

GOA INFORMATION COMMISSION

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

Appeal No. 94/2007-08/VP

Mr. Harihar V. Chodankar,
D-5, 2nd Floor, Asilo Hospital,
Doctor's Qtrs., Feira Alta,
Mapusa, Bardez – Goa.

..... Appellant/Complainant.

V/s.

1. The Public Information Officer,
The Secretary,
Village Panchayat of Calangute
Bardez – Goa.
2. The first Appellate Authority,
The Block Development Officer,
Bardez Taluka, Mapusa - Goa.

..... Respondents/Opponents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 22/02/2008.

Appellant in person.

Respondent No. 1 in person. Respondent No. 2 absent.

ORDER

The Appellant has requested the Respondent No. 1, i.e. Secretary of Village Panchayat Calangute by his three applications dated 15/12/2008 to provide him certain details of the constructions in different properties within the jurisdiction of the Calangute Village Panchayat. By reply dated 04/01/2007, the Panchayat Secretary has rejected the request under section 8(j) of the Right to Information Act, 2005 (for short the RTI Act) stating that the information relates to private persons and properties, the disclosure has no relationship to any public activity and it would cause unwarranted invasion of the private documents of private persons. Against this, the Appellant filed his first appeal to the Block Development Officer on 16/07/2007. The Block Development Officer allowed the appeal and directed the Public Information Officer to give the information within 15 days from the date of his order dated 25/09/2007 according to the roznama produced before us.

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2. As the information was still not forthcoming, this second appeal was filed. We have already held in a number of cases, the second appeal under section 19(3) of the RTI Act will lie against the order of the first Appellate Authority passed under section 19(1) of the RTI Act. As the Appellant has no grievance against the order of the first Appellate Authority, strictly speaking this second appeal does not lie. However, as the grievance of the Appellant still remains, this is taken up as a complaint under section 18 of the RTI Act for the execution of the order of the first Appellate Authority.

3. Notices were issued to all the parties and the Respondent No. 1/Opponent No. 1 after taking three adjournments on 28/12/2007, 10/01/2008 and 25/01/2008 has submitted on 11/2/2008, two letters addressed to the Complainant stating that documents requested are not available and files could not be traced. Only in respect of one house bearing No. 196 he submitted the information that it is registered in the name of Smt. Piedade Sequira. Even in this case, no construction file was available in the Panchayat to furnish the Complainant details of the plans, occupancy certificates etc. requested by him. Same is the case in respect of the construction in survey No. 176/20; Survey No. 186/2A, 2B, 2C, 2E and 2F. In spite of granting three adjournments, the Respondent No. 1/Opponent No. 1 did neither file any affidavit nor a reply before us. We are also not aware whether the two letters dated 11/2/2008 to the Complainant were delivered to him or not. We consider this as a wilful disobedience by the Respondent No.1/Opponent No. 1 of our directions. We are also not able to fix up responsibility because a number of officials have occupied the post of Secretary of Village Panchayat Calangute in the past one year. The present Secretary (name not known) stated in his application dated 24/01/2008 seeking adjournment mentioned that he took over as Village Panchayat Secretary w.e.f. 15/01/2008. The earlier Secretary who rejected the requests for information was Eknath B. Talkar. This apart, the reason for refusal of the disclosure of information was that the information is "personal" implying that they are available with the Village Panchayat but the disclosure is refused as per section 8(1)(j) of RTI Act. Now, the present Public Information Officer says that the documents are not traceable. Both the stands are contradictory.

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4. We, therefore, direct that the Director of Panchayats to hold an inquiry, fix up responsibility for missing records in this case and initiate disciplinary proceedings against the persons found responsible. He should file compliance report to this Commission in six months time.

5. As the Appellant/Complainant was put to considerable hardship and also this is also not the first case the Village Panchayat has misplaced its records, we consider it proper to award compensation to the Appellant/Complainant in exercise of powers vested in us under section 19(8) of the RTI Act. However, as the Hon'ble High Court in a Writ Petition No.327/2007, is seized of the jurisdiction of this Commission to award compensation under section 19(8) in a complaint proceeding under section 18 of RTI Act, we restrain ourselves from awarding the compensation.

Pronounced in the open court on this 22nd day of February, 2008.

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

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