

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No. 72/SCIC/2012

Smt. Sushma V. Karapurkar,
H.No.46, Karaswada,
Mapusa, Bardez– Goa.

.....Appellant

v/s

1. Public Information Officer/

Dy. Superintendent of Police,
Police Station Mapusa,
Mapusa, Bardez – Goa.

..... Respondents

2. First Appellate Authority,
I.G.P(Goa),
Police Head Quarters,
Panaji – Goa.



Relevant emerging dates:

Date of Hearing : 25-08-2016

Date of Decision : 25-08-2016

O R D E R

1. Brief Facts of the case are that the Appellant vide an RTI application dated 27/02/2012 requested certain information on 23 different points from the Respondent PIO, Office of the SP, North under the life and liberty clause.
2. It is the case of the Appellant that information was not received from the PIO within 48 hours and as such she preferred a First Appeal dated 02/03/2012 before the FAA and that the FAA failed to reply within one month and being aggrieved the Appellant has filed a Second Appeal with the Commission on 05/04/2012.

...2

3. During the hearing the Appellant Smt. Sushama V. Karapurkar is absent without intimation to this Commission. It is seen from the roznama that she has remained absent on three consecutive hearings viz 12/05/2016, 11/07/2016 and 25/08/2016.
4. It is further also seen from the roznama that the Appellant is represented by her son Raya Karapurkar before the commission on all previous occasions. The Respondent PIO is represented by Shri Tushar Lotlikar, Superintendent of Police currently attached to Mapusa Police station alongwith Advocate Mrs. Nilima Narvekar both are present in person.
5. The Adv for the Respondent submits that the RTI application of the Appellant does not fall under the purview of the life and liberty clause u/s 7(1) and that the although the RTI application was received by the office of the SP, North on 28/02/2012 the same was subsequently forwarded to APIO / DySp, Mapusa.
6. It is contended that the PIO/ SP North had sent a letter No SP/North/RTI-189/253/20123 dated 09/03/2012 requesting the Appellant to collect the said information but the Appellant instead of collecting the information preferred a First Appeal before the First Appellate authority (FAA) which was dismissed by the FAA holding that the claim of the Appellant for furnishing information within 48 hours was not maintainable under the life And liberty clause 7(1).
7. It is also submitted that the Appellant and her son Raya Karapurkar were arrested by Mapusa PS U/s 498A & 353 IPC and neither of them were in the custody/detention. It is pointed out that the Appellant's son Raya Karapurkar had filed a similar Second Appeal before this commission on the same subject matter being Appeal No. 156/SIC/2011 and the claim of the Appellant U/s 7(1) of RTI Act – Life and Liberty Clause was not allowed by this commission.

8. The Commission has perused the material on record including the RTI application dated 27/02/2012, copies of roznama, reply of the Respondent PIO dated 30/10/2014 and Appeal memo. The only point that remains for determination is whether the RTI application dated 27-02-2012 of the Appellant seeking information from the PIO under Life and Liberty clause qualifies under Section 7(1) to be treated as such and whether the PIO should have furnished the information within 48 hours?
9. The Commission observes that in the RTI application dated 27-02-2012 the Appellant has not given sufficient strong reason and evidence in proof the "Life and Liberty" were at stake and as such the PIO has not responded in 48 hours but informed the Appellant within the mandatory 30 days period by letter No SP/North/RTI-189/253/20123 dated 09/03/2012 to come and collect the said information and which the Appellant has failed to collect.
10. The Commission is of the view that life or liberty provision has to be demonstrably proved and can apply only in cases where there is an imminent danger to the life or liberty of a person and non-supply of information urgently may lead to death or grievous injury to the concerned person. In the case on hand the Appellant and his mother were arrested by Mapusa Police Station U/s 498A & 353 IPC and were not in police custody or detention as such the non-supply of information would surely not lead to either death or grievous injury.
11. The Appellant had submitted the RTI application dated 27-02-2012 asking voluminous information on 23 different points merely under the caption 'Request to furnish information within 48 hours as information sought concerns to my and my son's liberty under the RTI Act 2005- life and liberty clause of sec 7(1)' which in itself is not sufficient for invoking the proviso of section 7(1) of the RTI act 2005.

11. The Commission also finds that the Appellant's son Raya Karapurkar who has also been representing his mother who is the Appellant herein had filed a similar Second Appeal before this commission on the same subject matter being Appeal No. 156/SIC/2011 which was not allowed.
12. In the case of Shekhar Singh and others vs. Prime Minister's Office (Decision No.CIC/WB/C/2006/00066, dt 19/4/2006) it is held that for an application to be treated as one concerning life and liberty under Section 7(1) it must be accompanied with substantive evidence that a threat to life and liberty exists.
13. The Commission therefore comes to the conclusion that the information sought by the Appellant in the RTI Application dated 27-02-2012 does not qualify under Section 7(1) concerning the life and liberty of the Appellant. No intervention is required with either the order of the FAA or for the reason that the PIO has not furnished information within 48 hours. The Commission holds that the PIO has not defaulted in any way.

The Appeal is devoid of any merit and accordingly stands rejected.

All proceedings in the Appeal case stand closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of Order be given to the parties free of cost.

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(Juino De Souza)

State Information Commissioner

(Signature)