

GOA INFORMATION COMMISSION

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

Appeal No. 84/2007-08/Elect.

Dy. Inspector General A. K. Dey,
Coast Guard Refit & Production Team (Goa),
C/o Goa Shipyard Limited,
Vasco da Gama - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Superintending Engineer Circle - I,
Electricity Department, South Goa,
Vidyut Bhavan, Margao - Goa.
2. First Appellate Authority,
The Chief Electrical Engineer,
Office of the Chief Electrical Engineer,
Electricity Department,
Vidyut Bhavan, Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 28/12/2007.

Appellant in person.

Adv. K. L. Bhagat for both the Respondents.

ORDER

This is about a request by the Appellant under the Right to Information Act, 2005 (RTI Act for short) made on 28th April, 2007 to the Public Information Officer, Respondent No. 1 herein, on 9 points regarding the erection of a high-tension line by the Electricity Department passing over the property of the Appellant. The Public Information Officer did reply, though beyond the time limit given to him under the RTI Act. However, not satisfied with the reply, the Appellant filed his first appeal on 12th June, 2007 before the Respondent No. 2 for deemed refusal. The detailed appeal was also made on 16th July, 2007. It appears that a couple of hearings took place in the office of the Respondent No. 2, first Appellate Authority. However, no Appellate order could be found on the record. We are not aware if any order was passed on the roznama and not given to the Appellant. Whatever order is passed by the first Appellate Authority,

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with reasons, should be given to the Appellant without applying for the same. The first Appellate Authority should note this for future guidance. Meanwhile, taking reference to the first appeal, further information was given by the Public Information Officer on 30th July, 2007 which is also not satisfactory to the Appellant leading to this second appeal filed on 18th October, 2007.

2. Notices were issued to all the parties. All of them have filed written submissions. Adv. K. L. Bhagat put in his appearance on behalf of both the Respondents. The Appellant, while arguing the matter further, has given pointwise information asked by him and tried to explain how it was incomplete and misleading. We will briefly discuss the same pointwise. However, for convenience sake we will refer to the points in Arabic numerals instead of English alphabet cited by the Appellant.

3. The first point was answered to the satisfaction of the Appellant. The next point is about the supply of a copy of the approved drawing of the route of the 33 KVA cable laid by the Department. While a rough drawing was given to the Appellant, no copy of approved drawing was given with the comments that it is not available. We are surprised with this stand of the Department because the work involved is a huge work entailing a lot of expenditure and is of great importance to the power supply to INS HANSA. The Department should trace out and furnish the same to the Appellant on payment. Further question is about the names of the officials who have erected one electrical pole and "accessories" on the Appellant's plot. While the names of the officials were furnished, the Department denied that any pole was erected on the plot of the Appellant. However, the Department confirmed that one "stay wire" (called as 'guy wire' by the Appellant) to support the pole was erected in the Appellant's property. They submitted that at the time of the execution of H. T. line, there was no demarcation on the plot of the Appellant. This also cannot be agreed to. First of all, the sub-divided plots are not approved by the Town & Country Planning Department and Planning & Development Authority (PDA), unless the plots are demarcated and internal roads are constructed. Secondly, even if demarcation is not done physically on the ground, it is the responsibility of the Electricity Department to find out on whose land they are constructing the electricity poles and to take appropriate permission of the owners or the competent authorities of the Government or to acquire the land, pay the compensation and then only start the work of laying the cables. Stating that the poles are erected at the edge of the then "kacha road" is not an acceptable answer.

4. The next point is about the names of the officials who have checked and physically verified the proper execution of the work. The names are given by the Department. Further, the Appellant asked for date of erection of the poles and accessories by the Department which is informed to him as constructed in December, 2000. The Public Information Officer once again denied that any pole was erected in the property of the Appellant. The next question is about the consent by the Appellant which the Department naturally denied saying that there is no encroachment in his property. The Appellant has asked whether any advertisement was published and the Department stated that no advertisement was published before construction. The Public Information Officer stated that before energizing any power line, the same is published for knowledge of the general public. In this case, however, whether they have done so or not was not informed by the Department. The Appellant next asked for notings of the concerned file relating to the erection of the electrical line. The Department did not supply any noting on the ground that the erection of power line would not render the private property useless for dwelling. This is because, the question itself was framed by the Appellant in such a loaded manner, that the Department got away with this reply. The Appellant's next question is about an alternate proposal to erect the 33 KVA line so as not rendering the property of the Appellant useless. The Department denied that any such alternate proposal was ever considered. However, the Department agreed that one "stay wire" found existing in the property as per the recent inspection would be shifted after monsoon season. This appears to have not yet been done even though the monsoon ended and we are in the middle of the winter season. The Appellant has then asked about the details of the authority to authorize the acquisition of the private property for such purposes and whether anybody has actually authorized such encroachment. The Department stated that there is no encroachment of the property except for the "stay wire", which they agreed to remove and therefore, did not answer the main question about the competent authority. The Appellant then asked why one of his letters was not replied and why he should not be paid Rs.5000/- per day for erecting a pole and "guy ropes" on his property. The Department has replied that there was no objection from the Appellant at the time of laying of the line. The Appellant claimed that he was himself not available in Goa as he is a serving Officer of Indian Coast Guard and any way, the Department cannot encroach on his land, even if he is absent.

5. The whole crux of the matter is whether or not the Department has taken enough precaution of checking up the ownership of the property before laying the 33 KVA High Tension electric line. It is clear from the written statement submitted by the Public Information Officer that the Department is not even aware at the time of construction of electrical poles alongwith stay wires whether it was passing though the property of the Appellant. On the other hand, the Public Information Officer requested that this should be proved by the Appellant. It is not for the Appellant to prove whether his land was encroached or not.

6. The limited point as far as the RTI Act is concerned is whether the information asked for is properly given and is complete in all respects and is not misleading. We have seen from the above discussion, that the information given is incomplete in respect of the non-supply of approved drawings of the work and non-supply of notings leading to the execution, completion and inspection of the work and regarding the erection of a pole in the property of the Appellant. If the Department was very sure that the pole erected is not within the property of the Appellant they can say now in whose property the pole exists and whether the Department is the owner and if not whether it is acquired from any private person. This information is crucial to meet the query/request of the Appellant. We, therefore, direct that the above information should be supplied to the Appellant. We also direct under section 4(1)(d), the Public Information Officer to inform the reason for not executing the work of removal of the stay wire constructed by the Department, admitted by it and promised by it for its removal after the monsoon. The reasons for not complying so far as per their own promise and when it would be completed should be informed to "affected person", who is the Appellant, within the next one month in terms of a date and not seasons. With this, we partly allow the appeal and direct the Public Information Officer to comply with the directions given above.

Pronounced in the open court on this 28th day of December, 2007.

Sd/-

(A. Venkataratnam)

State Chief Information Commissioner, GOA.

Sd/-

(G. G. Kambli)

State Information Commissioner, GOA.

/sf.

