

## **GOA INFORMATION COMMISSION**

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

Penalty Case No. 17/2007-08 in  
Appeal No. 107/2007-08/PWD

Shri. Allan Falleiro,  
H. No. 400, Toleband,  
Loutolim, Salcete – Goa.

..... Appellant/Complainant.

V/s.

The Public Information Officer,  
Mr. R. M. Deshpande,  
The Executive Engineer,  
Public Works Department,  
Works Div. XXV,  
Fatorda, Salcete – Goa.

..... Respondent/Opponent.

### **CORAM:**

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

(Per A. Venkataratnam)

Dated: 10/04/2008.

Complainant/Appellant in person.

Opponent/Respondent alongwith his Adv. Karuna Bakre present.

### **ORDER**

This matter was already decided by order dated 18/02/2008 wherein directions were given to the Opponent to give the information and also to show cause why penalty of Rs.250/- per day delay from 24/08/2007 should not be imposed on him. The Opponent, Shri. R. M. Deshpande submitted his reply to the show cause notice stating inter alia that he has already given the information and that if the information was not complete he is not to be blamed.

2. When the matter was taken up for arguments, the Complainant has insisted that replies to his queries (B) and (C) of his original application for information dated 24/07/2007 were not given to him even now.

3. Arguments were heard from both the parties and written replies furnished by the Opponent was also perused. The first question (A) consists

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of 3 parts, namely, (i) the names of the Land Acquisition Officers who have acquired the land for construction of road at village Carmona; (ii) officers who are involved in illegal cutting of mangroves and construction of said road; and (iii) the present project being undertaken by these officers. The Public Information Officer, the Opponent herein, did not give any information within the statutory time limit of 30 days. However, on 20<sup>th</sup> of August, 2007, i.e. two days after the expiry of the time allowed under the Right to Information Act, an interim reply was given stating that the information is being collected from his subordinate officers. Thereafter, no reply was given at all till he received the appellate order from the first Appellate Authority on 13/09/2007. Even then, the Opponent has replied on 4/10/2007 addressed to the first Appellate Authority in the form of a written statement after the case is closed by the first Appellate Authority citing the cause title of the case and endorsing his reply to the Dy. Director Administration of the PWD and an Asst. Engineer at Fatorda. There is no endorsement to the Complainant. However, the Complainant admitted of having received the reply. For the first portion of question (A), Shri. Deshpande replied that “the names of the LAOs were submitted before the first Appellate Authority on 12/9/2007”. This is not compliance of the provisions of the RTI Act. If the names of the officers acquiring the land were available with him on the date of the application, he should have parted with this information to the Complainant immediately after the receipt of the application. The question of submitting before first Appellate Authority does not arise. This was also noted by us in our earlier order dated 18/02/2008. The next part of the question is regarding the names of officers involved in illegal cutting of mangroves and construction of road thereon. In reply to this, Shri. Deshpande mentioned his own name and name of one Asst. Engineer. However, he has also stated in his reply to the show cause notice now before us that “as regards to the contention of the Commission at para 5 of the order dated 18/02/2008, the names of the Respondent and Asst. Engineer and other officers is not incorrect as they were also involved in the construction of the road”. He has also submitted that neither the Respondent nor the Appellant is an authority to decide whether the work carried out is “illegal or not”. Thus there is a contradiction here, on one hand he says that the legality of cutting of mangroves and construction of the road is not within his competence and yet he is revealing his own name as one of the officers “involved in the construction of road”. Firstly, we would like to make it clear to Shri. Deshpande that we have not

contended anything. We only decide whether the contentions made by the parties are correct or not. Consequently, the reply to this question is not at all satisfactory. If Shri. Deshpande thinks that it is not an illegal act to cut the mangroves, he should have said so and further revealing the names does not arise as the Complainant asked the names of those officers involved in the illegal cutting of mangroves. If it is a legal activity then the question of saying that neither the Respondent nor the Appellant can say about its illegality does not arise. Besides, it has already come on record that the GCZMA which is the competent authority to decide whether or not cutting of mangroves is legal has already issued an order to restore the land to its original use. They could have done this only when they found such an activity as illegal. Therefore, the reply of Shri. Deshpande, both to the Complainant and before this Commission while replying to the show cause notice are not satisfactory.

4. The Complainant, then, contended that no answers are given by the Opponent for questions (B) and (C) of his application. However, we have found that the questions are answered. The question "B" is about the action taken by the Opponent to comply with the GCZMA order to restore the land to its original use. Shri. Deshpande replied that he has started the work and continued till the extent of his powers and submitted to his higher authorities for further action. During the hearing of the penalty case, he stated that he has received an order constituting a committee to look into this restoration and which has "verbally" ordered him to stop further work. This order is, of course, verbal. Because of the stoppage of work, Shri. Deshpande cannot say when the work of restoration will be complete. It is not for us to comment on why the work was stopped midway based on the oral instructions of the committee headed by Shri. Nadkarni, Chief Engineer, Water Resources Department. However, as this is the factual position and he has informed this to the Complainant, we consider that the information is given now though late.

5. The question (C) is about amount paid to M/s. Thasma Constructions Pvt. Ltd. for the construction of road. This was replied already by Shri. Deshpande. A further sub-question of question (C) is about the amount required to restore the land to its original use. This is also already replied by Shri. Deshpande stating that no estimate was prepared before taking up the work. Hence, neither the amount required nor the date of completion of work

can be informed. Here again, we have observed in our earlier order and reiterate it now that the procedure followed by Shri. Deshpande is strange, to say the least. As per the works manual, the estimates of all works are first prepared and then approvals are taken from the competent authorities for administrative approval, technical approval and financial approval. Starting the work without following this procedure is not proper. However, as we are concerned only with the supply of information and as the Opponent truthfully said no such procedure was followed, no further action requires to be taken by the Commission in this regard. It is for the Complainant to take further action as deemed fit for the lapses in the execution of works.

6. By the above discussion, we have seen that the Opponent being the Public Information Officer, has neither given any information within the time limit nor was able to show cause why he has given wrong and contradictory information for question (A). We also hold that this amounts to denial of information and giving misleading information as the Opponent could not satisfactorily explain this delayed and misleading information. Shri. Deshpande being the Public Information Officer did not act diligently. We deem it proper to impose on him a nominal penalty of Rs.1000/-. This should be recovered from salary of Shri. Deshpande for the month of April, 2008 by the Director of Accounts who has to be furnished a copy of this order.

Pronounced in the open court on this 10<sup>th</sup> day of April, 2008.

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

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