

GOA STATE INFORMATION COMMISSION

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

Appeal No. 97/2006/DM

Shri Sushant S. Naik
H. No. 103, Costi - Kalay,
Sanguem - Goa.

..... Appellant.

V/s.

1. Public Information Officer
Sr. Geologist, Directorate of Mines,
Udyog Bhavan, Panaji - Goa.
2. First Appellate Authority
The Director,
Directorate of Mines,
Udyog Bhavan, Panaji - Goa.

..... Respondents.

CORAM:

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

(Per G. G. Kambli)

Under Section 19 (3) of the RTI Act, 2005 (Central Act 22 of 2005)

Dated: 19/04/2007.

Appellant in person.

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

ORDER

This second appeal filed under sub-section (3) of Section 19 of the Right to Information Act, 2005 (for short the Act) is directed against the order dated 29/1/2007 passed by the Respondent No. 2 in appeal No. 1/2007.

2. The facts in brief leading to this second appeal are that the Appellant vide his complaint dated 13/7/2006 addressed to the Directorate of Mines and Geology, Panaji - Goa brought to his notice that the M/s. Chowgule and Company Ptd. and Shri V. D. Chowgule are excavating the iron ore beyond the area leased to them without necessary permission and said company is washing iron ore imported from other sources i.e. from Hospet and other places thereby causing water and environment pollution without any necessary permission.

...2/-

Subsequently, the Appellant vide his application dated 08/11/2006 sought the information from the Respondent No. 1 under the Act regarding copy of the action taken on his said complaint. As the Appellant did not receive any reply from the Respondent No. 1 within the statutory period of 30 days, the Appellant preferred the first appeal before the first Appellate Authority.

3. The first Appellate Authority after hearing the Appellant, the Respondent No. 1 and also the representative of M/s. Chowgule and Company Pvt. Ltd. and Shri V. D. Chowgule dismissed the appeal without costs. It is interesting to note that the Respondent No. 2 while disposing off the appeal under the Act, has infact decided the original complaint dated 13/7/2006 of the Appellant. The Respondent No. 2 has held that the complaint filed by the Appellant was frivolous. The Respondent No. 2 had also observed that his Directorate receives many complaints and no time frame can be set to attend them since it involves deputing personnel with vehicles and these expenses are not recovered from the Complainants even in the event the complaints are false. In this context, it may be pointed that in a democratic country every citizen has got right to make any representation/complaints and it is the duty of the Public Authority to inquire into such complaints and inform the outcome of such inquiries to the Complainant. The fact that the Directorate receives a number of complaints, suggests that there lies some fault in the Directorate and not the vigilant public. Merely because, the personnel from the Department are required to be deputed for inquiries with vehicles, it cannot be the ground for not attending to the complaints of the citizens. In the present case, the first Appellate Authority in his order has stated that his officer has inspected the Costi Group of Mines of M/s. Chowgule and Company Pvt. Ltd. and Shri V. D. Chowgule in and an around second week of December. The Appellant's complaint is dated 13/7/2006 which is much before the inspection carried out by the officer of the Respondent No. 2. We fail to understand as to what made the officer of the Respondent No. 2 in not making an inquiry during his visit in the second week of December when the complaint was already before the Directorate.

4. It is seen from the impugned order of the Respondent No. 2 that the Respondent No. 2 has heard the representative of M/s. Chowgule and Company Pvt. Ltd. and Shri V. D. Chowgule. It is not understood in what connection the Respondent No. 1 has given the notice to them in the first appeal which is filed

under the Act. The question of hearing of third party will arise only when the citizen seeks information belonging to the third party. In the present case, the Appellant has not sought any information which has been provided by M/s. Chowgule and Company Pvt. Ltd. and Shri V. D. Chowgule and therefore, there was no need for the Respondent No. 2 to hear the third party. In fact, the Respondent No. 2 has heard the Company on account of the complaint of the Appellant which the Respondent No. 2 could have done much earlier. The Appellant has made a complaint on 13/7/2006 and thereafter moved an application on 8/11/2006 under the Act i.e. almost 4 months thereafter. It was for the Respondent No. 2 to take decision on the complaint of the Appellant and

5. The Respondent No. 2 has arrived at the following decision while disposing off the first appeal: -

“I also hold that this Directorate cannot be made to generate information at its own costs and then supply under Right to Information Act. The said RIT Act defines information under Article 2(f) and further Article 4 also speaks of maintaining all the records duly catalogued and indexed. The entire RIT Act confines to an ambit where the information as already available be made accessible to the public. No where the RTI Act holds or directs the Information Providing Authorities Agencies to create generate information for third parties”.

6. As stated earlier, it is the right of the every citizen to bring it to the notice of the concerned authority of any illegal activities and it is for the Public Authority to verify the allegations contained in such complaints. It is also the right of every citizen to know the outcome of such complaints from the concerned Public Authorities. The Act does not say that the Public Authority or the Public Information Officer to generate the information and provide the same to the citizens. In the present case too, the Appellant has also not requested the Respondents to generate information and provide him the same. What the Appellant wanted under the Act is to know what action the Respondents have taken on his complaint dated 13/7/2006. If the Respondents had not taken any action or if the Respondents had felt that no action was required to be taken on the complaint of the Appellant, the Respondents ought to have informed the Appellant in so many words. It is the right of the citizens to know the decision on his complaints/representation. The Public Authorities and Public

Information Officers were entrusted with the discharge of the public functions are bound to respond to the citizens and inform them about their complaints/representations. The Respondent No. 2 while deciding the first appeal has disposed off the complaint dated 13/7/2006 of the Appellant which the Respondent No. 2 could have done much earlier and should not have waited till the Appellant comes with an application under the Act and thereafter by way of first appeal. It is the Respondent No. 2 who has not performed his duties and is now blaming the Appellant for seeking information under the Act which right has been guaranteed under the Act and the Respondent No. 2 cannot deny the same. It is absurd to say that the Appellant has requested the Respondents to generate the information. It is the Respondents and more particularly the Respondent No. 2 who has not acted on the complaint of the Appellant and on account of the non-action on the part of the Respondents, the Appellant was forced to move an application under the Act.

7. In these circumstances, the impugned order dated 29/1/2007 passed by the Respondent No. 2 deserves to be quashed and set aside and accordingly, we allow the appeal and quash and set aside the impugned order dated 29/1/2007 passed by the Respondent No. 2. We direct the Respondent No. 1 to provide the information to the Appellant within two weeks from the date of the receipt of this order.

(G. G. Kambli)
State Information Commissioner

(A. Venkataratnam)
State Chief Information Commissioner