

GOA STATE INFORMATION COMMISSION

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Complaint No. 14/2021/SCIC

Vishal Gajanan Naik,
H.No. 128/1, Sanvorfond,
Sancoale, Cortalim-Goa 403710.

-----Complainant

v/s

1. Sunita Sawant (GPS),
Public Information Officer,
Dy. Superintendent of Police, Crime Branch,
Ribandar, Panaji-Goa.

2. Assistant Public Information Officer/ PI,
Women Police Station,
Panaji-Goa.

3. Shobhit Saksena, IPS,
First Appellate Authority,
Superintendent of Police (Crime),
Ribandar, Goa.

-----Opponents

Shri Vishwas Satarkar - State Chief Information Commissioner

Filed on:- 07/10/2021

Decided on: 23/08/2022

FACTS IN BRIEF

1. The Complainant, Shri. Vishal Gajanan Naik, r/o. H.No. 128/1, Sanvorfond, Sancoale, Cortalim-Goa by his application dated 15/04/2021 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as Act) sought information on 4 points from the Public Information Officer (PIO), Deputy Superintendent of Police, Crime Branch, Ribandar, Tiswadi-Goa.
2. The said application was responded by the PIO on 12/05/2021 in the following manner:-

Sr.No.	Question	Reply
1.	Inform me whether any such above mentioned Sexual Harassment complaint is really registered against said Calvin Fernandes/ Selyvn Fernandes before the Women Police	Information sought is not covered under section 2(f) of the RTI Act, hence furnishing of information is rejected.

	Station or the News article dtd 31 January 2018, is false.	
2.	Inform me the date on which the said complaint against Celvin Fernandes/ Selyvn Fernandes was registered before the Women Police Station.	Not applicable in view of reply at point No. 1.
3.	Inform me whether Cognizance has been taken by any Judicial Magistrate of the said complaint against Celvin Fernandes/ Selyvn Fernandes.	Information sought is not covered under section 2(f) of RTI Act, hence furnishing of information is rejected.
4.	Inform me whether registration of FIR in the above mentioned complaint has been intimated to the employer of Celvin Fernandes/ Selyvn Fernandes, i.e the Govt. of Goa.	Information sought is not covered under section 2(f) of RTI Act, hence furnishing of information is rejected.

3. Not satisfied with the reply of the PIO, the Complainant filed first appeal on 10/06/2021 under section 19(1) of the Act with the Superintendent of Police, Crime Branch, Ribandar-Goa being the First Appellate Authority (FAA).
4. The FAA by its order upheld the reply of the PIO and dismissed the first appeal on 14/07/2021.
5. Being aggrieved and dissatisfied with the order of the FAA, the Complainant landed before the Commission with this complaint under section 18 of the Act with the prayers to direct the Opponents to provide the information and to impose the penalty on the Opponents for not disclosing the information.
6. Notice was issued to the parties, pursuant to which Adv. K. L. Bhagat appeared on behalf of PIO and placed on record the reply of PIO and the FAA on 06/12/2021, Opponent No.2 also filed her reply through entry registry on 22/04/2022.

7. On going through the application filed by the Complainant under section 6(1) of the Act, it reveals that the Complainant has sought information on the basis of one article published in English daily newspaper, The Navhind Times dated 31/01/2018. Going to the content of the same it appears that it is hypothetical and based on assumption and presumption. A report in a newspaper is only hearsay evidence and is not admissible in evidence without proper proof of the content under Indian Evidence Act. News is a strange term because even when the information is old, it's still news and disinformation may have profound consequences.
8. The point is that, in order to get the information from the public authority, the Complainant has to specify the information as required under section 6(1) of the Act, where the request for the information is clear, specific and unambiguous so that it would be possible for the public authority to identify the material on record with respect to the subject.
9. In the instant case, the information sought is on the basis of news item appeared in the newspaper. The applicant himself is not sure about the incident and information sought on mere apprehension of Sexual Harassment complaint without specifying the date, year of complaint, name of the Complainant, even the specific name of the alleged person against whom the complaint is filed, so that the PIO or APIO can facilitate in providing the information. The PIO is not expected to do research to decipher all material record and to furnish the outcome to the Complainant.
10. The information sought for by the Complainant is without specifying the date and the year of generation of information. It is impracticable to search the records for several years and then to furnish the information to the Complainant. This kind of request cannot be treated to fall within the ambit of 'information' as defined under the provision of section 2(f) of the Act.

11. The High Court of Bombay, Nagpur Bench in the case **The State Information Commissioner & Ors v/s Mr. Tushar Dhananjay Mandlekar (L.P. No. 276/2012)** has held as under:-

"..... Instead of seeking information on some specific issues, the respondent sought general information on scores of matters. The application is vague and the application does not make it clear to the Information Officer as to what information is actually sought by the respondent from the Officer. It was literally impossible for the appellants, as pointed by the learned Assistant Government Pleader to supply the entire information sought by the respondent.

*.....The principle of **lex non cogit ad impossibilia** is clearly applicable to the facts of the case. Law does not compel a person to do that what is impossible."*

12. In regards to the prayer of the Complainant that, direction be issued to the Opponents to provide the information sought, same cannot be granted, while deciding the complaint proceeding under section 18 of the Act.
13. In the present case, the RTI application dated 15/04/2021 was replied by the PIO on 12/05/2021, that is within stipulated time.
14. Considering the above fact and circumstances, I find no deliberate or malafide intention for non-furnishing the information. Therefore I am not inclined to impose penalty as prayed by the Complainant. The complaint is devoid of any merit, therefore stands dismissed.

- Proceedings closed.
- Pronounced in the open proceeding.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)
State Chief Information Commissioner