

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

Appeal No. 44/2017

Elvina Barretto,
H.No. 553, Colser,
Galgibaga, Canacona Goa. Appellant

V/s.

1. Public Information Officer,
Sammy Tavares,
Sub Division Police Officer (SDPO),
Quepem-Goa Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 18/4/2017

Decided on: 17/8/2017

ORDER

1. Mrs. Elvina Barretto, the Appellant herein, files application dated 9/2/17 seeking information from PIO, office of the sub-Division Police officer, Quepem, Goa concerning Canacona Police Station Crime No. 10/12 .
2. The Public Information officer vide letter dated 7/3/17 rejected the said information u/s section 8(1) (h) of RTI Act, 2005, as it would impede the process of investigation .
3. Being not satisfied with the reply of the respondent PIO, the appellant filed first appeal before the superintend of Police (South) at Margao on 15/3/17 being first appellate authority which was disposed/dismissed by the first appellate authority on 7/4/17 by upholding the decision of the PIO.
4. Being aggrieved by the order of the FAA, the appellant preferred the present second appeal on 18/4/17 there by seeking prayer for directions to respondent PIO for providing all information to her .

5. In pursuant to the notice of this commission , The Appellant appeared in person. The Respondent No. 1 PIO represented by P.S.I. Mr. Tukaram Chawan who filed reply of PIO on 17/8/2017.
6. The appellant submitted that she had filed a complaint with the Canacona Police Station which was registered as crime No.10/12 as such its a fundamental right to Know the status of investigation done by the investigation officer and to get the relevant documents.
7. The Respondent in his reply has clearly stated that the charge sheet in the Canacona Police station Crime No. 10/12 have been filed vide charge Sheet no. 23/17 and submitted before the J.M.F.C. Canacona on 10/5/17 which is registered under criminal case No. 13/S/17 and the same is under trial.
8. The Hon'ble High Court of Delhi in W.P. No. (C) 6226/2007 S.M. LAMBA versus S.C. GUTPA and ANR has held at para 8

“A perusal of Section 8 (1) (h) of the RTI Act shows that information can be withheld which would impede the process of investigation or apprehension or prosecution of offenders. In the present case the charge sheet having been filed upon completion of investigation, there can be no apprehension that the disclosure would impede the progress of the investigation. It would also not impede the trial which is already in progress”.

At para 9 further it has been held;

“ in that view of the matter, there is no justification in withholding the information sought by the Petitioner at (iii) above. Consequently, the impugned order of the Central Information Commission is modified to the extent that the Respondent Bank is directed to make available to the Petitioner the information at (iii) above within two weeks from today. It will be open to the Respondent Bank while furnishing

the above information, to conceal the names of any of the other officers whose names may be reflected”

9. By applying the above ratio laid down by the Delhi High Court and since the investigation in Canacona Crime No. 10/12 is over and the Charge sheet is filed before the J.M.F.C., this Commission is of the Opinion that the impediment as is was existing then u/s 8(1)(h) of the RTI Act, no longer survives. The Commission is of the view that the information sought by the appellant can be provided to her.
10. In the Circumstances the commission directs the PIO to furnish the information along with the copy of charge sheet and the relevant documents in terms of prayer (A) as sought by the applicant in her application dated 9/2/17 within three weeks from the receipt of the order

Appeal disposed off accordingly. Proceedings stands closed.

Notify the Parties

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Pronounced in the open court.

Sd/-

(Ms. Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa

KK/-

