

**GOA STATE INFORMATION COMMISSION**

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

Appeal No. 23/2006/DM

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

..... Appellant.

V/s.

1. Directorate of Mines & Geology,  
Udyog Bhavan, Panaji - Goa &  
Public Information Officer.
2. Directorate of Mines, Panaji &  
First Appellate Authority.

..... 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 : 11/09/2006.

Appellant in person. Adv. Kishore Bhagat for Respondent 1 and 2.

**ORDER**

This disposes off the second appeal dated 25/7/2006 filed before us against the Respondents. The brief facts of the case are as under: -

1. The Appellant by his original application dated 9/6/2006 applied to the Information Officer of Directorate of Mines to supply the lease copies of certain mines specifying the lease nos., location of the mines and all the owners of the mines. Thereafter, on 22<sup>nd</sup> March, Shri K. M. Hegde, Sr. Technical Assistant of the Directorate of Mines and Geology informed the Appellant that the information is ready and he can collect the same after paying the necessary amount. He has not mentioned how much is the amount payable by the Appellant. The Appellant made a number of visits to the office and finally informed the PIO that he was not given the information though he was called to collect the information and that the amount to be paid by him was not specified.

...2/-

After the expiry of 30 days statutory time limit, he made the first appeal to the Director on 2/5/2006 for a relief to inform him reason for the deemed rejection and to supply information free of cost. The Respondent No. 2, the first Appellate Authority, after hearing both the PIO and Appellant passed a speaking order on 25/5/2006 dismissing the prayer for supply of information free of cost and granting the request of Appellant to collect the information after making the necessary payment. Against this order, present second appeal is filed.

2. The learned Adv. Kishore Bhagat for the Respondents submitted a written statement raising preliminary objection that as the Appellant did not pay application fee of Rs.10/- and as the Appellant did not meet the PIO Shri P. A. T. Fernandes to collect the information, the present second appeal is not maintainable. On merits, he stated that the appellant was not denied the information and hence he is not entitled to supply of information free of cost. He stated that the Appellant himself has failed and neglected to approach the PIO even after letter dated 22/3/2006. He has conceded that the information will be supplied if the amount is paid. On a pointed question by us as to how much is the cost of the documents, the Advocate nor the representative of the Department present at the time of hearing could not reply.

3. The Appellant argued that he is entitled to the information free of cost under Section 7 (6) of the RTI Act and that he did approach the office on 3/4/06 and even gave one application on 7/4/2006 asking the PIO as to how much he has to pay. Though he has gone to the Department and he is willing to pay the cost, he was denied the information deliberately.

4. We had heard the arguments from both sides and perused the papers on record. The original application for the supply of information is very specific as to what information is required. There is no question of any vagueness or need for inspection of any records. He has approached the correct person namely Shri K. M. Hegde, who has called the Appellant for collection of the information. Now, it is not proper and correct for the Respondents to say that the Appellant did not approach the PIO for collecting information. Even when he approached Shri Hegde on 3/4/06, instead of telling the amount payable by the Appellant, he was asked to go and meet the APIO who also did not tell him the amount nor the name of the PIO of if Mr. Hegde is not the PIO. We, therefore, do not see any

basis to the plea taken now by the Respondents that the Appellant has to blame himself for not getting the information. In any case, even on the day of hearing before us, the Department is not clear as to how much is payable by the Appellant. We are of the definite opinion that this is a failure on the part of the Department, particularly the PIO, in discharging his duty. The fact that Shri P. A. T. Fernandes is the PIO not Shri Hegde does not help matters much for the Respondents. If Shri Hegde was not the PIO at the relevant time, we do not see how he had sent the letter to the Appellant to come and collect the information. There is definitely an effort by the Department to avoid giving the documents requested.

5. Though, it is necessary under the Act to submit the request for information with a fee of Rs.10/-, it is not a reason enough to reject the request. This Commission has already held in Ligorio Pereira V/s. PIO, Town and Country Planning Department that the non-payment of Rs.10/- as application fee is a remediable defect and it can be collected at the time of issuing the documents alongwith the cost of the documents. In fact, it is the duty of the PIO to collect fee of Rs.10/- at the time of submission of the application. We, therefore, overrule the preliminary objection. On merits, as the Respondents have conceded the request for furnishing the documents, there is nothing to decide further. With mutual consent, we have also fixed up Friday, 15<sup>th</sup> September, 2006 at 3.00 p.m. as the date and time for giving documents by the Respondents.

6. We have to now see whether the request of the Appellant to give the documents free of charge is permissible under the law. It is true that the documents were not given in 30 days from the date of application. However, the documents requested are not those mentioned under Section 7 (5) of the RTI Act. Hence, Rule 4 of Right to Information (Regulation of fee and cost) Rules, 2006 issued by the Goa Government is applicable regarding the payment of the charges for the information requested by the Appellant. The information to be supplied free of cost after the 30 days period under Section 7 (6) of the Act relates only to the documents mentioned in Section 7 (5) of the Act which are the information to be provided in printed or in electronic format only. It is not applicable for other types of information. Hence, the request of the Appellant is not permissible under the Act and the Rules framed thereunder. In view of the

above discussion, the request of the Appellant for supply of information free of charge is hereby rejected. The appeal is partly allowed and Respondent 1 is directed to issue the documents after collecting fees of Rs.10/- alongwith the cost of the documents to be supplied on Friday, 15/9/2006 at 3.00 p.m. Parties may be informed.

(A. Venkataratnam)  
State Chief Information Commissioner, GOA.

(G. G. Kampli)  
State Information Commissioner, GOA.