

GOA STATE INFORMATION COMMISSION

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

Appeal No. 78/2006/NGPDA

Ms. Patricia Pinto
E-74, Campal,
Panaji - Goa - 403 001.
General Secretary,
Peoples Movement for civic Action
V/s.

..... Appellant.

1. Public Information Officer
Member Secretary,
North Goa Planning & Development Authority,
Archdiocese Bldg., Mala Link Road, Panaji - Goa.
2. First Appellate Authority
Chief Town Planner,
Town & Country Planning Department,
Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 27/03/2007.

Appellant in person.

Adv. Dattaprasad Lawande for the Respondent No. 1.

Respondent No. 2 in person.

ORDER

This disposes off the second appeal filed by the Appellant on 23/1/2007 against the order dated 21/12/2006 of the Respondent No. 2 herein and the letter dated 24/10/2006 of the Respondent No. 1 herein, rejecting the request for information asked by the Appellant by her original application dated 16/10/2006. BY her original application, the Appellant, on behalf of the Peoples Movement for civic Action has asked a draft copy of the Outline Development Plan (ODP) of Panaji kept for display at the office of the Respondent No. 1. Both the Respondents rejected the request as it is not a document under the Right to Information Act (hereinafter referred to as the Act) and hence cannot be given to the Appellant.

...2/-

2. Notices were issued to all the parties and the Appellant represented herself. The Public Information Officer was represented by learned Adv. Dattaprasad Lawande. The first Appellate Authority appeared in person. Respondent 1 has filed an affidavit-in-reply and the Respondent2, has his written statement.

3. On the day fixed for arguments, the learned Adv. Lawande took the preliminary objection that the appeal is not maintainable because Ms. Patricia Pinto appealed on behalf of People's Movement for Civic Action and not her individual capacity. As only citizens can access information under the RTI Act, the present appeal is not maintainable. As against this, the Appellant submitted that she has made corrections to the original appeal and that this second appeal is filed in her individual capacity. The name of People's Movement for Civic Action is mentioned only as an address. The learned Adv. Lawande then mentioned that the verification is by Ms. Patricia Pinto on behalf of the People's Movement for Civic Action and hence, the argument of Ms. Pinto is not valid.

4. We have consistently held that only natural citizens are eligible for applying for information and receiving the information under the RTI Act. Nevertheless, as the decisions under the RTI Act do not settle any rights or disputes between two parties, there is no principle of res judicata applicable in these cases. Even if the present appeal is defective, the present Appellant, Ms. Patricia Pinto can always apply afresh in her name which cannot be denied on this ground by the Respondents. It will only cause further delay in furnishing the information and will not help the case of the Respondents who refused information for a different reason. Further, both the Respondents have disposed off the application and first appeal respectively without answering the present objection even when the society, People's Movement for Civic Action was the party before them in this case and Ms. Patricia Pinto has only signed on behalf of the society. We, therefore, overrule the preliminary objection and proceed further.

5. On merits, the Adv. Lawande argued that the draft ODP was kept for inspection by the Respondent No. 1 in their office for inspection by the members of public between 10.00 a.m. to 12.20 p.m. (for 2 hours and twenty minutes) on all working days and is not a public document under the RTI Act and hence, it

cannot be given to the Appellant. The Appellant joined arguments and stated that "information "as defined under Section 2(f) means "any material in any form" and hence, even the draft ODP has to be provided to her. She has also submitted that the Panaji PDA is following the draft ODP for granting the approvals right from the next day of its opening for public inspection. Hence she submitted that she is entitled for a copy of it under the RTI Act. We have gone through the definition and find that any material in any form would definitely include the draft ODP . She has stated that on inspection of the file of the Respondent No. 1, she has come to know that there is an order/remark by the Government that the draft ODP should be followed by the Respondent No. 1 in granting/refusing development permission till the ODP is finalized. The learned Adv. Lawande disputed this. Neither of the parties have produced any evidence supporting or denying this submission. In any case, we are of the opinion that as long as the draft ODP is kept for public inspection in the office of the PDA, Panaji there seems to be no objection to giving a copy of the same to the Appellant at her cost as the Appellant also would be interested in giving wider publicity for the contents of the draft ODP, which is the objective of the Respondent No. 1 in the first instance while keeping it open for inspection of public. When the Respondent No. 1 intends that the public should know the contents of the draft ODP in order to make objections from the members of the public and to consider them on merits while finalizing the ODP, we do not see how the objective will be served by restricting the objections of the ODP only to 2 hrs. twenty minutes in a day. We, therefore, do not see any merit in the rejection of the request of the Appellant. Accordingly, we set aside the order dated 21/12/2006 of Respondent No. 2 and letter dated 24/10/2006 of Respondent No. 1 and direct the respondent 1 to provide an authentic copy of the draft ODP of Panaji within 10 days of the receipt of this order under intimation to this Commission.

6. The Appellant also has requested for imposition of penalty on the Respondent No. 1 for not furnishing the information. Under the circumstances of the case, we are not inclined to grant this request. Parties to be informed by post.

(A. Venkataratnam)
State Chief Information Commissioner

(G. G. Kambli)
State Information Commissioner

