

GOA STATE INFORMATION COMMISSION

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

CORAM : Shri. Prashant S. P. Tendolkar
State Chief Information Commissioner

Appeal :281/SCIC/2016

Menino Santana Fernandes,
H. No. 728/d, Sonum Township,
Nessai, Sao Jose de Areal,
Salcete – Goa.

..... **Appellant**

V/s

1) **The Public Information Officer,**
Dy. Superintendent of Police,
South – Goa, Margao.

2) **The First Appellate Authority,**
Superintendent of Police,
South Goa, Margao.

..... **Respondents**

Filed on : 07/12/2016

Decided on : 21/04/2017

1) Facts :

- a) The Appellant herein by his application, dated 09/09/2016 filed u/s 6(1) of The Right to Information Act 2005(Act) sought certain information from the Respondent No.1, PIO pertaining to station diaries of Maina - Curtorim Police Station and Margao Town Police Station.
- b) The said application was replied on 24/09/2016 by rejecting the request as per section 8(1)(e), (g), (h) and (j) of the Act. Thus the information as sought was not furnished and hence the Appellant filed first appeal to the Respondent No.2.
- c) The First Appellate Authority (FAA) by order, dated 03/11/2016 allowed the said appeal and directed PIO to furnish the information viz the relevant extract of station diaries of both Police Stations pertaining to the appellant only.

- d) Accordingly the PIO furnished the information on 17/11/2016. The Appellant is not satisfied with information and the Appellant has therefore landed before this Commission in this second appeal u/s 19(3) of the Act.
- e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 17/03/2017 furnished additional information to the Appellant and on the subsequent date the matter was posted for confirmation, whether entire information was received.
- f) on 30/03/2017 the Appellant submitted that the information furnished to him pertains to him. However he wanted to know whether it was only information or any further information is available. He therefore requested for inspection of original station diaries of both Police Stations. The PIO, who was present with the original station diaries, produced the same for verification, which was accordingly verified by the Appellant.

On verification of the original station diaries the Appellant submitted that he has received the entire information as was sought by him. He further submitted that he is insisting for penalty to be imposed.

- g) Considering the above circumstances I do not find any intervention of the Commission is required on the relief of furnishing the information. The only point to be decided is whether this is case for imposing penalty against PIO u/s 20(1) and/or 20(2) of the Act.

2) FINDINGS :

- a) I have perused the records. By his application, dated 09/09/2016, the Appellant has sought the copies of the station diary pertaining to the period motioned in said application. If one peruses the reply dated 24/09/2016, the same was rejected u/s 8(1) (e), (g),(h) And (J).It was the contention of PIO that the said station diaries contain the information including the one pertaining to third parties. In other words in case the information as was sought was furnished

the same would have invaded on the privacy of third party. I do not find any malafide in rejecting the said request as the disclosure of station diaries, as a whole.

- b) Nevertheless the FAA, in the first appeal filed before him, clarified the PIO to furnish the information only pertaining to the Appellant. Such orders were complied with by PIO by his reply, dated 17/11/2016.
- c) It appears that part of the information as was offered to Appellant was not found attached to the reply and hence for the purpose of showing bonafide of PIO he was permitted to file the missing copies. Such copies were furnished in the course of hearing here. On the verification of the original the Appellant has confirmed that the entire information is received by him.
- d) The Hon'ble High Court of Bombay, Goa bench at Panaji, while dealing with a case of penalty (**Writ petition No. 205/2007, Shri A. A. Parulekar, V/s Goa State Information Commission and others**) has observed:

"11. The order of penalty for failure is akin to action under criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate."
- e) Considering the above ratio and its applicability to the case in hand I find no grounds to hold that the delay to supply the information is either intentional or deliberate and consequently no grounds to impose penalty against the PIO.
- f) I therefore proceed to dispose the present appeal with the following :

ORDER

As the information as was sought is furnished intervention of the Commission is unwarranted. The prayer of the Appellant for imposition of penalty on the PIO stands dismissed.

Parties to be notified.

Pronounced in open proceedings.

Proceedings closed.

Sd/-

Mr. Prashant S. P. Tendolkar
State Chief Information Commissioner
Goa State Information Commission,
Panaji-Goa