrator of Comunidades is neither incomplete nor misleading. Against this impugned order, the present second appeal is filed by the Appellant on 17/1/2007.

2. On notices having been issued, the Appellant appeared in person. The Respondent No. 1 was represented by Adv. P. Navelkar. The Respondent No. 1 has filed a written reply on 28/3/2007. The information asked by the Appellant to the Respondent No. 2 is as follows: - i) What is the progress of my application (dated 22/5/2006) regarding the grant of strip of land?; (ii) How long will it take for me to get a reply?; (iii) At what stage is my application is pending and why?; (iv) Who are the persons responsible for non action on my application?. The replies serially are (i) your application is forwarded to the Managing Committee of the Goltim Comunidade for their comments; (ii) further course of action will be taken on receipt of the reply from the Managing Committee; (iii) the application is pending at the first stage i.e. processing of the application; (iv) the comments of the Managing Committee is essential for further procedure.

3. In a written statement, the Respondent No. 1 has mentioned that the second appeal is not maintainable simply because the order of the first Appellate Authority does not suffer from any "perversity". We find that the preliminary objection itself is frivolous and has no valid argument to prove lack of jurisdiction of this Commission. The second appeal is made under Section 19(3) of the RTI Act. On mere reading of the sub-section, makes it very clear that all decisions of the first Appellate Authority under Section 19(1) are appealable to this Commission whose orders would be binding under sub-section (7) thereof. Thus, his presumption that only the "perverse orders" of the first Appellate Authority are appealable has no basis in law. Obviously, he is confusing himself with the provisions of the second appeal under C.P.C., which is not strictly comparable with the provisions of the Section 19(3) of the RTI Act. We, therefore, reject the preliminary objection of lack of jurisdiction.

4. The next argument of the Respondent No. 1 is that the files for grant of land of the Comunidades have to follow the procedure laid down in Article 330 of the Code of Comunidade. The Appellant has not asked for exemptions from the procedure to be followed by the Comunidades. All that he wanted is the stage of his application and likely time to take and the persons responsible for non-action on his application. Merely sending the files to the Managing

Committee of the Comunidades is not an action complete in itself. It is not mentioned in the reply of the Public Information Officer when the file was sent and what is the time limit for its processing. It must be remembered the application for the plot of land was made on 22/05/2006 and till 13/11/2006 i.e. date of the reply by the Public Information Officer, the file is not received back from the Managing Committee of the Comunidades. According to the reply to the question No. 3 Public Information Officer himself admitted that the application has not crossed the first stage itself because of no comments from the Managing Committee for nearly six months. Yet, the Administrator has not felt any pangs of neither taking any further action nor informing the Appellant the steps he proposed to take. Further, he has also not revealed the correct answer to the 4th question asking the names of the persons responsible for the delay.

5. The impugned order dated 20/12/2006 of the first Appellate Authority is also as vague as the reply by the Public Information Officer. For instance, the Appellate Authority ordered that the scope of the appeal under the RTI Act is limited to see whether the reply given is within time and the sufficient information is as per the records. We are afraid that the learned first Appellate Authority himself has limited the scope of the RTI Act. The RTI Act is an Act to fix up the responsibility and the accountability of the public functionaries. If they can get away by giving incomplete information, this objective will not be achieved. The reply of the Public Information Officer definitely is not a complete information. It is one thing to say that the information asked for is available in some other office and the assistance of another official is taken under Section 5(3) of the Act to get the information and it is another matter to say that the file is transferred to the Managing Committee of the Comunidade and further action will be taken only when the reply is received, without explaining the reasons for delay and without fixing any time limit for action. This is clearly avoiding the responsibility to furnish the complete information under Section 7 of the Act. We are also not able to agree with the reasoning of the impugned order that "the grievances of the Appellant regarding non grant of plots within the statutory period of 6 months, not giving exact time when a reply will be given are not issues which can be decided under the RTI Act". The Respondent No. 2 further states that "there are remedies available in Comunidade Code itself for remiss by officials of Comunidade and Appellant is free to resort to the same". This is exactly putting the entire RTI Act on its head. Truly, the remedy for non

granting a plot may not be actionable under the RTI Act. But the reasons for not granting plot, or not adhering the time limit in a statue are certainly covered under the RTI Act. These are the questions of transparency and accountability which are raised in the request for information by the Appellant. The reasons for delay in disposal and the persons responsible for delay are necessary to address the above two issues of transparency and accountability in the functioning of public authorities.

6. With the result, the impugned order is liable to be set aside and is hereby set aside. The letter of the Public Information Officer giving the reply to the Appellant is also set aside. The Public Information Officer should inform the Appellant within the next 10 days exactly when the file was sent to the Comunidade, who are the members of the Managing Committee and the officials of the Comunidade of Goltim, what action the Administrator has taken from the time he forwarded the file to the Comunidade till date and whose assistance he has sought to give this information from the Comunidade of Goltim. With this order, the appeal is allowed. The parties are to be informed by post.

(A. Venkataratnam)
State Chief Information Commissioner

(G. G. Kambli)
State Information Commissioner