

GOA STATE INFORMATION COMMISSION

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

Appeal No. 85/2006/W&CD

Shri Om Prakash Yadav
"Vijay Kunj", 165- PDA Colony,
Alto - Porvorim, Goa 403521.

..... Appellant.

V/s.

1. Public Information Officer
The Programme Officer,
Directorate of Women & Child Development,
Panaji - Goa.
2. First Appellate Authority
The Director,
Directorate of Women & Child Development,
Panaji - 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.

Appellant in person.

Respondent No. 1 in person.

Respondent No. 2 absent.

ORDER

This dispose off the second appeal dated 31/01/2007 against the order dated 17/01/2007 of the first Appellate Authority. The Appellant has first approached the Public Information Officer, Respondent No. 1, on 6/11/2006 requesting permission to visit Apna Ghar (Children's home) and Protective Home (for women) maintained by the Directorate of Women & Child Development to see the "condition, their physical as well as educational, recreational etc" under the Right to Information Act, 2005 (for short the RTI Act). The Respondent No. 1 has rejected the request, as the Protective Home is a sensitive institution and the Dy. Collector, Vasco has already formed a panel of visitors under the ITPA. On the first appeal of the Appellant, the Respondent No. 2, apart from discussing the establishment of the two institutions namely

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Apna Ghar and Protective Home and the provisions of the Acts under which they are functioning, rejected the first appeal on the ground that the “sensitivity of such institutions shall be in danger if the request of the Appellant” is sanctioned. We do know what he means by that, i.e., whether the appellant will be in danger or the inmates will be in danger or the department will be in danger. He reasoned that maintenance of the institutions is utmost important, if the visits by the citizens are encouraged there is possibility of pressurizing the inmates of these institutions by the visitors.

2. Notices were issued and the Appellant and Respondent No. 1 argued their own cases. The Respondent No. 2 is absent.

3. The Appellant cited the provisions of Section 2(j)(i), 3 and 6 of the RTI Act in support of his case. On the other hand, the Respondent No. 1 stated that the proposed visit by the Appellant to the two institutions cannot be classified as a right to inspection of work mentioned at Section 2(j)(i) of the act. The Appellant, on the other hand, clarified that he is a responsible senior citizen, having already worked in the same Department for a number of years and now retired and he has only public interest at heart and in any case there is nothing the Government or the department to keep any information confidential. We have heard the parties and also have seen the papers submitted. The short point is whether the Appellant as a citizen is entitled to access the information maintained by the Apna Ghar and Protective Home run by the Department and whether he can physically inspect the institutions under the RTI Act. The arguments that the sensitive institution cannot be kept open for citizen for visit is not correct. The institutions like the jails and the police lock-ups are accessible to the visit by the relatives of the persons detained therein. There are, of course, certain procedure laid down in the police and jail manuals regarding the precautions to be taken by the authority in allowing such visits. Outright rejection of the visit to Protection home by the Appellant who is senior citizen is certainly not called for and refusal by the PIO raises the presumption that the department is hiding some information.

4. On the other hand, the nature of the institutions being what they are in respect of access by all the citizens is also not called for. In any case, the visit by the citizen to these institutions only to have access to the information of the documents and records kept therein, about the conditions prevailing in these homes including the watch and ward duties, health and sanitation, general treatment of the unfortunate wards in the custody of the Government are matters

which have to be known to the citizens. This is the essence of the accountability of the public authorities by all the citizens which the RTI Act is aiming at. The Appellant need not be permitted to meet or even talk to the inmates, there is no reason to refuse the permission to visit the offices of these homes in which the records are kept. For instance, the Superintendent of two homes namely Apan Ghar and the Protective Home are senior Government officials of the Department who have their own offices within the premises of the institutions. The Appellant should definitely be allowed meet these officials and asked for relevant details of the records/information to ascertain and satisfy himself that the inmates are being looked after in manner they are supposed to be under the Act and Rules framed thereunder. We are not willing to buy the arguments that only because there is the visitors panel constituted by the authorities for this purpose, the Appellant cannot be allowed to visit the institutions. There is, no doubt, a mechanism in place to supervise the working of the institutions including the inspection by the visitors panel. However, there is no bar if a citizen is provided access to the information regarding the institutions. The visit to the institutions may not be inspection of a work as it is interpreted by the Appellate Authority of a construction work. The visit by the Appellant the offices of the superintendent for the purpose of access documents/records and gathering of information about the working of the institutions is, in our view, covered under the definition of Section 2(j) of the RTI Act. In fact, such an issue would not have arisen in the case of other public authorities as the entry to their offices is not restricted. Accordingly, we hereby set aside the order dated 17/01/2007 of the first Appellate Authority and the letter dated 28/11/2006 of the Respondent No. 1 and allow the second appeal. Both the Respondents will give all the facilities and permission required to the Appellant to visit the Apna Ghar and Protective Home and gather for himself the information required by him. However, the inspection of the records and issue of documents should be by way of a proper application and on payment of fees as prescribed under the Rules.

(A. Venkataratnam)
State Chief Information Commissioner

(G. G. Kambli)
State Information Commissioner