

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

Shri. Prashant S. P. Tendolkar ,
State Chief Information Commissioner

Appeal No.197/2017/SCIC

M. K. Dessai,
R/o DF/93,Goa Housing Board Complex,
Pundalik Nagar,
Porvorim-Goa. Appellant

V/s

- 1) Edwin Colaco,
Dy. Supdt. Of Police Anti Narcotic Cell,
PIO, Police Head Quarter, Panaji-Goa.
- 2) Shri Umesh Y. Gaonkar,
Supdt. of Police, ANC,
PHQ, Panaji –Goa. Respondents

Filed on :29/11/2017

Disposed on:12/2/2018

1) FACTS IN BRIEF:

a) The appellant herein by his application, dated 17/8/2017 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) and received on 22/8/2017 sought certain information from the Respondent No.1, PIO under five points therein.Out of the said points the information at point no.5 was pertaining to office of SDPO Quepem, the same was transferred to said office by PIO on 22/8/2017 u/s 6(3) of the act.

b) With reference to other four points the said application was replied on 31/8/2017 informing the appellant that the public

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authority, from whom the said information was sought is exempted from disclosing the same u/s 24(4) of the act. However according to appellant the information as sought was not furnished and hence the appellant filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).

b) The FAA by order, out warded on 2/10/2017, **dismissed the said appeal by upholding the response of PIO.**

c) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.

d) Notices were issued to the parties, pursuant to which PIO, Shri Sammy Tavares appeared. The PIO on 24/1/2018 filed reply to the appeal . The appellant though was notified failed to claim the notice. The appellant vide his appeal memo had opted for the hearing in absentia in view of his treatment.

e) Arguments were heard on behalf of PIO. In his arguments it is the contention of PIO that out of the information sought by the appellant the information at point no.5 was pertaining to PIO of office of SDPO, Quepem and accordingly the same was transferred by PIO to said office interms of section 6(3) of the act. Said letter u/s 6(3) is placed in file.

f) Further according to him the information under remaining four points is pertaining to the Anti Narcotics cell of Police department and that the said cell is exempted from disclosure of information u/s 24 (4) of the act. Thus according to him the appeal with reference to the points (1) to (4) is not maintainable. He further submitted that the PIO has accordingly responded the application and the FAA has rightly dismissed the appeal as not maintainable.

2)FINDINGS:

a) I have perused the records and considered the submissions of the PIO. By his application u/s 6(1) of the act, the appellant has sought the information pertaining to service of certain staff, cases handled by him as also the cases ending in convictions and acquittals pertaining to such cases as also the house committee report submitted of the nexus between Police and drug peddlers. Said information was pertaining to the Anti Narcotics cell of the Goa Police, which according to PIO is an exempted authority.

b) I have considered the provisions of the act. The act at section 24 thereof reads:

" 24. Act not to apply to certain organizations.__(1) Nothing contained in this Act shall apply to the intelligence and security organizations specified in the Second Schedule, being organizations establish by the Central Government or any information furnished by such organizations to that Government.

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organization established by that Government or omitting therefrom any organization already specified therein and on the publication of such notification, such organization shall be deemed to the included in or, as the case, may be, omitted from the Schedule.

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(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

(4) Nothing contained in this Act shall apply to such intelligence and security organization being organizations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:*

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:"

c) On further scrutiny of the said provisions, it is seen that in exercise of the powers granted to the State Government u/s section 24(4) above, the state of Goa vide notification *No.DI/RTI/Bill/PT/05/ 7867,dated 30-1-2009*, has notified Special Branch (C.I.D.), Police Department Goa and **Anti-Narcotic Cell, Police Department Goa** for the purpose of section 24(4) of the act. The appellant has not brought out any exemption of the information sought under the proviso to section 24(4) of the act.

d) The appellant on 29/11/2017 has filed a memo as additional evidence in the matter. The appellant has attached to the said memo the newspaper cuttings wherein a statistics is purportedly published in Daily Herald, dated 09/11/2017. He has also attached several other cuttings of other newspaper reporting several news pertaining to several raids and the proceedings in the assembly. By said memo the appellant has submitted that, as the news pertaining to the functioning of the Anti Narcotic Cell are already published in news papers the excuse of exemption or dispensation of information u/s 24(4) of the act is deliberate.

e) I have considered the above arguments. Firstly the veracity of and authenticity of any press news cannot be accepted. The source of such information is also a doubt. Be that as it may, the publication of any news or data pertaining to the department by itself does not take away the immunity from disclosure granted u/s 24 (4) of the act. In the circumstances I am unable to subscribe said view of the appellant.

f) Considering the above position, I find force in the submissions of the PIO that the authority, from whom the information is sought, is exempted from disclosure of information u/s 24(4) of the act and that the application u/s 6(1) vis a vis the points 1 to 4 were rightly declined. Consequently I also do not find any illegality or irregularity in the order of the FAA.

g) In the backdrop of the above facts and considering the exemption under the act, I find no merits in the appeal. The appeal therefore cannot survive. The same is hence disposed with the following :

O R D E R

The appeal is dismissed. Proceedings closed. Notify the parties.
Pronounced in the open proceedings.

Sd/-
(Mr. Prashant S. P. Tendolkar)
State Chief Information commissioner
Goa State Information Commission
Panaji-Goa