

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 84/SCIC/2013

Shri Chandrakant S. Salgaonkar,
Dy. Suptd. of Police (U.S),
R/o. D-2, Phoenix Plaza, Feira Alta,
Mapusa, Bardez Goa.

..... Appellant

v/s

1) State Public Information Officer,
Superintendent of Police,
CID, Crime Branch,
Dona Paula- Goa.

2) The First Appellate Authority,
Deputy Inspector General of Police (Goa),
PHQ, Panaji Goa.

.... Respondents

Filed on : 09/07/2013

Decided on : 26/11/2021

Relevant dates emerging from appeal:

| | |
|---------------------------|--------------|
| RTI application filed on | : 25/02/2013 |
| PIO replied on | : 08/03/2013 |
| First appeal filed on | : 14/03/2013 |
| FAA order passed on | : 20/06/2013 |
| Second appeal received on | : 09/07/2013 |

ORDER

1) The brief facts of this case as contended by the Appellant Shri. Chandrakant S. Salgaonkar are that the Appellant vide application dated 25/02/2013 filed under section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the Act) sought certain information on 8 points from Respondent No.1 Public Information Officer (PIO). The PIO vide letter dated 08/03/2013 rejected the information under section 8 (1) (h) and 8

- (1) (g) of the Act. The Appellant filed first appeal dated 14/03/2013 before Respondent No. 2 First Appellate Authority (FAA). The FAA vide order dated 20/06/2013 directed PIO to furnish information at point no.7 and 8 and rejected information at point no. 1 to 6 of the application. Aggrieved by the refusal of the public authority to provide the information sought at point no.1 to 6, the Appellant preferred second appeal before this Commission.
- 2) The concerned parties were notified. Pursuant to the notice Appellant and respondents appeared before the Commission in person as well as through authorized representatives. Shri O.P. Kudtarkar, the then PIO filed reply dated 15/09/2014. PIO filed additional reply on 06/11/2017. The proceeding prolonged over as both the sides failed to attend the hearing regularly. Finally, after taking charge of office by the present State Information Commissioner, fresh notice was issued to the concerned parties. Appellant appeared in person before the Commission and insisted for the information. Shri Satish V. Padwalkar, Police Inspector, Special Investigation Team appeared on 04/10/2021 under authority letter from PIO and filed reply alongwith enclosures.
- 3) PIO in his reply dated 15/09/2014 and 06/11/2017 stated that the information sought by Appellant pertains to the investigation being conducted by CID Crime Branch in FIR no. 17/2011. As the investigation of the said criminal case is in progress, PIO denied the information to Appellant under section 8 (1) (g) and 8 (1) (h). That, in the same matter another FIR was registered at CID Crime Branch vide FIR No. 36/2012 and the said criminal case is also under investigation. That the Appellant is one of the accused in both the cases and both the cases are at crucial stage of investigation and disclosure of information/ documents pertaining to these cases will not be proper in the interest of justice. Also

that the Appellant is a high profile police officer and he himself was initially conducting investigation of case no.17/2011 pertaining to the mining scam. However, the FAA directed PIO to furnish information at point no.7 and 8 and this direction was complied by the PIO.

- 4) The Appellant contended that PIO sought to restrict imparting of the information by invoking exemption under section 8 (1) (h) and 8 (1) (g) of the Act. However these exemptions are not applicable to the Appellant because the Appellant himself was the investigating officer from inception of the case till 16/04/2012. The Appellant apprehended the accused and initiated process to prosecute the offenders, and was thus, privy to the investigation of case no. 17/2011. That the accusations are made against Appellant that he investigated case no. 17/2011 in slip shod manner, the Appellant's actions in official capacity are called into question and therefore the information sought at point no. 1 to 6 of his RTI application are the only recourse for the Appellant to answer the allegations made against him.

- 5) After careful perusal of the records of this long pending matter, the Commission has noted that the Appellant has asked information regarding two cases – 17/2011 and 36/2012, being investigated by CID Crime Branch. The Appellant initially was the investigating officer in case no. 17/2011 and later the investigation was handed over to other officer, subsequent to the suspension order served upon the Appellant. Hence the information sought by the Appellant is regarding criminal cases in which he is one of the accused and wherein he initially investigated one of the cases, i.e. case no.17/2011.

6) The Appellant has been furnished information at point no.7 and 8 and denied information from point no. 1 to 6 of his application. The denial then, was justified as both the cases were under investigation. Section 8 (1) (h) of the Act allows exemption from disclosure which would impede the process of investigation or apprehension or prosecution of offenders. Section 8 (1) (g) of the Act exempts information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes. It is seen from the records that case no. 17/2011 and 36/2012 were under investigation during the stipulated period of RTI application dated 25/02/2013 and also during the course of first appeal and initial stages of second appeal. Therefore, it is the considered opinion of the Commission that PIO and FAA have not faulted while denying the information at point no.1 to 6 to the Appellant.

7) However, reply filed before this Commission by the PIO on 04/10/2021 gives a different picture. The Commission on 07/09/2021 directed PIO to file status report of case no. 17/2011 and case no. 36/2012 on the next date of hearing. Accordingly PIO filed status report dated 04/10/2021. The status report held :-

a) Present status of C.B. PS. Cr. No. 17/2011 : Status of the case FIR 17/11 quashed by Hon'ble Session Judge North Goa Panaji vide order dated 30/11/2016, "Revision application stand allowed. The impugned order dated 07/05/2011 passed by the Ld. Magistrate at Pernem is hereby quashed and set aside for want of Jurisdiction".

Investigation closed by investigation officer, the then P.I, Shri. Uday B. Naik on 21/07/2017 with the approval of superiors.

b) Present status of C.B. Ps. Cr. No. 36/2012 : Charge-sheet No. and date: Charge-sheeted on 02/11/2017 vide Charge-sheet No. 108/2017. Accused charge-sheeted: (1) Jitendra Deshprabhu, (2) Arvind Loliyenkar, (3) Hector C.M.C Fernandes, (4) Tausif Momin, (5) Geetesh Naik. Accused not charge-sheeted: Chandrakant Salgaonkar, the then Dy. S.P. C.B. Dona Paula. Status of case: Argument before charge.

8) It appears from the above paragraph that in case no. 17/2011 FIR has been quashed by Hon'ble Session Court and the investigation is closed by investigation officer. Whereas in case no. 36/2012, five accused are charge-sheeted and the Appellant is not charge-sheeted.

9) Considering these facts, the Commission arrives at conclusion that disclosure of the information sought by Appellant at point no.1 to 6 will not affect in any way the further course of both the criminal cases. Case no.17/2011 has been closed and charge-sheet has been filed on five accused in case no. 36/2012. Therefore no harm can be caused by furnishing the said information to the Appellant.

10) In the light of above discussion the Commission disposes the appeal with the following order:-

(a) The appeal is allowed.

(b) The PIO is directed to furnish information sought at point no. 1 to 6 vide application dated 25/02/2013 by the Appellant, within 15 days from the receipt of the order free of cost.

11) Hence the appeal is disposed accordingly and proceeding stands closed.

Pronounced in the open court.

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.

Sd/-

Sanjay N. Dhavalikar
State Information Commissioner
Goa State Information Commission
Panaji - Goa