

GOA STATE INFORMATION COMMISSION

“Kamat Towers” 7th Floor, Patto Plaza, Panaji, Goa – 403 001

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Complaint No. 14/2022/SIC

Dr. Andrew Menezes,
B-502, Esmeralda Towers,
Voddlem Bhat, Taleigao-Goa 403002.

-----Complainant

v/s

1. Shri. Shobhit Saksena, IPS,
First Appellate Authority,
Superintendent of Police (North),
Porvorim-Goa.

2. Shri. Harishchandra Madkaikar, DySP,
Public Information Officer,
Sub-Divisional Police Officer,
Panaji-Goa.

3. Shri. Sudesh R.Naik, PI,
Assistant Public Information Officer,
Panaji Police Station,
Panaji-Goa.

-----Opponents

Filed on: 27/04/2022
Decided on: 18/08/2022

Relevant dates emerging from appeal:

RTI application filed on	: 06/09/2021
PIO replied on	: 16/10/2021
First appeal filed on	: 15/11/2021
First Appellate authority order passed on	: 13/01/2022
Second appeal received on	: 27/04/2022

ORDER

1. The Commission received the present matter as complaint filed under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') by the complainant against Opponent No. 1, First Appellate Authority (FAA), Opponent No. 2, Public Information Officer (PIO) and Opponent No. 3, Assistant Public Information Officer (APIO).
2. The brief facts of this complaint, as contended by the complainant are that vide application dated 06/09/2021 he sought certain information from the PIO. Not satisfied with the information received, he filed appeal dated 15/11/2021 before the FAA, which was disposed vide order dated 13/01/2022. Being aggrieved by the said order, he preferred this complaint before the Commission.

3. Pursuant to the notice, complainant appeared in person. Opponent No.1, FAA was represented by Shri. Mangesh Mahale, Head Constable. Opponent APIO, Shri. Sudesh Naik, SDPO, Panaji-Goa appeared and filed reply dated 06/06/2022 alongwith enclosures. Complainant filed written arguments on 22/06/2022.
4. Complainant stated that, he is seeking information with respect to refusal of registration of FIR for forgery and fraud under Section 154 (1) of CrPC, at Panaji Police Station. As per the directions of the Hon'ble Supreme Court, registration of FIR is mandatory if the information discloses cognizable offence. Yet the PIO who is the SDPO of Panaji Police Station, has failed to provide the relevant information of the enquiry and the process carried out to justify the denial of FIR. Complainant further stated that the FAA in collusion with PIO and SHO, Panaji Police Station has deliberately omitted to direct the PIO /APIO to provide relevant information.
5. PIO submitted that, the requisite information received from the APIO has been furnished to the complainant. Further, the order of the FAA was forwarded to the APIO for compliance and based on the information provided by the APIO the same was furnished to the complainant. PIO further stated that, most of the information sought does not come under the purview of Section 2 (f) of the Act. PIO submitted that, the complainant had filed his complaint at the Panaji Police Station and after conducting detailed enquiry a letter dated 14/12/2020 was forwarded to the complainant informing him that the subject matter is essentially civil in nature and no offence is made out.
6. Complainant argued that, only part information has been furnished. The information sought is part of the records of the authority required to be maintained under the law, yet the complete information is not furnished by the PIO. The FAA disposed the appeal without applying his mind by simply passing an order. The PIO failed to provide the required information by giving inconsistent and factually incorrect replies. Complainant further argued that, the claim of detailed enquiry into the complaint conducted, is mischievous and the PIO is refusing to disclose the material available or recorded to substantiate that the matter in the petition is purely of civil in nature, as concluded by the PIO.
7. The Commission has perused the submissions and heard the arguments of both the sides. Upon careful perusal it is noted that, the complainant had sought information on about 90 points. The PIO

has furnished information on some points, PIO with respect to some other points has held that the requested information does not come under the purview of Section 2 (f) of the Act, with respect to some other points the PIO has stated that the information is not available in his records/not applicable at Panaji Police Station and on some points stated that the information is Nil. Complainant is basically aggrieved by the decision of the authority of not registering FIR on his complaint. Here, the Commission notes that, the said decision of the authority of not registering the FIR is not within the purview of the Act and Commission has no jurisdiction to direct the PIO to register the FIR. The jurisdiction of the Commission is limited to the disclosure of the information eligible under Section 2 (f) of the Act, not exempted under Section 8 and not rejected under Section 9 of the Act.

8. Complainant has relied on the judgment of the Hon'ble Supreme Court, in Lalita Kumari v/s Government of Uttar Pradesh and others, regarding registration of FIR and advisory from Ministry of Home Affairs, Government of India on registration of FIRs. In the present matter the information sought pertains to the refusal of registration of FIR for forgery and fraud under Section 154(1) of CrPC. As stated in the earlier para the Commission has no jurisdiction to direct the opponents to file the FIR or to look into the merit of the said decision of the authority. Complainant is required to approach appropriate authority to address the said grievance.
9. It is seen that, the complainant vide application dated 06/09/2021 has sought information on more than 90 points. The application itself is running into seven printed pages, containing more than four thousand words. The Right to Information is cherished right, information and the right to information are provided for citizen to bring transparency and accountability in the public administration. However, the PIO of the public authority should not be subjected to do that what is impossible. Furnishing information on more than 90 points of an application containing more than four thousand words is herculean task for PIO, as the requested information was not readily available with him and he was required to search and collect the information sought by the complainant.
10. It appears very clearly that the information sought is bulky and voluminous. Section 7 (1) of the Act mandates the PIO to furnish the information within 30 days, however this being the rare case where bulky and voluminous information is sought, the complainant under Section 2 (j) of the Act could have asked for the inspection of the

records and take extract or certified copies of documents or records after carrying out the inspection. The complainant did not ask for the inspection, however pressed for imposing penalty on the opponents, which indicates that the complainant is more interested in seeking penal action against the opponents than getting the information.

11. Further, it is seen that inspite of the exceptionally lengthy application seeking voluminous information, the PIO has taken efforts to provide the available information. Later, PIO alongwith the APIO verified the records and furnished additional information as directed by the FAA. In such a situation the Commission concludes that the PIO has furnished the available information and with respect to the additional information, the PIO cannot be directed to prioritize information furnishing at the cost of his regular duty of maintaining law and order and investigation of crimes, as held by Hon'ble Supreme Court in Civil Appeal No. 6454 of 2011 (arising out of SLP (c) No.7526/2009), C.B.S.C. & Anr. v/s Aditya Bandopadhyay & ors.
12. Similarly, this matter being the complaint filed under Section 18 of the Act, the Commission has no jurisdiction to direct the PIO to provide for inspection of the records and furnish additional information, if any, which is also the ratio laid down by Hon'ble Apex Court in Civil Appeal No. 10787-10788 of 2011, in Chief Information Commissioner and another v/s State of Manipur and another. Thus, no relief can be granted to the complainant.
13. In the light of above discussion and after considering the facts of the matter the Commission concludes that the complaint is bereft of merit, thus present complaint is disposed as dismissed 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

