

GOA INFORMATION COMMISSION

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

Penalty case No. 7/2007
Appeal No. 14/2007-08/

Shri Pandu Shetgaonkar
Alias Pandurang Shetgaonkar,
R/o Munangwada, Morjim,
Pednem, Goa

.....

Appellant

V/s.

The Public Information Officer,
Dy. Collector & SDO,
Mapusa, Bardez – Goa.

..... Respondent No. 1

First Appellate Authority,
Additional Collector,
North Goa District,
Panaji - Goa

Respondent No. 2

CORAM:

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

(Per G. G. Kambli)

Dated: 30/08/2007

ORDER

The Commission by its judgment and order dated 17-07-2007 passed in Appeal No. 14/2007 issued the following directions to the Respondent No. 1.

- (i) To provide the information to the Appellant on point No. 4 and 5 immediately within 4 days from the date of receipt of the order, if not provided so far.
- (ii) To Carry out a detailed search with the help of his officials of the entire records of his office as well as the office of the Additional Dy. Collector and submit a certificate to that effect to this Commission on the next date of the hearing.

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- (iii) To recommend the disciplinary proceeding against the erring Official(s) to the Collector North Goa District within a period of 1 month from the date of the receipt of this order.
- (iv) The Collector of North Goa District who is the appointing and disciplinary authority is requested to initiate disciplinary action against the erring Official(s).
- (v) To show cause as to why the penalty proceeding should not be initiated against him for not providing the information to the Appellant on points No. 4 and 5 of the application of the Appellant dated 15/11/2006.

2. In compliance with the said Order of the Commission, the Respondent No. 1 has filed his reply on 17-08-2007. As directed by the Commission, the Respondent No. 1 has informed that the information on point No. 4 & 5 is already sent to the Appellant by registered post A.D. on 25-07-2007. As regards the direction at Sr. No. 2, Respondent No. 1 submitted that thorough search of records was carried out by his office even on Saturday & Sunday i.e. on 28-07-2007 & 29-07-2007 but relevant Appeal No. ADC/LRC/MUT/Apl/2/2000 could not be traced. In support of this, Respondent No. 1 has produced the copy of the office Order dated 27-07-2007 issued to his staff members. The Respondent No. 1 has also produced certificate to that effect as per the directions of this Commission. Regarding direction contained at point No. 3, the Respondent No. 1 submitted that the report has already been submitted to the Collector of North Goa District for initiating disciplinary proceedings against Shri S. S. Redkar and first information report has also been filed.

3. Coming now to the direction at point number 5, the Respondent No. 1 submitted that the application dated 15-11-2006 of the Appellant was received in the office on 22-11-2006 and that the Appellant did not pay the application fee. The Respondent No. 1 also submitted that the information

on point No. 4 & 5 would not be provided as the matter was referred to the Collector. However the Appellant was informed by letter dated 15-12-2006 that the file is not traceable and as soon as the file is traced the Appellant would be communicated. The Respondent No. 1 further submitted that the Respondent No. 1 was transferred during the election from Mapusa to Margao from 7-05-2007 to 8-06-2007 and the delay has been caused in providing the information only because an advise was sought from the Collector on the receipt of application of the Appellant and there was no malafide on the part of the Respondent No. 1. The Respondent No. 1 also submitted that the information sought by the Appellant pertains to the mutation Appeal which was decided in the year 2002. He stated that due to typing error the date has been typed as 19-10-2006, which may be corrected.

4. The Appellant in his rejoinder/counter reply submitted that the Appellant received the information on point No. 4 & 5 only on 27-07-2007 by register post A.D. The appellant also submitted that the Appellant sent his application dated 15-11-2006 seeking information by Register A.D. which was received in the office of the Respondent No. 1 on 22-11-2006. The Appellant has also alleged that the Respondent No. 1 is trying to mislead the Commission in order to avoid the penalty.

5. Admittedly, the application dated 15-11-2006 was received in office of the Respondent No. 1 on 22-11-2006. According to the Appellant, the Appellant has sent this application by Reg. A.D. The Appellant has not produced any receipt regarding the payment of application fee of Rs. 10 either by cash, D.D. or bankers Cheque as required by rule 3 of the Goa Right to Information (Regulation of fee and cost) Rules, 2006. The Respondent No. 1 had informed the Appellant that the relevant file was not traceable and as soon as the file is traced Appellant would be communicated, by letter dated 15-12-2006. Thus the decision on the application of the Appellant, though the fees were not paid, was communicated to the Appellant within 30 days from the date of receipt of the application.

6. The information sought by the Appellant pertains to the period of 2002 as per the statement of the Appellant as well as of the Respondent No. 1. The Respondent No. 1 has made efforts to carry out the search of the records but the relevant file could not be traced. It has come on record that there also exists an office of Deputy Collector Pednem and since the matter pertains to the Pednem Taluka, it is also necessary to carry out the search of the office of the Deputy Collector Pednem because the possibility of transferring the records on appointment of Deputy Collector to Pednem Taluka cannot be ruled out.

7. The Respondent No. 1 has stated that in the Judgment and order of the commission the reference is made to the order dated 16-10-2006. In this context, it is pointed out that in the order of the First Appellate Authority at page 3, the First Appellate Authority has made the reference to the judgment and order dated 19-10-2006 which made the Commission to believe that the Appellant had sought the certified copy of the judgment and Order dated 19-10-2006.

8. On perusing the reply of the Respondent No. 1 as well as the documents produced by the Respondent No. 1, we are satisfied that the Respondent No. 1 has shown sufficient cause for the delay. And therefore we hereby drop the penalty proceedings against the Respondent No. 1.

9. However we would like to direct the Deputy Collector Pednem to carry out the search of the relevant file from his office records and, if found, provide the information to the Appellant. In case the relevant file is not found in the office of the Deputy Collector Pednem, he should inform the same to the Respondent No. 1, within 15 days from the date of the receipt of this Order. We also direct the Respondent No. 1 to reconstitute the file within three months from the date of this Order and take further appropriate action in the matter in accordance with the provisions of the law.

10. Before we pass with this order, we would like to point out that in terms of the provision of sub-section (1) of section 4 of the act, it is an

obligation of every public authority to maintain all the records duly catalogued and indexed in a manner and the form which facilitate the Right to Information under the Act. The provision of sub-section (1) of section 4 are mandatory in nature. We therefore direct the Collector of North Goa District to comply with the provision of subsection (1) of section 4 of the act. If all the records cannot be catalogued or indexed, the work can be taken up in a phased manner. This will facilitate the Public Information Officer under the control of the Collectorate to provide information to the citizens in accordance with the provision of the Act rather than informing the citizen that the records are not available. The steps taken by the Collector, North Goa District to implement the provision of subsection (1) of section 4 of the Act be intimated to the Commission, within the period of 3 months.

Announced in the open court on this 30th August 2007.

Shri G.G. Kambli
State Information Commissioner

Shri A. Venkataratnam
State Chief Information Commissioner

No. GSIC/ Appeal No. 14/2007/

Goa State Information Commission,
Shrama Shakti Bhavan,
Patto, Panaji Goa

Dated: /08/2007

To,

- 1) The Public Information Officer,
Dy. Collector & SDO,
Mapusa, Bardez – Goa.
- 2) First Appellate Authority,
Additional Collector,
North Goa District,
Panaji – Goa
- 3) The Deputy Collector,
Pednem
- 4) The Collector,
North Goa District
Panaji - Goa

Sub:- Penalty proceeding No. 7/2007 in Appeal No. 14/2007

Sir,

I am directed to forward herewith the copy of the Order dated 30/08/2007 passed by the Commission on the above Appeal for information and necessary action.

Yours faithfully,

(Ajit Panchwadkar)

Under Secretary

Encl: Copy of Order in 5 pages