

GOA STATE INFORMATION COMMISSION

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

Appeal No. 82/2006/SGPDA

Shri Lenny Francis Barros
Flat No. 404, IV Floor, Vasant Arcade,
Diego Costa Road,
Comba, Margao – Goa.

..... Appellant.

V/s.

1. Public Information Officer
Town & Country Planning Department,
Margao – Goa.
2. Public Information Officer,
Member Secretary,
South Goa Planning Development Authority,
Margao – Goa.
3. First Appellate Authority
Chief Town Planner,
Town & Country Planning Department,
Dempo Tower, 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: 03/05/2007.

Appellant in person.

Respondent No. 1 also in person.

Authorized representatives of the Respondent No. 2 and 3 are present.

ORDER

This disposes off the second appeal dated 24/01/2007 by the Appellant.

The chronology of events is as follows: -

1. 14/11/2006 -- Request by the Appellant to PIO of SGPDA.
2. 20/01/2007 -- First appeal to Chief Town Planner (deemed refusal).
3. 24/01/2007 -- Filing of second appeal.
4. 13/02/2007 -- First appeal allowed and information to be supplied on payment of fees by the SGPDA.
5. 05/03/2007 -- S.T.P., Margao Town Planning office statement that SGPDA is responsible for the supply of information as the subject pertains to them.

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6. 15/03/2007 -- Information supplied by the SGPDA based on the directions by the first Appellate Authority.
7. 16/4/2007 -- Written statement by Respondent No. 1 stating that there is no contradiction in his replies and the information supplied is complete.
8. 17/4/2007 -- Reply by the Appellant that the information as asked by him is not given by the PIO of either SGPDA or the S.T.P. Margao.

2. On issuance of the notices, Appellant as well as the Respondent No. 1 appeared before us in person. The Respondent No. 2 and 3 authorized their employees to submit his written statement on their behalf.

3. The first point for determination is who is responsible for giving the information asked by the Appellant on 14/11/2006 and if so, whether he fulfilled his obligation under Section 7 thereof of the Right to Information Act (RTI Act, for short). It is very clear from the request addressed to the Respondent No. 1, that 3 questions were asked by the Appellant. The questions and the replies are reproduced below: -

Questions: -

- 1) The details of the flats wherein there were deviations from the original plan and the FAR was adjusted in the building.
- 2) Whether your office has confirmed that the construction has been carried out as per the plans approved by your office.
- 3) The names of the officials responsible for making adjustments in the FAR and certifying the revised plans to accommodate the changes made by the builder.

Answers: -

- 1) The details are as per the copy of the revised plan approved by the Town & Country Planning Department vide No.TPM/Const/Marg/201/195/05/3261 dtd. 28/9/05 and as per the area statement given in the plan enclosed herewith. The permissible F.A.R. is 100% where as what is utilized as per the area statement given in the plan is 99%.
- 2) This office has not issued the completion certificate so as to confirm whether the building has been constructed as per the approved plans or not.
- 3) The revised building plans have not been approved by this Authority and hence the names of the officers involved is not known to this office.

- i) the cost of providing information is Rs.30/- (Rupees thirty only) which has been deposited and as requested the information is being posted.
- ii) the period within which an appeal, against the information made available, may be preferred is within a period of 30 days of receipt of information.
- iii) and the particulars of the Appellate
The Chief Town Planner is the Appellate Authority with office at 2nd Floor, Dempo Tower, Patta Plaza, Panaji - Goa 403 001.

4. It is clear from the statements of both the Respondent No. 1 and 3 that the information pertains to the records maintained by the SGPDA, Margao. However, it appears that for the period for which the reply was asked, there was no SGPDA and the powers of the PDA were exercised by the Town and Country Planning Department. In exercise of these powers, they have issued revised plan on 26/9/2005. Thereafter, original records were transferred back to the SGPDA "when powers were reverted" to the SGPDA. The original records are now available with the SGPDA and the approvals are given by the Town and Country Planning Department as such the Appellant was driven from the SGPDA to the STP Office, Margao and back to the SGPDA. This is not the intention of the RTI Act. The SGPDA should have taken the initiative, as it possesses the original records, should have obtained the information from the Respondent No. 1 and should have provided the same to the Appellant. Though they have sent a reply in compliance with the first Appellate Authority orders, they did not really answer the questions posed by the Appellant. Hence, we uphold the statement of the Appellant that he was not supplied the information he wanted. Accordingly, the appeal is allowed and the Respondent No. 1 herein is directed to supply the information within 15 days from the date of this order. We also direct the Respondent No. 2 to make available the relevant records pertaining to the subject matter to the Respondent No. 1 within 5 days from the date of the receipt of this order. The Respondent No. 1 shall return the said records back to the Respondent No. 2 after providing the information to the Appellant. The first Appellate Authority should guide the Respondent No. 1 and 2, if necessary. Compliance has to be reported to this Commission in due course. Parties to be informed by post.

(A. Venkataratnam)
State Chief Information Commissioner

(G. G. Kambli)
State Information Commissioner

