

GOA INFORMATION COMMISSION

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

Penalty Case No. 06/2007

In

Appeal No. 07/2007-08/VP

Shri Hilario Sequeira
Saiba Vaddo, Piedade, Goltim,
Divar - Goa.

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Appellant.

V/s.

1. Public Information Officer,
The Secretary,
V. P. Goltim/Navelim,
Divar - Goa.
2. First Appellate Authority,
Block Development Officer,
Tiswadi Taluka,
Panaji - Goa.

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Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 03/09/2007.

ORDER

This disposes off the show cause notice issued to the Respondent No. 1 in the Appeal No. 07/2007 against him for not giving correct information and also giving misleading information. The facts are stated in the order dated 18/7/2007 in main appeal which should be read as having been incorporated in this order. The limited point is whether the Respondent No. 1 has taken any action on the request for information and if so whether he has given the correct information. The Appellant has cited a number of complaints made by him to the Panchayat. It is his case that the Panchayat has not taken any action to demolish the illegal construction which blocks access to the property of the Appellant when the matter was brought to the notice of the Panchayat even while the construction was going on. The Respondent No. 1 could not trace out any legal permission having been granted to Shri Waman Kannaik either for reconstruction or repair of already existing house No. 161 in survey No. 5/10 within the jurisdiction of Goltim-Navelim Village Panchayat. The Respondent No. 1 has taken the stand that as no documents granting the permission are available in the Panchayat

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office and that it cannot be said that the structure is illegal. Again in a reply given by the Respondent No. 1 for an earlier request he presumed that no permission has been granted. At the time of hearing, though the Respondent No. 1 was present he did not file any written statement. He produced the written statement for the first time only when the show cause notice was issued against him for taking the action under the Right to Information Act, 2005 (for short the RTI Act). Even in this reply, he did not mention clearly whether the structure is legal or illegal. He only submitted that he has given correct reply to the Appellant and did not suppress any material fact. As to the document mentioned in the order of this Commission dated 18/07/2007, he submitted that the malafides is not brought out in giving any incorrect reply.

2. We agree that no case of malafides in providing wrong information is made out against the Respondent No. 1 in this matter. We accordingly drop further proceedings against the Public Information Officer, Respondent No. 1. However, the fact remains that Village Panchayat did not take any action against the illegal construction by Waman Kannaik as alleged by the Appellant. It is not enough to say that no documents are available in the Panchayat and hence, the Public Information Officer cannot supply any information under the RTI Act. The Appellant is directly affected by the construction/re-construction made by Waman Kannaik and therefore, a remedy is available to him under the Section 4(1)(d) of the RTI Act as an affected person, though not as a citizen. The Panchayat, as a Public Authority is hereby directed to intimate the action taken on the complaint of the Appellant about the alleged illegal construction made by Waman Kannaik after due enquiry and investigation. The reasons should also be given by Panchayat Goltim-Navelim, for not taking action immediately and keeping the matter pending for such a so long time. The reply should be given by the Secretary of Village Panchayat on behalf of the Village Panchayat within one month from today.

Pronounced in the open court on this 3rd day of September, 2007.

Sd/-
(A. Venkataratnam)
State Chief Information Commissioner

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

/sf.
sf./pg.