

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No.15/SCIC/2012

Mrs .Joan Mascarenhas E. D' Souza,
H.No.315/4, Tropa Wado,
Sodiem, Siolim- Goa.

..... Appellant

v/s

1.Public Information Officer,
Superintendent of Police (North),
Porvorim –Goa.

2.Assistant Public Information Officer,
SDPO, Mapusa-(I)
Mapusa-Goa.

3.First Appellate Authority,
Inspector General of Police,
Police Head Quarters, Panaji- Goa.

... Respondents

Relevant emerging dates:

Date of Hearing : 14-11-2019

Date of Decision: 14-11-2019

ORDER

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 18/08/2011 sought certain information under section 6(1) of RTI Act, 2005 from the Respondent PIO, Office of Superintendent of Police (North), Porvorim-Goa.

2. The information pertains to a Complaint dated 04/05/2008 filed by Roque Fernandes, Maxie Fernandes, Leao Dias, Archie Carvalho and others against one Domnic D'Souza before the Mapusa Police Station and the Appellant *inter alia* is seeking information of the file/register of the above documents destroyed, period of preservation under which the above documents were destroyed, date of Destruction, name of records in charge and supervising officer who have destroyed the above said documents, Copy of the SDPO-I letter of request for sanction to destroy the said documents alongwith the copy of the list of documents to be destroyed prepared by the Committee....

.....Copy of Order to the SDPO-I from the S.P. (N), Copy of the Dy.Sp.(HQ), North granting permission to destroy the said documents, for information at the time on which P.S.I. T.J. Dhawaskar and P.SI, D'Costa visited the site of the Tropa Church on 04/05/2008 for verification of the Complaint of stones pelting and recording of the verification of the damage done to the Tropa Church and for copy of the verification report and fo information on the total no. of stones that were found thrown by Domnic D'Souza and his supporters on the Tropa Church, details of the location of the spot where the damage was done to the Tropa Church roof and other such related information as contained in RTI application therein.

3. It is seen that the PIO vide letter NO.SP/North/RTI.931/1203/2011 dated 15/09/2011 furnished point wise information and informed that the records were destroyed vide No.SP/North /Reader/1078/2011 dated 28/04/2011 and also furnished a list showing period of preservation and informed that the documents were destroyed on 06/06/2011 in the presence of committee consisting of Shri. Sammy Tavares, SDP Mapusa-I, Shri. Rajesh Kumar, PI, Mapusa P.S. and Shri. M.Y. Desai, PI Anjuna P.S and also enclosed a copy of Note Sheet dated 14/01/2011 and copy of the order NO.SP/North/Reader/1078/2011 dated 28/04/2011 issued by the SP-North Goa on the basis of which the record were destroyed. It is seen that PIO has furnished the reply by enclosing six pages of information documents.
4. It is seen thereafter that the Appellant sent a letter again to the PIO stating that the records were destroyed on 06/06/2011 and the reason given by the PIO in the reply dated 15/09/2011 stating that the information is not available due to destruction of record is cooked up and misleading and thus the Appellant preferred a First Appeal on 06/10/2011 and the First Appellate Authority (FAA) by an Order dated 25/10/2011 has upheld the reply of the PIO and disposed of the said First Appeal.

5. Being aggrieved with the Order of the First Appellate Authority (FAA) the Appellant subsequently approached the Commission by way of Second Appeal registered on 16/01/2012 and has prayed that Respondent No. 1 & 2 be directed to furnish the required information sought in RTI application dated 18/08/2011 and for penalty imposing fine and for disciplinary action and other such reliefs.
6. **HEARING:** This old matter of 2012 has come up before the Commission on numerous previous occasions and hence it is taken up for final disposal. During the hearing the Appellant is represented by Shri. Yatish Salgaonkar. The Respondent APIO, Shri. Tushar Lotlikar, PI currently attached to Mapusa Police Station is also present.
7. **SUBMISSION:** At the outset the APIO submits that the information was furnished to the Appellant by former PIO on 15/09/2011 giving point wise information and it was clearly informed that the information is not available as the records were destroyed on 06/06/2011 in the presence of committee and that the said records were destroyed as per Order No. SP/North/Reader/1078/2011 dated 28/04/2011 issued by the Superintendent of Police, North Goa.
8. It is further submitted that the Appellant had filed a First Appeal and that the First Appellate Authority (FAA) vide his Order dated 25/10/2011 has upheld the reply of the PIO. The APIO finally submits that present PIO, SDPO-Mapusa has filed an Affidavit-in-reply dated 16/06/2019 confirming the facts that the records were destroyed on 06/06/2011 by an Order of Superintendent of Police North Goa vide order No.SP/North/Reader/1078/2011 dated 28/04/2011 after following due procedure.
9. **FINDINGS:** The Commission on perusing the material on record and after hearing the submission of the APIO, indeed finds that the information could not be furnish as the said records were destroyed on 06/06/2011 in the presence of committee consisting of Shri. Sammy Tavares,....

.....SDP- Mapusa-I, Shri. Rajesh Kumar, PI Mapusa P.S. and Shri. M.Y. Desai, PI Anjuna P.S as per the Order of Superintendent of Police North Goa, vide order No. SP/North/Reader/1078/2011 dated 28/04/2011 after following due procedure and which was informed to the Appellant by the former PIO vide reply dated 15/09/2011 along with six pages of information documents.

10. The Commission also finds that there is an Affidavit-in-Reply filed by the present PIO dated 16/09/2019 confirming that the records were destroyed on 06/06/2011 as per Order of Superintendent of Police, North Goa being order No.SP/North/Reader/1078/2011 dated 28/04/2011. It is also seen that the Appellant had filed another RTI application dated 16/07/2011 on the basis of which the present RTI application dated 18/08/2011 came to be filed.
11. **DECISION:** As stipulated in the RTI Act the role of the PIO is to furnish information as available in the records. The PIO is not called upon to create information, the very fact that the PIO has given a timely reply dated 15/09/2011 and informed that the information is not available as the records were destroyed on 06/06/2011 is sufficient to prove the bonafide that there is no malafide intentions on the part of the PIO to either deny or conceal the information and which is the mandate of the RTI act 2005. As such the information was not available since the records were destroyed and which fact is also confirmed by an affidavit-in-reply filed by the present PIO.

Accordingly, nothing further survives in the Appeal case which accordingly stands disposed.

Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

Sd/-
(Juino De Souza)
State Information Commissioner

