

GOA STATE INFORMATION COMMISSION

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

Appeal No. 54/2006/TCP

I. Samuel Raju
H. No. 706/A, Aksona,
Pendolpem, Benaullim,
Salcete - Goa.

..... Appellant.

V/s.

1. Public Information Officer
Town & Country Planning Department,
Margao - Goa.
2. First Appellate Authority
Chief Town Planner,
Town & Country Planning Department,
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: 16/01/2007.

Appellant in person.

Adv. Irshad Agha for both the Respondents.

ORDER

This disposes off the second appeal dated 5/12/2006 filed by the Appellant. The Appellant approached the Public Information Officer of Town & Country Planning Department at Margao, the Respondent No. 1 herein, under the Right to Information Act, 2005 (the RTI Act) by his request dated 24/7/2006. The Appellant's query was why additional deviations pointed out by the Appellant by his letters addressed to the Respondent No. 1 dated April 25, 2006 and May 30, 2006 have not been included in the letters of the Public Information Officer dated 25/5/2006 and 21/6/2006. The deviations themselves have not been spelt out clearly neither in the original request for information dated 24/7/2006 nor in the second appeal before us. The Appellant received the information from the Public Information Officer, Respondent No. 1 herein, on 31/8/2006. Not satisfied with the reply, Appellant made his first appeal to the

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Respondent No. 2 on 26/9/2006. The Respondent No. 2 by his order dated 16/11/2006 disposed off the first appeal by stating “ the appeal is not allowed and however, in view of the applicant’s submission, the Respondent Public Information Officer, is hereby directed to assist and provide the applicant inspection of the case files and give copies of the any other documents which are available in the records of the office.....”. It is not clear, therefore, whether the first appeal is allowed or dismissed. We consider that it is dismissed.

2. On issuance of the notices, the Appellant has represented his case in person and Adv. Irshad Agha represented both the Respondents. In addition, both the Respondents have submitted their written statements, on which the Appellant has given his own submissions. The learned Adv. Agha has taken the preliminary objection, as usual, that the Chief Town Planner who is the First Appellate Authority, cannot be made a party in the second appeal but did not say why. We have already held in *Moreshwar N. P. Navelcar Vs. Public Information Officer of the Town & Country Planning Department, Panaji* in Appeal No. 44/2006/TCP that the first Appellate Authority is a necessary party before this forum and have also mentioned the detailed reasons why it is so. We reiterate the same view again and again and overrule the preliminary objection.

3. From the written statements of the Respondents and the Appellant, the following facts have been gathered. It appears that one, Smt. Maria D’Souza, in the village of Benaulim constructed a house in the survey No. 157/3 (PART) for which the Town and Country Planning Department, more particularly the Respondent No. 1 herein, has issued a completion certificate on 21/6/2006 after inspecting the site. According to the Appellant, Smt. Maria D’Souza has committed two illegalities ; namely, (i) that she has constructed a septic tank in her own property, 11.00 mts. away from a drinking water well in the property of the Appellant, and (ii) that she has made some ‘openings’ within 3 mts. of the compound wall, thus violating the 3 mts. setback rule. Now, it is the contention of the Appellant that both these violations were not mentioned by Respondent No. 1 in his site inspection report. It is interesting to note that none of the parties before us have enclosed a copy of the site inspection report. The appeal itself is so vague that it mentions the two deviations without mentioning what they are and who has made the deviations. In any case, the contention of the Public Information Officer is that he has withdrawn the completion certificate earlier issued to Smt. Maria D’Souza and the matter ends there for him. As stated earlier, the first Appellate Authority has not allowed the appeal but yet directed

the Public Information Officer to provide assistance and give copies of documents to the Appellant. We have not followed this confusing order. Against this background, the prayer of the Appellant to this forum is to invoke Section 7 (1) of the RTI Act against the Town Planner/Public Information Officer for furnishing incomplete and misleading information. Though the prayer itself is confusing, we understand this to mean that the Appellant has requested initiating penalty proceedings under Section 20(1) of the RTI Act against the Public Information Officer for furnishing incomplete and misleading information.

4. On a perusal of the reply already furnished by the Respondent No. 1, we do not find any incomplete and wrong information provided by the Public Information Officer. The reply of the Public Information Officer dated 31/8/2006 makes two points namely, (i) that as far as the construction of the septic tank and soak pit are concerned, the Health Officer of Margao has already inspected the site and the intimated the action to be taken by the Village Panchayat and on the second point "the openings" made by Smt. Maria D'Souza in the northern side of her property, do not violate the prevailing "norms". However, the same letter also stated that his office has withdrawn the completion certificate issued by him earlier and said that no further queries are "warranted" in this matter. He did not submit why the completion certificate was issued in the first instance and why it is withdrawn later and how the Appellant cannot question him further on this matter simply because he has withdrawn the completion certificate issued to Smt. Maria D'Souza. In any case, these are not the issues before us now as neither the Appellant has raised them nor the Respondent is required to answer them at this stage. We, therefore, find that the information provided by the Respondent No. 1 on 31/8/2006 answers the two questions raised by the Appellant by his original request dated 24/7/2006. We, therefore, find that no penalty proceedings can be initiated against Respondent No. 1. The second appeal, therefore, is dismissed. Parties to be informed.

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

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