

GOA INFORMATION COMMISSION

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

Complaint No. 39/2007-08/VP

Shri. Nazaziano Paes,
H. No. 16, Banda, Assolna,
Salcete – Goa.

..... Complainant.

V/s.

1. The Public Information Officer,
The Secretary,
Village Panchayat of Assolna,
Salcete – Goa.

2. The first Appellate Authority,
The Block Development Officer,
Salcete Taluka, Margao – Goa.

..... Opponents.

CORAM :

Shri G. G. Kambli
State Information Commissioner

(Per G. G. Kambli)

Dated: 11/12/2007.

Complainant in person.

Adv. Silvano Estibeiro for Opponent No. 1.

Opponent No. 2 in person.

ORDER

The Complainant vide his request dated 1/5/2006 sought the following information under Right to Information Act, 2005 (for short the Act) from the Opponent No. 1:

- (i) certified copies of the construction plans;
- (ii) ownership documents and
- (iii) licence obtained from the construction of house by Mrs. Neolina Cardoz at Bainful, Assolna in Survey No.118/12.

2. The Opponent No. 1 vide letter dated 27/06/2006 informed the Complainant that the search was made but the requested documents cannot be traced. Feeling aggrieved by the said letter of the Opponent No. 1, the Complainant preferred the first appeal before the Opponent No. 2 under section 19(1) of the Act. The Opponent No. 1 through his Advocate filed the reply before the Opponent No. 2 whereby preliminary objection was raised that the appeal filed before the Opponent No. 2 was barred by law of limitation and the information sought by the Complainant was already provided under letters dated 27/06/2006 and 7/3/2007. In para 1 of the said reply, the Advocate for the Opponent No. 1 had stated that no construction

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licence was issued to Mrs. Neolina Cardoz for construction of house in the property surveyed under No. 118/12 and as such copies of the information sought by the Complainant vide application dated 1/5/2006 could not be issued.

3. The first Appellate Authority after hearing both the parties directed the Opponent No. 1 to issue the required information within time limit and should be issued under the signature of the Public Information Officer only vide order dated 12/6/2007.

4. As the Complainant did not receive the information from Opponent No. 1, the Complainant has filed the present complaint. The Advocate for the Opponent No. 1 filed similar reply before this Commission on 21/11/2007 raising preliminary objection stating that the appeal filed by the Complainant is not maintainable as the same is barred by law of limitation and that the application dated 1/5/2006 has been disposed off vide letter dated 27/6/2006. However, the learned Advocate for the Opponent No. 1 has not substantiated as to how the present Complainant is barred by law of limitation. Hence, I overrule this preliminary objection.

5. It will be seen from the above that the Complainant sought the certified copies of certain documents in respect of the construction of house carried out by Mrs. Neolina Cardoz in the property bearing Survey No. 118/12. The Opponent No. 1 vide letter dated 27/6/2006 had informed the Complainant that the records are not traceable. Therefore, I am not inclined to agree with the learned Advocate for the Opponent No. 1 that the information sought by the Complainant vide application dated 1/5/2006 has already been provided in this letter. The other reply dated 7/3/2007 pertains to the application dated 15/2/2006 with which I am not at all concerned in the present complaint. In the reply dated 13/8/2007 filed before the Opponent No. 2 by the learned Advocate for the Opponent No. 1, it has been stated that no construction licence was issued to Mrs. Neolina Cardoz for construction of house in the property bearing Survey No. 118/12 and therefore, no copies of the information sought by the Complainant vide application dated 1/5/2006 could be issued. In the first letter dated 27/6/2006 issued by the Opponent No. 1, the Opponent No. 1 had informed that no records could be traced whereas in the reply filed by the learned Advocate for the Opponent No. 1, he has stated that no construction licence was issued. Therefore, the Opponent No. 1 ought to have given the correct information to the Complainant in the beginning itself. Even though there are directions from the Opponent No. 2

i.e. first Appellate Authority, the Opponent No. 1 has not given any information to the Complainant. The reply filed by the learned Advocate before the first Appellate Authority cannot be treated as information for the purposes of the Act. There are specific directions from the Opponent No. 2 to issue the information to the Complainant under the signature of the Opponent No. 1 only. This has not been complied with by the Opponent No. 1. The then Public Information Officer, Shri. Atul Naik had informed that no records are traceable whereas the learned Advocate for the Opponent No. 1 in the first appeal filed before the Opponent No. 2 has stated that no construction licence was issued. The Opponent No. 1 failed to inform the Complainant about this fact inspite of the orders from the first Appellate Authority.

6. Therefore, I am of the view that both the Public Information Officers, the present one and the earlier Shri. Atul Naik have deliberately and intentionally not provided complete and correct information. The reply filed by the learned Advocate for the Opponent No. 1 cannot be treated as the information under the Act. The Opponent No. 1 ought to have provided the information to the Complainant in compliance with the order of the first Appellate Authority.

7. I, therefore, hereby direct the Opponent No. 1 to provide the correct information to the Complainant within one week from the date of this order. I also direct the Opponent No. 1 as well as the earlier Public Information Officer namely, Shri. Atul Naik to show cause why the penalty of Rs.250/- per day delay should not be imposed on them under section 20 of the Act. The Opponent No. 1 as well as Shri Atul Naik, the then Public Information Officer to file their replies on 27/12/2007 at 11.00 a.m. and also to appear in person or through duly authorized agent or pleader on the said date and time. Shri. Atul Naik, the then Village Panchayat Secretary be served through the Block Development Officer of Salcete.

8. I am disposing off this case as a single bench as per the order dated 21/11/2007 issued by the Chief Information Commissioner in pursuance of the powers vested in him under section 15(4) of the Act.

Pronounced in the open court on this 11th day of December, 2007.

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

/sf.

