

GOA STATE INFORMATION COMMISSION
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Appeal No.15/2021/SCIC

Shri. Kunal Komarpant,
R/o H.No. 1066, Kindlem,
Chaudi, Canacona-Goa.
403002.

.....Appellant

V/S

1. The Public Information Officer,
Sub Divisional Police Officer,
Quepem-Goa.

2. The First Appellate Authority,
Superintendent of Police (South),
Margao-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 22/01/2021

Decided on: 25/10/2021

FACTS IN BRIEF

1. In the present case, the Appellant, Shri. Kunal Dilip Komarpant a practising Advocate, r/o Chaudi, Canacona, Goa has filed an application dated 13/10/2020 under sec 6(1) of Right to Information Act, 2005 (hereinafter to be referred as 'Act') by which he sought the following information from Public Information Officer (PIO) of office of Sub-Divisional Police Officer at Quepem Goa:

"Kindly furnish me copy of CCTV footage of Pollem Check Post of date from 11/10/2020 at 00:00 am to 12/10/2020 till 11:00 pm".

2. Said application was responded by the PIO on 19/10/2020 in the following manner:

" As per the information furnished by APIO / PI Canacona PS,

the information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic scientific or economic interest of the state, hence denied u/s 8(1)(a) of RTI-Act, 2005.”

3. Aggrieved with the said reply, Appellant preferred first appeal on 24/11/2020 before the Superintendent of Police, South Goa at Margao Goa being the First Appellate Authority (FAA).
4. The FAA by its order dated 28/12/2020 upheld the reply of the PIO, thereby dismissed the first appeal.

Not satisfied with the order of FAA, the Appellant has landed before this Commission in the second appeal under sec 19(3) of the Act, with the prayer that, direction be issued to PIO to furnish the information free of cost and to compensate the Appellant for loss and detriment suffered to him.

5. Notice was issued, pursuant to which the PIO appeared and filed his reply on 12/04/2021, representative of FAA appeared on 20/08/2021 and placed the reply of FAA on record.
6. I have perused the pleadings, scrutinised the records and considered the arguments of Appellant through his learned counsel Adv. D.R. Vernekar.
7. According to Adv. D. Vernekar, Appellant sought the CCTV footage for the purpose of elucidating a fact regarding his one case. The information was sought as his client was forcibly abducted in their own car by some people from Karnataka and were taken from Goa and filed a false case on his client and that he wanted to produce the said CCTV footage in the criminal case pending in Karnataka court.

Further according to him that section 8(1) (a) of the Act cannot be invoked since said information does not in any way affect the sovereignty, integrity of India, the security, strategic scientific or economic interest of the state, and to support his case, he relied upon copy of preamble to the constitution of India and one order of CIC in Jasprit Singh v/s Central Public Information dated 02/05/2017

He further contended that under sec 19(5) of the Act, the onus to prove that a denial of request lies on PIO and in the instant case, PIO has miserably failed to show any cogent reason to deny the information. The order passed by FAA is without any reasoning and findings and his request is denied solely with malafied intention.

8. On the other side, PIO through his reply submitted that CCTV footage of camera installed at Border Check Post at Pollem has been denied under section 8(1)(a) of RTI Act.

According to PIO information sought by the Appellant is from 11/10/2020 at 00:00 am to 12/10/2020 till 11:00 pm and Appellant has not demonstrated larger public interest warranting the disclosure of CCTV footage.

9. Sec 8(1)(a) of the Act reads as under:

"8. Exemption from disclosure of information.

1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,___

a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;"

From the reading of above provision, it is clear that, even though the Right of the citizen is statutorily recognised the same is not absolute but reasonably restricted. Certain safeguards have been built in to the Act in order to enable that revelation of information does not conflict with public interest.

10. In the present case, Appellant wanted to have CCTV footage of camera installed at Border check post at Pollem, Canacona Goa.

Admittedly Pollem Check Post is the Southern border check post of the State of Goa connecting the State of Karnataka. CCTV has been installed on the said check post for monitoring physical movement and safety of the individual.

11. In the present case, Appellant wanted to have CCTV camera footage of 47 hours from Pollem Canacona border check post.

The Appellant in his appeal memo has neither disclosed the reason for CCTV camera footage nor has been able to establish as how the disclosure of the information has got relation to public activity or public interest.

No doubt under section 6(2) of the Act, the seeker of the information is not required to give any reason for requesting the information, but purpose becomes relevant in order to determine the fact whether the information sought involves larger public interest.

Appellant through his advocate argued that information was sought because his client was forcibly abducted by some people from Karanatak and he wanted to produce CCTV camera footage before the court in Karantaka.

But this fact is not pleaded in appeal nor it is reflected in RTI application. Abduction or kidnapping is a crime. If any crime occurs

it was the first duty of the Appellant to lodge the police complaint.

In the present case Appellant has failed to produce police complaint or FIR on record. Neither did the Appellant produce the detail of offence of abduction nor the timing of occurrence of alleged offence.

12. In fact the purpose of installing CCTV cameras in public places like border check post is to ensure surveillance, so as to keep a vigil on the anti social elements illicit happening and vandalism in order to facilitate the law enforcement agencies.
13. The Appellant has sought CCTV footage of camera installed at Border Check Post at Pollem, which is a sensitive public place and if CCTV footage is made available, it may misused by the third party which could endanger the security of the premises where such cameras are installed.
14. The Appellant has not demonstrated larger public interest warranting the disclosure of CCTV camera footage, besides the Appellant has not sought information pertaining only to himself.
15. The Hon'ble Chief Information Commission in **K. Kaliaperumal v/s Pondicherry University** dated 27/05/2019 in said judgement it is held that:

"The Commission observes that the purpose of installing CCTV cameras in public places is to ensure surveillance, so as to keep a vigil on the anti-social elements and illicit happenings like vandalism etc., to check crime and facilitate a quick response during an emergency. These are related to the maintenance of law and order. CCTV footage can also be provide evidence in case crimes do occur and help the law enforcement agencies. However, while such systems

continue to enjoy general public support they do involve intrusion into the lives of ordinary people as they go about their day to day business and can raise wider privacy concerns."

16. Another decision of CIC in **Md. Shakeel Ahmad v/s CPIO** which states:-

"The Commission has not been in favour of unconditional provision of footage of CCTV cameras to RTI applicants as it could endanger the security of the premises, where those cameras are installed. However the Commission has directed provision of limited CCTV footage in cases where it pertained to the applicant himself."

In Case No. CIC/SM/A/2013/000411 & 412 of **Shri. Assem Takyar v/s CPIO Supreme Court of India and CPIO High Court of Delhi**, the CPIO of the Hon'ble S.C. had refused to disclose the CCTV footage by claiming exemption under Section 8(1)(g) of the R.T.I. Act. The Hon'ble Central Information Commission held:-

"that the details of the CCTV cameras installed to protect the Supreme Court of India and the High Court have clear security angle. The knowledge about those cameras such as whether they are functioning or not and the footage from those cameras can be misused and might compromise the security of the Courts, as such no such information should be disclosed".

In Case No. CIC/YA/A/2016/002188 of **J. Prakash v/s CPIO, Steel Authority of India Ltd., (SAIL)-Visvesvaraya Iron & Steel Plant (VISL), Bhadravati** and in Case

No. CIC/SH/A/2015/001336, the Central Information Commission has observed that:-

"The information sought by the Appellant attracts the bar of Section 8(1) (j) and (g) of the RTI Act. The Commission has not been in favour of unconditional provision of footage of CCTV Cameras to RTI applicants as it could endanger the security of the premises, where those cameras are installed. However, the Commission has directed provision of limited CCTV footage in cases where it pertained to the applicant himself."

In view of above ratio laid down in various Judgement, there is no sufficient ground to disclose the CCTV camera footage to the Appellant.

17. Considering the nature of information sought for by the application dated 10/08/2020, I find that, disclosure of information does not appear to be very practical proposition particularly when Appellant has not established any larger public interest in such disclosure. The disclosure of CCTV footage may result in unwarranted intrusion of privacy of Individual.

In balancing the competing interest, the disclosure of information must appear to justify public interest and will not cause harm to the public institution.

Hon'ble High Court of Andra Pradesh in **Kunche Durga Prasad Anr. v/s Public Information Officer of Chief Manager (HR), Oil & Natural Gas Corporation Ltd. (2010 (3) ALL MR (JOURNAL) 11)** has held that:

"9. It is not a place of mention that Parliament was very much aware of the necessity to strike a decent balance

between making the information available to the citizenry, to promote public interest and efficiency, on the one hand, and, preservation of confidentiality of sensitive information, on the other hand. The statement of objectives of the Act emphasizes the need to harmonize these two conflicting interest.

10. The right to information is treated as a facet of the fundamentals rights guaranteed under Articles 19 and 21 of the Constitution of India. That, however, would be in respect of the information which related to the functioning of the Government and public activity. The information which relates to an individual cannot be compared with, or equated to, the one of public activity. On the other hand, disclosure of the information in relation to an individual, even where it is available with the Government, may amount to invasion of his privacy or right to life which in turn is also referable to Article 21 of the Constitution of India. It is also possible to treat the privilege of an individual not to be compelled to part with any information available with him, as an essential part of the Article 19(1)(a) of the Constitution of India. Even while exercising his right of freedom of speech and expression, an individual can insist that any information relating to him cannot be furnished to others unless it is in the realm of public activity or is required to be furnished under any law, for the time being in force.

11..... The freedom of an individual to have access to the information cannot be projected to such an extent as to invade the rights of others. Further, Section 6(2) of the Act cannot be read in isolation, nor can be interpreted to mean that an applicant can seek every information relating to any

one. Just as he cannot be compelled to divulge the purpose for which he needs the information, he must respect the right of the other man to keep the facts relating to him, close to his chest."

The Act has sought to harmonise two conflicting interests essentially for preserving democracy. One is to bring about transparency and accountability by providing access to information and another is that actual practise does not conflict with other public interest which includes efficient functioning of Government and preservation of confidentiality of sensitive information.

Hon'ble Supreme Court in the **Institute of Chartered Accountant of India v/s Shaunak H. Satya & Ors.** (C.A. No. 7571/2011) Has held that:

"One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability. But achieving this object does not mean that other equally important public interests including efficient functioning of the governments and public authorities, optimum use of limited fiscal resources, preservation of confidentiality of sensitive information, etc. are to be ignored or sacrificed. The object of RTI Act is to harmonize the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive

information, on the other hand. While sections 3 and 4 seek to achieve the first objective, sections 8, 9, 10 and 11 seek to achieve the second objective. Therefore when section 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals. Therefore in dealing with information not falling under section 4(1)(b) and (c), the competent authorities under the RTI Act will not read the exemptions in section 8 in a restrictive manner but in a practical manner so that the other public interests are preserved and the RTI Act attains a fine balance between its goal of attaining transparency of information and safeguarding the other public interests.”

Considering the above ratio laid down by Hon'ble Supreme Court, I Hold that CCTV camera footage cannot be disclosed in the present case.

18. Merely on the basis of oral submission this Commission has not been in favour of providing unconditional CCTV camera footage of 47 long hours to the Appellant. The judgement of CIC relied upon by the Appellant in Jasprit Singh v/s Central Public Information, is distinguishable and not relevant in this case.
19. On perusal of records it is seen that the RTI application dated 13/10/2020 was replied by PIO on 19/10/2020 that is within stipulated time as provided in the Act.

20. The Commission finds that, the denial of information by the PIO is reasonably justified and therefore the question of granting compensation does not arise as prayed by the Appellant.
21. I therefore dispose the present appeal with following:

O R D E R

The appeal is dismissed.

Proceedings closed.

Pronounced in the open court.

Notify the parties.

Sd/-
(Vishwas R. Satarkar)
State Chief Information Commissioner