

**BEFORE THE GOA STATE INFORMATION COMMISSION**  
**Seventh Floor, Kamat Towers, Patto, Panaji, Goa.**  
**CORAM: Shri. Prashant S. P. Tendolkar,**  
**State Chief Information Commissioner**  
**Smt. Pratima K. Vernekar,**  
**State Information Commissioner**

**Complaint NO.88/SCIC/2009**

Shri Joao C. Pereira,  
H. No.40, Acsona, Utorda,  
Mojorda, Salcete-Goa.

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Complainant.

**V/s**

Shri Mangaldas Dessai,  
Suptd. of Police (Crime),  
Public Information Officer,  
Dona Paula, Panaji –Goa.

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Opponent/Respondent

**Filed on :05/11/2009**

**Disposed on: 11/07/2016**

**O R D E R**

1) By order, dated 28/12/2010, while allowing the complaint filed by the Complainant, this Commission recommended to the D.G.P. to conduct an inquiry regarding furnishing of information/documents to the concerned officers and/or how the said document reached the concerned officers and to fix responsibility for the same as also to initiate action against delinquent officers including lodging FIR and/or be suitably penalised as per law. The said order further called upon the DGP to report the compliance to this Commission within 3 months.

2) It is pursuant to this order, the office of D.G.P., filed the report to this Commission on 21/06/2011. The said report is challenged by the complainant herein by his reply dated 4/07/2011, interalia contending that DGP marked the said order to DIG who in turn marked the same to Senior Superintendent of Police. It is according to the complainant that the Senior Superintendent of police, in violation of the orders of the Commission and misusing the powers and authority of the Commission, prepared incorrect notings and to cover up the misdeeds of his colleagues, involved in sneaking documents from the investigation file and prepare incorrect noting dated 07/02/2011. It is further allegation of the complainant that the superintendent of Police conducted the enquiry at behest of

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DGP and the report is filed pertaining to said enquiry. It is in this background that the complainant has sought quashing of the said inquiry being in violation of the orders of this Commission and has also prayed for fresh inquiry through present D.G.P.

3) In the course of proceeding, by his application, dated 09/03/2016, the complainant sought to delete the allegation of contempt by deleting the same from the application.

4) Arguments were heard on behalf of the parties. The complainant in his submission stated that as per the order the DGP was ordered to conduct inquiry personally in spite of which he delegated the powers to SP who is an officer equivalent to the rank of delinquent officer. He further submitted that there is no order of delegations of powers by the DGP. By relying on the letter at exhibit A, he submitted that the SP who conducted inquiry has opined regarding the complaint filed by the Complainant that the order passed by the Commission have to be challenged, shows his bias. The complainant further submitted that in the inquiry the inquiry officer has violated the provision of 1(6) of the Right to Information Act. And that the said inquiry was a paper inquiry. While concluding his arguments he submitted that the said inquiry was not conducted as directed by the commission and having not conducted the same, he prayed that the enquiry report be quashed and fresh inquiry be ordered.

5) While opposing the arguments learned Adv. P. Kirtani appearing on the behalf of Respondent NO.1 took us to the part of the order at para (9) wherein this Commission has held that the enquiry should be conducted by competent officer. According to him the Commission has requested DGP to conduct inquiry, which is accordingly conducted through Senior Superintendent of Police. He further submitted that a Senior Superintendent of Police is competent to conduct such inquiry as he was ordered by the DGP to do the same. According to Adv. Kirtani the inquiry is concluded and the same is not challenged by the complainant before the competent forum and hence has attained finality. He further submitted that this Commission can order and has accordingly ordered an inquiry which is the only powers wasted with the Commission.

6) In rebuttal the complainant submitted that though it was an observation in the order that the inquiry should be conducted through any person, the operative part of the order requires the DGP to conduct the enquiry and hence according to him the inquiry in question is not conducted in compliance of the order of the Commission.

7) We have perused the records and also considered the arguments. As the complaint has been culminated into ordering of the inquiry, we need not go behind the said date. Suffice to consider the provision of the Act. In terms of section 20(2) which reads:

***20(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.***

From the above, it is clear that the Commission for exercising such right, is a recommendatory body. Thus the role of Commission is limited to the extent of recommending an inquiry if the Commission concludes that the PIO is guilty of actions as contemplated under section 18 (1) (a) to (f).

In this case this Commission has come to the conclusion that there is such violation and accordingly an inquiry was recommended as per the service condition of the delinquent officer. Having recommended such inquiry it is the service condition of such officer which takes charge and control the procedure. After conclusion of such inquiry, the further actions shall be as per said service conditions. Hence, any grievance pertaining to the merits of the

inquiry, may it be regarding the inquiry officer, procedure adopted or the result of inquiry etc. would be under the control of the authority/forum contained in such service condition. This Commission being a recommendatory body cannot assume the jurisdiction to deal with the legality or propriety of the inquiry.

8) In the present case, the complainant is challenging the said inquiry which is already conducted as per the recommendation of the Commission, on several grounds namely that the inquiry officer was not properly constituted or that he was biased and that he has discussed that merits of the order passed by the Commission. The complainant assails the inquiry report and ultimately wants this Commission to order a fresh inquiry by quashing the earlier one. As stated above to grant such relief would be beyond competence of this Commission. The complainant for seeking such relief has to approach the forum provided under the service condition of the concerned officer under which such recommended inquiry was conducted.

9) In view of these finding, that the Commission does not have the competence to deal with the merits of the inquiry, we refrain from commenting on the merits of inquiry, or the legality and propriety of the DGP in delegating the powers for such inquiry, or further regarding the hierarchy of the post held by the inquiry officer. Having held that this Commission has no jurisdiction to deal with objections raised, we hold that the complaint is required to be closed. All the issues raised by him herein are to be kept open to be raised before the appropriate forum constituted under the service condition of the subject officer, if the complainant desires to challenge the same. We therefore dispose the present complaints with the following:

#### **O R D E R**

The complaint stands closed. The complainant shall be at liberty to challenge the inquiry before the appropriate forum as per

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law governing such inquiry. All the objection raised by him herein by his application dated 14/7/2011 are kept open.

Proceeding closed.

Pronounced in the open proceeding.

**Sd/-**  
**(Prashant S. P. Tendolkar)**  
State Chief Information Commissioner  
Goa State Information Commission,  
Panaji-Goa

**Sd/-**  
**(Pratima K. Vernekar)**  
State Information Commission  
Goa State Information Commission,  
Panaji-Goa