

## **GOA INFORMATION COMMISSION**

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

Appeal No. 85/2007-08/WRD

Dr. Victor De Souza,  
Anne Villa, Povoacao,  
Moirra, Bardez - Goa.

..... Appellant/Complainant.

V/s.

1. The Public Information Officer,  
The Superintending Engineer (W.D. – I),  
Water Resources Department,  
Panaji – Goa.
2. The Assistant Public Information Officer,  
The Executive Engineer (W.D. – I),  
Water Resources Department,  
Panaji - Goa.
3. The first Appellate Authority,  
The Chief Engineer,  
Water Resources Department,  
Panaji - Goa.

..... Respondents/Opponents.

### **CORAM:**

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

(Per A. Venkataratnam)

Dated: 20/02/2008.

Appellant in person.

Adv. Mrs. Harsha Naik, Government Counsel for the Respondents.

### **ORDER**

The Appellant requested the Asst. Public Information Officer, who is the Respondent No. 2 herein, on 7/5/2007 for certain information regarding the illegal extraction of ground water in a residential complex under construction in survey No. 72/15 at Povoacao, Moira. By his reply dated 21/05/2007, the Asst. Public Information Officer stated that no permission was taken from him (being the Ground Water Officer) and that necessary action will be taken in the matter. Not satisfied with this reply, the Appellant has filed a first appeal on 8/6/2007 and on 2/8/2007 the first Appellate Authority has allowed the appeal and directed the Asst. Public Information Officer to give the information as requested within 15 days. Further reply

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was given by the Asst. Public Information Officer on 6/9/2007 that the drawal of ground water without permission will affect the ground water level of the surrounding wells in the area and is illegal. He further informed that a show cause notice was issued on 16/08/2007 and further action will be taken under the Goa Ground Water Regulation Act, 2002. The Appellant further pursued with the office on the various dates and finally filed the second appeal on 23/10/2007.

2. Notices were issued and the detailed statements were filed by the Asst. Public Information Officer and the Appellant. The case of the Asst. Public Information Officer is that the proceedings against the owner/occupant have not yet been completed and are in progress, and that he has directed the Electricity Department to disconnect the electric supply for pumping water from the well which was complied with. The case of the Appellant, on the other hand, is that the notice was issued to the owner who is not in India and that though the electric supply was disconnected, the water is being drawn manually by the workers engaged by the contractor to build the residential complex in that property. He, therefore, prayed that the Goa Ground Water Regulation Act should be implemented strictly, that the existing well in the property should be filled up, that the construction licence issued by the Village Panchayat should be revoked.

3. The learned Adv. Harsha Naik, Government Counsel joining issue, has submitted that all the prayers of the Appellant are beyond the scope of the RTI Act and that in any case, the second appeal has to be dismissed as the Appellant has no grievance against the order of the first Appellate Authority passed under section 19(1) of the RTI Act. It is true that a second appeal under section 19(3) will lie only against the order of the first Appellate Authority under section 19(1) of the RTI Act. Strictly speaking, as there is no grievance against the first Appellate Authority, the present second appeal cannot lie. However, we have taken a view earlier that if the information is not furnished or incomplete or wrong information was given by the Public Information Officer even after the first appeal is allowed by the first Appellate Authority, we have allowed such second appeals to be converted into complaints under section 18 of the RTI Act for the execution of the order of the first Appellate Authority. We have done this as the RTI Act is a beneficial legislation and the aim is to provide information by the Public

Information Officer and that this Commission does have jurisdiction to inquire into all complaints of non-furnishing of information under section 18 of the RTI Act. We, therefore, convert this second appeal into a complaint and proceed further in the matter overruling the preliminary objection raised by the learned Advocate for the Respondents.

4. The questions posed by the Appellant/Complainant in his request dated 7/5/2007 are six in number listed in the second appeal and the replies given by the Public Information Officer for these questions at various times are examined hereafter to see whether the complete information is given or not. We make it clear that we are not going into various requests/complaints made by the Appellant/Complainant to the Water Resources Department or even the Public Information Officer under the RTI Act subsequently.

5. The first question is whether the Asst. Public Information Officer being designated as Ground Water Officer was informed of the project of the construction of the multistoried buildings in the property mentioned above. The Asst. Public Information Officer has flatly denied that he has any such information or has given any permission. The next question is about the steps taken to prevent builder from using the water from the well for the commercial purpose. The Asst. Public Information Officer has informed him that a show cause notice was already issued to the builder, M/s. P. D. Kamat & Sons, in this particular case and that the inquiry is in progress. The third question is also on the same subject. The fourth question is about the rights of the 29 families who will reside in the complex in future to draw the water from the existing well to the overhead tank for personal use. The Public Information Officer has not replied to this question with respect to the provisions of the law and his own powers. It is possible to give a reply to this question as it involves the procedure for granting the permission for drawal of ground water in accordance with law and rules framed thereunder. He is directed to do so now. The next question is also related to the 4<sup>th</sup> question. If the Asst. Public Information Officer (as Ground Water Officer) can permit the drawal of ground water subject to the requirements and the availability keeping in view the provisions of the Act and the rules, it is possible to answer this question as well. The sixth and final question is about the responsibility of the officials if the surrounding wells run dry. The question arises in the context of the assessment reports of ground water available with

the Department and the Ground Water Officers. We do not know whether any such reports are available or any survey has been conducted and the factual information can definitely be furnished to this question also. We, therefore, direct the Public Information Officer to give this information on Questions 3 to 6, within next 15 days and submit a compliance report to this Commission on 18/03/2008 at 11.00 a.m.

6. We have found that in the proceedings before us the Public Information Officer namely, Superintending Engineer of Water Resources Department is not involved at all. The Appellant was corresponding and directions were given by the first Appellate Authority to the Asst. Public Information Officer, namely, Executive Engineer, Division I to furnish the information. We find that this is not correct procedure and it is the Public Information Officer who is Mr. A. S. Salelkar, Superintending Engineer who has to give the reply on all these points to the Appellant/ Complainant. Accordingly, we direct the Public Information Officer to give the information as per the above discussion. We also give a direction under section 4(1)(d) to the Public Information Officer to finalise the action initiated by the Ground Water Officer within 3 months and inform the Appellant/Complainant of the final action taken by the Department in the matter of the drawal of well water illegally.

7. The complaint is partly allowed.

Pronounced in the open court on this 20<sup>th</sup> day of February, 2008.

Sd/-  
(A. Venkataratnam)  
State Chief Information Commissioner

Sd/-  
(G. G. Kamblī)  
State Information Commissioner