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GOA STATE INFORMATION COMMISSION

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

CORAM: Shri Juino De Souza State Information Commissioner.

Appeal 156/SIC/2011 / 1623 ²⁰¹²

Shri Raya Karapurkar,
R/o H. No.48, Karaswada,
Near Thivim Industrial Estate,
Mapusa – Goa.

..... Appellant

v/s

1) Public Information Officer,
Supdt of Police North Goa
Porvorim – Goa.
2) First Appellate Authority,
IGP, Police HQ-PANAJI-GOA

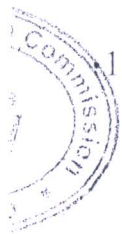
..... Respondents

Relevant emerging dates:

Date of Hearing : 04-05-2016

Date of Decision : 04-05-2016

ORDER



1. Brief Facts of the case are that the Appellant had filed a Second Appeal before the commission which was partly allowed vide Order dtd 12-04-2012 directing the Respondent PIO to furnish information as sought for by the Appellant in his application dated 17-05-2011 and / or as per reply of the Respondent No.1 within 8 days from the date of receipt of the Order. The Commission in its Order however kept open the issue regarding the 'Life or Liberty of a person' and the Appeal was listed for hearing on 30-04-2012.
2. During the hearing the Appellant Mr Raya V. Karapurkar is present in person. The Respondent PIO represented by Mr. Alvito Rodrigues, PSI is also present in person.
3. The Appellant confirms that information is furnished and received by him on directions of the Commission after passing of the order dtd. 12/4/2012, he however submits that since the information pertained to the issue of his life and liberty it should have been supplied by the PIO within 48 hours and as the same was not done insists on penalty and compensation.

4. On perusal of the Order dated 12-04-2012 it is stated in Para 6 that the Appellant vide his application 17/5/2011 has sought certain information/documents under life and liberty clause as per RTI act. By reply dated 1/6/2011, the PIO / Respondent I informed the Appellant that the information is ready and requested him to collect the same. It appears the Appellant did not collect the same'. It is seen that on 20/05/2011, the Appellant preferred appeal before the FAA and by order dated 16/06/2011, the FAA dismissed the appeal upholding the reply of the PIO.
5. In para 7 of the same order the commission has noted that under sub-section (1) of section 7 the PIO has to provide the information within 30 days and further under proviso to sub-section (1) the information in cases concerning Life and Liberty of a person shall be provided in 48 hours. However the same has to be substantially proved. The Appellant wants some time to prove the same and the request is granted.
6. On scrutiny of the file it is observed that a representation dated 10-05-2012 is made by the Appellant justifying his stand and written submission countering such stand have been filed by Respondent no. 1 on 17-07-2012 are on record.
7. The FAA vide his order dated 16-06-2011 has upheld the reply of the PIO while stating that Appellant Shri Raya Karapurkar had sought for information in respect to Sr. No. 1 to 7 regarding incident dated 26/03/2011 wherein he and his mother was arrested by Mapusa PS U/s 498A & 353 IPC. The PIO submits that the claim of the appellant is not maintainable U/s 7(1) of RTI Act as the appellant is neither in the custody/detention nor has he specified any instance in his application dated 17/05/2011.
8. Now the only point that remains for determination before the commission is whether the application dated 17-05-2011 filed by the Appellant seeking information from the Respondent PIO under Life and Liberty clause qualifies under Section 7(1) to be treated as such and whether the PIO therefore should have furnished the information within 48 hours?

9. The Commission on perusal of the application dated 17-05-2011 finds that the Appellant has not given strong reason and evidence in proof of the "Life and Liberty" clause and as such the PIO has not responded in 48 hours but has furnished reply in normal time of 30 days vide letter dated 1-6-2011 which the appellant neglected and failed to collect.
10. The Commission is of the view that the life or liberty provision has to be demonstrably proved and can be applied only in cases where there is an imminent danger to the life or liberty of a person and the non-supply of the information may either lead to death or grievous injury to the concerned person. In the case on hand the Appellant and his mother was arrested by Mapusa PS U/s 498A & 353 IPC and non-supply of information would surely not lead to either death or grievous injury of appellant.
11. The Appellant's application dated 17-05-2011 was merely under the caption 'Kindly furnish information /documents under Life and Liberty clause of RTI Act 2005' and which is not sufficient for invoking the proviso of section 7(1). In 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.
12. The Commission therefore comes to the conclusion that the information sought by the Appellant in the RTI Application dated 17/5/2011 does not qualify under Section 7(1) concerning the life and liberty of the Appellant. The PIO has not defaulted in any way as such the question of any penalty or compensation does not arise. The Appeal case accordingly stands closed. All proceedings accordingly stand closed.

Pronounced in open court 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.



Sel-
(Juino De Souza)
State Information Commissioner