

GOA STATE INFORMATION COMMISSION

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

Appeal No. 76/2006/PWD

Shri Sushant S. Naik
H. No. 103, Costi Kalay,
Sanguem - Goa.

..... Appellant.

V/s.

1. Public Information Officer
Superintending Surveyor of Works,
PWD, Altinho, Panaji - Goa.
2. First Appellate Authority
Principal Chief Engineer,
PWD, Altinho, Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 08/03/2007.

Appellant absent.

Adv. Karuna Bakre, Legal Officer of PWD represented Respondent No. 1.

Respondent No. 2 absent.

ORDER

The Appellant by his application dated 31/8/2006 filed before the Public Information Officer, office of the PWD (Roads), Sanguem - Goa requested for the following information under the Right to Information Act (Central Act 22 of 2005) referred hereinafter as the RTI Act. The information sought is as follows :-

(i) Total expenditure incurred for roads from Sanguem to Kalay via Tariponto and Costi for the period from January, 2001 to 31/8/2006; (ii) The details i.e. estimates yearwise : agency i.e. contractor involved in his each tendered work; actual cost incurred yearwise with the name and work. As no information was forthcoming, he has made first appeal on 3/11/2006 to the Principal Chief Engineer, Panaji, who has issued a notice on 17/11/2006 for personal hearing on 28/11/2006 before him. Meanwhile, the Executive Engineer, Div. XVIII (Roads),

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PWD, Ponda referring specifically to the request of the Appellant sent the information to the Public Information Officer, Superintending Surveyor of Works, office of the Principal Chief Engineer, PWD, on 30/11/2006, copy of which was sent to the Appellant. A copy of the covering letter is on the record which does not say whether the information was actually sent to the Appellant by the Executive Engineer. On the other hand, the Appellant has contended before the Commission that the information was not given to him till date. The Principal Chief Engineer has passed a detailed speaking order on 5/12/2006 dismissing the first appeal against which the present second appeal has been filed by the Appellant on 22/01/2007.

2. Notices were issued to all the parties namely Superintending Surveyor of Works, PWD as Public Information Officer and the Principal Chief Engineer as first Appellate Authority. On the day fixed for the hearing neither the Appellant nor the Respondent No. 2 were present. The Respondent No. 1 filed his reply through somebody who did not identify himself. After sometime, Adv. Karuna Bakre, Legal Officer, P.W.D. stated that she represented Respondent No. 1. There is no authorization on record nor did she argue on behalf of any of the Respondents. The Commission, thereafter, reserved the case for order as the appeal has to be disposed off even in the absence of the Appellant as per Rule 7 (3) of the Goa State Information Commission (Appeal Procedure) Rules, 2006.

3. The thrust of the statement by the Respondent No. 1 is that as on the date of his reply i.e. 26/2/2007 he is not the Public Information Officer because a Government notification was issued on 22/12/2006, notifying the Executive Engineer as Public Information Officer and he himself became the Appellate Authority. He has also filed three copies of the Government notification dated 22/09/2005 published in the Gazette of Goa No. 27 Series II dated 6/10/2005. Copy of the notification dated 22/12/2006 was not produced. However, we have taken judicial notice of it. A perusal of the said notification dated 22/12/2006 makes it clear that it came into effect from the date of the issue of the notification prospectively just as any notification or order issued by the Government comes into force unless mentioned otherwise. There is no mention in the notification that it is applicable with retrospective effect. As such the contention of the Respondent No. 1 is rejected. He is the Public Information Officer in this case.

4. The Public Information Officer has taken up the plea even after 22/12/2006 that no application from the Appellant was received in his office. He seems to suggest, though not specifically mentioned in as many words, that if the original request is submitted to anybody other than the Public Information Officer, as is in the present case, the Public Information Officer is not responsible for giving the information. He has terribly mistaken in such a presumption. Section 6(1) of the RTI Act states that the request for information under the Act shall be made to the State Public Information Officer alongwith such fee as is prescribed. If he cannot make application in writing, the State Public Information Officer should render all reasonable assistance to the particular person to reduce the oral request into writing. This itself, shows that the RTI Act makes it obligatory for the Public Information Officer to take extra pains to collect the information and furnish the reply. Further, the request should be made to the State Public Information Officer but it is not necessary to hand it over personally to him or in his office. If the request is made to any other authority or information is available with any other authority within the same Department or if the information is held by the some Public Authority, the request has to be forwarded to the person concerned within 5 days as per sub-section (3) of Section 5. In view of this, the contention that he is not concerned because he did not receive the application in his office is also rejected. The mere fact that the names of the Public Information Officers are published by the Government in Official Gazette and that the request is not submitted to the person concerned and hence, the information was not given will absolutely defeat the very purpose of this enactment. Further, the benevolent attitude adopted by both the Public Information Officer and first Appellate Authority in tendering unsolicited advice that the applicant is not debarred from the "approaching the State Public Information Officer with a fresh application" does not absolve themselves of the obligation cast on the Public Information Officer to furnish the information within the time mentioned in Section 7 of the Act. It is true that the Appellant can approach the Public Information Officer again and again or a number of citizens can approach the Public Information Officer on the same subject at different times. This is a benefit given to the citizens to get the information and not an excuse conferred by law to the Public Authorities to deny the information. We, therefore, firmly believe that the Respondent No. 1 not only failed in his duty of furnishing the information but has taken objectionable attitude to deny the information.

6. We now come to the order of the first Appellate Authority. This order has all the trappings of a judicial order. It even mentions the issues framed by the learned first Appellate Authority himself and his decisions thereon. But what is totally missing is the exact relief asked for by the Appellant and the order which does not even address this prayer at all. For instance, the first issue whether the Asst. Engineer, Sanguem, is the State Public Information Officer or not is irrelevant in so far as original application is addressed to the Public Information Officer of PWD (Roads) and we have already held that the request need not be given personally to the Public Information Officer or in his office. It is not necessary that the citizen should know who the Public Information Officer of the PWD is nor is he compelled to travel to Panaji to inquire the names of the Public Information Officer before submitting the application to the Public Information Officer. So, though the issue itself is quite erudite and the answer is quite correct, it does not merit any comment because it is irrelevant. The next issue is about a dialogue between the Asst. Engineer and the Appellant. This is also quite irrelevant to the prayer of the Appellant as we have already observed that the RTI Act is a beneficial legislation and that even the oral request has to be written down by the Public Information Officer, the question whether or not the PWD employee at Sanguem, where the Appellant lives, has told the Appellant that the application for information will be forwarded to the Public Information Officer. Having received the application alongwith fee, it is the sacred duty of the Asst. Engineer to forward it to the Public Information Officer, whosoever he is and wherever his office is located. The question of conversation between Appellant and the field officer, Sanguem to be proved by the Appellant does not arise. Finally, the third issue, though it is irrelevant, has wrongly been decided by the first Appellate Authority on the ground that the application is not addressed to the Public Information Officer and hence, it cannot be deemed to have been refused. Even a casual reading of the request reveals that it is addressed to the Public Information Officer. We, therefore, find that the first Appellate Authority's order dated 5/12/2006 is defective for the above reasons and has to be set aside and is hereby set aside.

7. As mentioned earlier, we have found from the record before us that the Executive Engineer (Roads), the Asst. Public Information Officer at that time, has forwarded the reply to the then Public Information Officer. The Public Information Officer has not denied receipt of such reply. However, he did not

communicate, even belatedly, to the Appellant, the required information. We find that this is highly objectionable and this is an effort by the then Public Information Officer to hide behind the technicalities and refuse the information asked by the Appellant. We, therefore, hereby order the Respondent No. 1 that the information as requested by the Appellant on 31/8/2006 should be communicated to him immediately and in any case not later than 10 days from the date of the order. The Public Information Officer namely Shri A. A. Parulekar should show cause why a penalty of Rs.250/- per day should not be imposed on him from 30/9/2006 onwards till the information is given to the Appellant.

(A. Venkataratnam)
State Chief Information Commissioner

(G. G. Kambli)
State Information Commissioner