

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 304/2011

Mr. Johnson B. Fernandes,
Deputy Collector and SDO, Margaon,
Public Information Officer (Under R.T.I. Act)
Collectorate Building, Margaon, Goa. ...**PETITIONER**

V e r s u s

1. The Goa State Information Commission,
through the State Chief Information
Commissioner, Ground Floor, Shrama Shakti
Bhavan, Patto Plaza, Panaji, Goa.

2. Minguel Monteiro,
H. No. 72/2, Antonio Pereira Vaddo,
Utorda, Majorda Salcete, Goa ...**RESPONDENTS**

Mr. J. Lobo, Advocate for petitioner.
Mr. Valmiki Menezes, Advocate for respondent no.2.

CORAM: S. A. BOBDE, J
DATE: 9th June, 2011.

ORAL JUDGMENT

1. Rule. Rule returnable forthwith. Heard finally by
consent of the parties.

2. The petitioner has challenged the order of the Goa
State Information Commissioner, imposing a penalty of Rs. 2000/-

for failure to supply information, in accordance with the provisions of *Right To Information Act, 2005*. There is no dispute about the fact that the information was sought on 03.05.2010 and was not supplied within 30 days. According to the petitioner, the information, in fact, was supplied before the appellate authority by including it in the reply to the first appeal. However, even that reply, which was filed on 12.08.2010, was beyond the time prescribed by law.

3. It was contended by Mr. Lobo, the learned counsel for the petitioner, that since the information had been supplied by the petitioner in the reply to the appeal memo in the first appeal and this reply was served on respondent no.2, the demand for information must be taken to have been complied with and, therefore, the appeal to the State Information Commissioner, was untenable and unwarranted.

4. Mr. Menezes, the learned counsel for respondent no.2, submitted that the appeal was preferred to the State Information Commissioner because it is the duty of the Information Officer to supply the information to the person who seeks it directly and not

by including the said information in the pleadings when the matter is taken up in appeal. There is merit in this contention. Undoubtedly, the law contemplates supply of information by the Information Officer to the party who seeks it within the time stipulated. Therefore, it cannot be said that the appeal before the State Information Commissioner was untenable.

5. In any case, having regard to the admitted fact that there was a delay in supplying information, there appears to be no reason to interfere with the impugned order. In fact, the Information Commissioner has shown some degree of leniency in imposing the penalty. The findings are based on evidence and after affording the petitioner a reasonable opportunity of being heard as contemplated by law. The impugned order does call for any interference.

6. Mr. Lobo, the learned counsel for the petitioner, further argued that the information, which was actually supplied to respondent no.2 in the reply to the appeal memo could have been supplied earlier had respondent no.2 preferred an appeal within the period prescribed for it. There is no merit in this contention since

nothing prevented the petitioner from furnishing the information to respondents *de hors* the appeal. In fact, if the petitioner intended to furnish the information to respondent no.2, he could have communicated it without waiting for respondent no.2 to file an appeal.

7. In view of above, I am not inclined to interfere in the writ petition. The same is, therefore, dismissed.

Rule discharged. No order as to costs.

S. A. BOBDE, J.

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