

GOA STATE INFORMATION COMMISSION

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

Appeal No.216/SCIC/2011

Kum. Dr. Kalpana V. Kamat,
C/o Vasant M.Kamat,
Caldeira Arcade, 1st floor,
Bhute Bhatm, Mestawado,
Vasco Goa.

..... Appellant

V/s.

- 1.The Public Information Officer,(PIO)
Superintendent of Police,
South Margao Goa.
- 2.The First Appellate Authority,
I.G.P. Police Head quarters,
Pananji Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 10/10/2011

Decided on:20/06/2017

ORDER

1. The appellant Dr. Kalpana kamat by her application dated 18/2/11 addressed to the Police Inspector Vasco Police Station requested for information under section 6(1) of RTI Act 2005 with regard to the complaint lodged by her against the family of Naik and Vishamber/Chidananad Shanbag since 2003 alongwith a Medical reports.
2. Subsequently the appellant also filed another application on 22/2/11 with the Police Inspector, Vasco Police Station requesting for the certified copies of her Medical examination report issued by cottage hospital, chicalim Goa.
3. The above mentioned two application were received in the office of PIO, Superintendent of Police, south on 18/3/11 from the office of SDPO Vasco .

4. The respondent No. 1 PIO herein furnished the information to the appellant on 23/3/11 was based on the report submitted by APIO/SDPO Vasco . The Respondent No. 1 PIO on receipt of the copy of medical report from APIO/ SDPO also furnished the said to the appellant on 28/3/11.
5. Being not satisfied with the information provided to her, the appellant preferred first appeal before the Inspector general of Police, Panajim, Goa who is the Respondent No. 2 FAA herein who disposed the said appeal by an order dated 11/7/2011 thereby directing the Respondent PIO to allow inspection of the records to the appellant available at Vasco Police Station and to provide her required information free of cost within 10 days on the receipt of the order. Respondent No. 2 FAA also directed Respondent No. 1 PIO to refund the charges collected from appellant .
6. In pursuant to the order of the FAA the appellant appeared in the office of PIO and conducted the inspection of the records and requested the certified copies of complaint filed by her and accordingly the same were furnished to her on 28/7/2011 .
7. Being not satisfied with the information provided to her and contending that incomplete information is provided to her, the appellant approached this commission by way of second appeal on 10/10/2011 thereby seeking relief of providing her information and for invoking penal provisions.
8. In pursuant to the notice of this commission the reply was filed by Respondent No. 1PIO on 5/5/2012. After the appointment of this commission fresh notices were issued to parties. The appellant was present in person the Respondent No. 1 PIO was represented by Advocate Harsha Naik.
9. It is the case of the appellant that the information was submitted to her is incomplete and many complaints which was inwards by her with the office of Vasco Police Station, the copies of same is

not received by her . The PI Rapose who was present during the hearing volunteered to furnish information to appellant based on the records. Accordingly on 19/1/17 the Advocate for Respondent PIO filed compliance report alongwith the documents . The copy of the same was furnished to the appellant. The appellant again expressed her dissatisfaction , to the information provided to her.

10. On perusal of the annexure enclosed by the respondent PIO to the initial reply dated 5/5/12 and also the compliance report dated 19/1/17 the information pertain to year 2003 to 2011 have furnished to the appellant . Since the appellant contended that there are more complaints lodged by her, the advocate for the respondent submitted that if appellant produces the copy of the said complaints before them, then they can verify the said fact from their records and as such the appellant was directed by this commission to produce the same to the PIO for verification. The respondent No. 1 PIO vide his application dated 31/5/17 contended that the appellant appeared at the Police station carrying application of the year 2003 however she did not produce it before them. The Respondent also contended the records of the year 1997 to 2011 have been weeded out as per their circular and sanction order and copy of circular & sanction order were enclosed to their compliance dated 19/1/17 .
11. It is seen from the available records in the file the information which was available with the PIO was furnished to the appellant . The appellant has not produced before this commission the copy of her complaints which she claims of having not provided to her by the PIO. In absence of any supporting document/ any evidence on record the commission cannot come to the conclusion or findings that incomplete information was provided to her by Respondent PIO.
12. Coming to the other prayer which are in nature of penal action. The grant of penalty is akin to conviction in criminal proceedings and

hence the elements of criminal trial should be available for grant of penalty. This observations are based on the ratio laid down by Hon'ble High Court of Bombay at Goa in writ petition No. 205/2007, Shri A. A. Parulekar V/s Goa State Information Commissioner ;

"The order of penalty for failure to take action under criminal law. It is necessary to ensure that the failure to supply of information is either intentional or deliberate".

13. Since it is contended by the appellant that the incomplete information was provided to her by the PIO and on the basis of such allegation the appellant sought penalty, being so the burden to prove malafied lies on the appellant. The appellant had not produced any copies of complaint to show that the Respondent PIO deliberately provided incomplete information. On the contrary the PIO has produced the record to show their bonafides. The appellant has miserably fails to discharge her burden. As such this commission concludes that the proceedings of penalty and compensation on Respondent PIO is not warranted in the proceedings.

The appeal disposed accordingly the 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

