

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 104/2022/SIC

Shri. Sudesh P. Tivrekar,
R/o. H. No. 198, Kasarwaddo,
Khorlim, Mapusa, Goa, 403507

..... Appellant

V/s

1. The Public Information Officer (PIO),
Sub Divisional Police Officer,
Mapusa-Goa 403507

2. The First Appellate Authority (FAA),
Superintendent of Police (North),
Porvorim Police Headquarters,
Alto, Porvorim, Bardez-Goa

..... Respondents

Filed on: 13/04/2022
Decided on: 29/07/2022

Relevant dates emerging from appeal:

| | |
|---------------------------|--------------|
| RTI application filed on | : 05/01/2022 |
| PIO replied on | : 22/01/2022 |
| First appeal filed on | : 31/01/2022 |
| FAA order passed on | : 07/03/2022 |
| Second appeal received on | : 13/04/2022 |

ORDER

1. The brief facts of this appeal are that the appellant vide application dated 05/01/2022 had sought certain information from Respondent No. 1, Public Information Officer (PIO). Aggrieved with the information furnished, he filed appeal dated 31/01/2022 before Respondent No. 2, First Appellate Authority (FAA), which was disposed vide order dated 07/03/2022. Not satisfied with the said order, the appellant preferred second appeal before the Commission.

2. Notice was issued to the concerned parties, pursuant to which Shri. Jawaharlal Shetye appeared on behalf of the appellant under letter of authority and filed a submission on 13/06/2022. Shri. Somnath Mahajik, APIO, Colvale Police Station represented the PIO under authority letter and filed reply dated 23/05/2022. Later, another submission from PIO was received in the Registry on 16/06/2022 and on 11/07/2022.
3. PIO stated that the information was furnished to the appellant within the stipulated period, however he was not satisfied with the information on Point No. 3, 4, 5, 6 and 8, thus filed first appeal. FAA upheld the say of the PIO and disposed the appeal. PIO further stated that part information was not furnished under section 8(1)(h), since the matter was under investigation. However now, after completion of the investigation, the case has been chargesheeted before JMFC Mapusa alongwith all the original documents. Documents of chargesheet are available at Colvale Police Station and the appellant may be requested to collect the documents from Colvale Police Station.
4. PIO further submitted that the appellant had also asked the General Diary/Station Diary/Daily Diary of Colvale Police Station of the day 29/12/2021, between 4.00 p.m. till 11.00 p.m. However, the said information cannot be provided under section 8(1)(h) of the Act as disclosure of such information would impede the process of investigation of other crimes.
5. Appellant contended that he has sought information on 8 points and the entire information is available in the records of the PIO. The same being in public domain needs to be furnished to the appellant. Appellant further stated that under Point No. 8 of his application he had requested for the General Diary/Station

Diary/Daily Diary of Colvale Police Station of the day 29/12/2021 between 4.00 p.m. till 11.00 p.m., and that he is entitled for this information, as the same does not come under the purview of exemption clause.

6. Upon perusal of the records of this matter, it is seen that the PIO has furnished information on Point No. 1 and 2 within the stipulated period and denied the remaining information under section 8(1)(h), with an apprehension that the disclosure would affect the ongoing investigation of the case. However, during the proceeding before the Commission, the PIO has stated that the investigation has been completed and the chargesheet has been filed before JMFC Mapusa. Hence, the Commission finds that the disclosure of the information from Point No. 3 to 8 cannot be exempted under section 8(1)(h) anymore, since the investigation is already completed.
7. Regarding information sought on Point No. 8, the PIO has expressed apprehension that disclosure of General Diary/Station Diary/Daily Diary would impede the investigation of those cases of crimes and other important entries since diary of the said period contains entries of other events reported and registered at Colvale Police Station.
8. The Commission finds the above mentioned apprehension of the PIO valid since the diary of the day 29/12/2021 between 4.00 p.m. till 11.00 p.m., as sought by the appellant may contain entries of other events reported and registered at Colvale Police Station and disclosure of the same may impede the investigation of those cases. However, the Commission is of the opinion that the information sought by the appellant under point no. 8 of his application is not exempted, hence the same is required to be

furnished. Means, the PIO has to find a way to furnish the specific information from General Diary/Station Diary/Daily Diary, as sought by the appellant.

9. Section 10(1) of the Act states:-

Severability.__ (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

The above provision makes it clear that the non exempted information can be furnished to the appellant by severing the exempted information from the records.

10. Hon'ble Supreme Court in Civil Appeal No. 6454 of 2011 (arising out of SLP (c) No. 7526/2009), Central Board of Secondary Education and Anr. V/s Aditya Bandopadhyay and Ors has held in Para 28:-

"28..... Therefore, if the examinees are to be given access to evaluated answer- books either by permitting inspection or by granting certified copies, such access will have to be given only to that part of the answer-book which does not contain any information or signature of the examiners/ co-ordinators/scrutinisers/head examiners, exempted from disclosure under [section 8\(1\)\(g\)](#) of RTI Act. Those portions of the answer-books which contain information regarding the examiners /co-ordinators/scrutinisers/head examiners or which may disclose their identity with reference to signature or initials, shall have to be removed, covered, or otherwise severed from the non-exempted part of the answer-books, under [section 10](#) of RTI Act.

11. Hon'ble Supreme Court, in the above-mentioned judgement has appropriately guided the public authority on the possible way to furnish the specific information from General Diary/Station Diary/Daily Diary of the day 29/12/2021 between 4.00 p.m. till 11.00 p.m. As laid down by the Hon'ble Apex Court, the information sought by the appellant under Point No. 8 can be furnished by removing/covering/severing the entries of other events reported and registered at Colvale Police Station.

12. In the light of above discussion, the present appeal is disposed with following order:-

a) PIO is directed to furnish the information on Point No. 3 to 8 sought by the appellant vide application dated 05/01/2022, within 30 days from receipt of this order, free of cost.

b) All other prayers are rejected.

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