

GOA STATE INFORMATION COMMISSION

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

Appeal No. 92/2006/MAM

Shri Suresh D. Naik
H. No. 124/4/6,
Gaunsawado, Mapusa - Goa.

..... Appellant.

V/s.

1. Public Information Officer
The Mamlatdar of Pernem taluka,
Office of the Mamlatdar of Pernem,
Pernem - Goa.
2. First Appellate Authority
The Dy Collector,
Bardez -II for Pernem Taluka,
Pernem - 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: 22/03/2007.

Adv. Pranay Kamat present for the Appellant.

Respondent No. 1 and 2 in person.

ORDER

This disposes off the second appeal dated 23/2/2007 against the order dated 19/01/2007 of the Respondent No. 2. The Appellant by his original application dated 18/9/2006 approached the Respondent No. 1 for inspection of two files after giving the details and requested for a copy of letter dated 12/12/1978 of the Mamlatdar. The Respondent No. 1 has rejected the request because the information is of 1964 and which is more than 20 years old. There upon, the Appellant moved the first appeal on 5/12/2006 which was disposed off by the order dated 19/01/2007 by the Respondent No. 2. In his order, the first Appellate Authority has maintained the reason given by the Mamlatdar that records which are more than 20 years old need not be given under Section 8(3) of the Right to Information Act, 2005 (for short the RTI Act).

...2/-

2. On notices being issued, learned Adv. Pranay Kamat appeared for the Appellant and Respondents argued their case themselves. The arguments of learned Adv. Kamat is that the reason given by both the Respondents is not correct and no such provision is available for disclosure of records older than 20 years. We have gone through the submission under provision of the Act. Section 8 has three sub-sections and the first sub-section has got 10 sub-clauses from (a) to (j). There is no provision called Section 8(j)(3) of the RTI Act quoted by the Respondent No. 1 while rejecting the request. However, while submitting his written statement he has clarified that what he meant was Section 8(3) of the RTI Act. Both the Respondents have quoted a Government circular with the Law Department's opinion that records which are more than 20 years old need not be given as per the RTI Act. We are afraid that this is a wrong interpretation by the Government and consequently by both the Respondents. What Section 8(3) does is to lift the veil of secrecy which otherwise is imposed on the disclosure of information under Section 8. This veil of secrecy is laid down in 10 circumstances mentioned at section 8 (1)(a) to (j). Sub-section (3) of Section 8 lifts this veil after 20 years and states that the information which is otherwise hidden for 20 years should be given after 20 years period in respect of all cases except those mentioned at clauses (a); (c) and (i) of sub-section (1) of Section 8. This position of law is very clear on mere reading of the provisions and requires no further explanation or commentary. Accordingly, order dated 19/1/2007 of Respondent No. 2 and letter dated 9/10/2006 of Respondent No. 1 rejecting request for information is set aside. The Respondent No. 1 is directed to give the information within the 10 days of the receipt of the order.

(A. Venkataratnam)
State Chief Information Commissioner

(G. G. Kambli)
State Information Commissioner