

GOA STATE INFORMATION COMMISSION

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Appeal No. 151/2023/SCIC

Mrs. Joan Mascarenhas E D'Souza,
H.No. 315/4, Tropa Waddo,
Soidem, Siolim, Bardez-Goa.

.....Appellant

V/S

1. The First Appellate Authority,
Shri. Nidhin Valsan, IPS,
The Superintendent of Police (North),
Porvorim-Goa.

2. The Public Information Officer,
Shri. Braz T. Menezes,
The Dy. Superintendent of Police,
Headquarters (North), Porvorim-Goa.

3. The APIO/ Head Clerk,
The Administration Branch,
S.P North, Porvorim-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 15/05/2023

Decided on: 09/11/2023

FACTS IN BRIEF

1. The Appellant Mrs. Joan Mascarnehas E D'Souza, r/o. H.No. 315/4, Tropa Waddo, Soidem, Siolim, Bardez-Goa vide her application dated 22/02/2023 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), Directorate of Accounts, Panaji-Goa.
2. The PIO of Directorate of Accounts has transferred the said application to the Office of Deputy Superintendent of Police, Headquarters (North), Porvorim-Goa on 24/02/2023 under Section 6(3) of the Act.
3. The said application was responded by the PIO on 09/03/2023 in the following manner:-

<i>Sr. No.</i>	<i>Information sought</i>	<i>Information Furnished</i>
<i>b. 1</i>	<i>Certified copy of service card of the Police Inspector Shri. Paresh Naik from date of his appointment in the Goa Police Service till date.</i>	<i>The information sought by you is not available on record.</i>
<i>ii.</i>	<i>Certified copy of the service book of the Police Inspector Shri. Paresh Naik from date of his appointment in the Goa Police service till date.</i>	<i>The information sought by you is denied u/s 8(1)(j) of RTI Act, 2005 being personal information of P.I. Shri. Paresh Naik. So also P.I. Shri. Paresh Naik of Mapusa P.S. has objected to provide the information as the same pertains to be his personal information.</i>

4. Being aggrieved and not satisfied with the reply of the PIO, the Appellant filed first appeal before the Superintendent of Police (North), Headquarters, Porvorim-Goa on 15/03/2023, being the First Appellate Authority (FAA).
5. The FAA vide its order upheld the reply of the PIO and dismissed the first appeal on 02/05/2023.
6. Aggrieved and dissatisfied with the order of the FAA dated 02/05/2023, the Appellant preferred this second appeal before the Commission under Section 19(3) of the Act, with the prayer to direct the PIO to provide the information free of cost and to take penal action against the Respondents for denying the information.
7. Notices were issued to the parties, pursuant to which, the Adv. S. Chavan appeared on behalf of the Appellant on 08/06/2023, the PIO, Braz Menezes appeared and filed his reply on 08/06/2023. He also placed on record the reply of the Respondent No. 3, the FAA duly served opted not to file his reply in the matter.

8. It is the case of the Appellant that, by her application dated 22/02/2023 she sought certified copy of service card and service book of Police Inspector Shri. Paresh Naik. According to the Appellant, the service Book and card of the public servant is a public document and therefore she is entitled for the copy of the said documents.

Further according to the Appellant, the PIO has refused to divulge said information being personal information under Section 8(1)(j) of the Act. According to the Appellant, the PIO refused to disclose the information under wrong footing and without having legal backing.

9. On the other hand, the PIO through his reply dated 08/06/2023 contended that, since the Appellant had sought the copy of service book of Police Inspector, Shri. Paresh Naik attached to Mapusa Police Station, being personal in nature a notice under Section 11 of the Act was issued on 02/03/2023 to obtain his say in the matter. Shri. Paresh Naik, Police Inspector attached to Mapusa Police Station vide his reply dated 04/03/2023 objected to provide the information to the Appellant being personal and confidential information. Upon considering the say of the third party and taking into consideration disclosure of information would cause unwarranted invasion of the privacy of the individual, he refused to divulge the information.

10. The Respondent No. 3 through her reply dated 08/06/2023 contended that, she received the instruction from the Deputy Superintendent of Police, Headquarters (North), Porvorim-Goa to verify the records or conduct the enquiry as deem fit and furnish the parawise reply to the RTI application within 5 days, accordingly, she submitted the reply to the PIO / DY.SP, North on 06/03/2023.

11. Perused the pleadings, replies, scrutinised the documents on record, considered the submissions of the rival parties and the judgement relied upon by the rival parties.
12. Adv. Kapil Kerkar, learned counsel appearing on behalf of the Appellant argued that, the information sought with regards to service card and service book is of a public servant who is occupying the public office and its records are maintained by the Police Department and therefore said documents are in public domain, hence, the Appellant is entitled for the information. To support his case he relied upon (i) Order of Central Information Commission in the case Dr. Dheeraj Kapoor v/s Directorate of Health Service (CIC/SA/A/2014/000494) and (ii) judgement of Hon'ble Supreme Court in the case Justice K.S. Puttaswamy (Retd.) and Anrs. v/s Union of India & Ors. (Writ Petition (Civil) No. 494/2012).
13. On the other hand, PIO Shri. Braz Menezes argued that, information sought by the Appellant at point No. 1 is a service card which is identity card (ID Card) provided to the Police Officer and copy of the same is not available in the police records.

He further argued that information sought at point No. 2 with regards to service book and same is considered as personal information and disclosure of said information would cause unwarranted invasion of the privacy of the individual.

He further argued that, merely because the information of third party is held by the public authority, the Appellant is not entitled to access it, unless said personal information has a relationship to public activity or to public interest and to substantiate his claim he relied upon the (i) judgement of Hon'ble Supreme Court in the case Girish Ramchandra Deshpande v/s Central Information Commission (Spl. W.P. No. 27734/2012) and

(ii) Judgement of Hon'ble High Court of Bombay at Goa in the case Mr. Deepak P. Vaigankar v/s Mr. Suryakant Babu Naik (W.P. No. 797/2018).

14. Considering the rival contention of the parties, it would be appropriate to refer Section 8(1)(j) of the Act which 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,____

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person."

15. The point is that the information sought by the Appellant at point No. 2 is the copy of the service book. The service book is the most vital document of public servant and all data related with service of employee are recorded in service book like joining report, promotion, Annual Confidential report, leaves deduction, investment, rewards, memo, punishment, details of family members/ nominations etc, such information is personal in nature and every public servant has right to guard the same.

16. Hon'ble High Court of Madhya Pradesh in the case **Shrikant Pandya v/s State of MP (W.P. No. 13646/2009)** has held as under:-

"16. In the case at hand the certified copy of personal record as well as service book of third party, which was being sought by the petitioner would contain annual confidential reports and other information like details of family and nomination thereof. These information are personal in nature and a Government servant has a right to guard the same. These information have no relationship to any public activity and if parted with will certainly lead to the unwarranted invasion of the privacy of a Government servant."

17. I have perused the judgment of the Hon'ble High Court of Bombay at Goa relied upon by the PIO in the case **Mr. Deepak Pandharinath Vaigankar v/s Mr. Suryakant Babu Naik and Ors. (Supra)** paragraph No. 13 and 14 of the said judgement reads as under:-

"13. Therefore, on a bare reading of Section 8(1)(j) read with the proviso, it is apparent that there is an exemption from disclosure of information which relates to the public information of an individual, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual. Therefore, in view of this specific bar, any person would not be entitled to seek the personal information about another, which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual. The contention therefore, of the respondent No.1 that if this information can be furnished to the

Parliament or the State Legislature, the same is available to him, cannot at all be countenanced by any stretch of the imagination.

14. Section 11 deals with the third party application and contemplates that 'where a Central Public Information Officer or a State Public Information Officer, intends to disclose any information or record, or part thereof, on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or the State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request, and of the fact that the Central Public Information Officer or the State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about the disclosure of information.'

18. The High Court of Delhi in **Union Public Service Commission v/s Mahesh Mangalat (2015 Law Suit (Del) 1372)** in which it is held that:-

"19. It is a settled law that for seeking personal information regarding any employee of the public authority the applicant must disclose a "sustainable public interest". Even Section 8(1) (j) of the RTI Act was enacted to ensure that all information furnished to public authorities including personal

information is not given free access to. As per this Section unless the CPIO or the State PIO or the appellate authority, as the case may be, is satisfied that the larger public interest justifies, the disclosure of any such information that invades the privacy of an individual is not permissible.”

19. A careful perusal of the appeal memo, reveals that it does not contain even a whisper as to how disclosure of the information would serve larger public interest. In the absence of any cogent reason brought on record to establish necessity of disclosure of information by the Appellant in the 'larger public interest', the Commission is not prompted to violate the right of public officer, which is a fundamental right accorded to him.

20. In another identical judgement the High Court of Karnataka at Bangalore in the case **H.E. Rajashekarappa v/s State Public Information Officer and Another (W.P. No. 10663/2006)** has held that:-

"5. The object of the Act is to provide right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. In view of the above provisions excerpted, it cannot be said that Section 2(f) of the Act encompasses the personal information of the officials of the public authority. The intention of the legislation is to provide right to information to a citizen pertaining to public affairs of the public authority. Therefore, the respondent No. 3 had no right under the Act to seek personal information of the petitioner. The respondent No. 2 / appellate authority has erred in directing the petitioner to furnish the information as

sought for by the respondent No. 3. As the respondent's application is vexatious and it is an attempt made to settle scores with the petitioner."

21. Usually, private information cannot be put in public domain. The Commission also cannot be ignorant to the fact that the personal information, when allowed to be accessed by third parties has the potential to expose the owner of such information to mischief, harassment, intimidation, defamation and worse. Therefore, protection of personal information, especially of a third party, is a valuable privilege which should not be lightly done away with or diluted.
22. I have carefully perused the judgement relied by the Appellant in the case Dr. Dheeraj Kapoor v/s Directorate of Health Service (Supra) and judgement of the Hon'ble Supreme Court in the case Justice K.S. Puttuswamy (Retd.) and Anrs. v/s Union of India & Ors. (Supra). In my view these judgements do not support the case of the Appellant and infact go against him.
23. In the present case, the PIO responded the RTI application on 09/03/2023 which is within the stipulated period. Considering the facts and circumstances, I find no malafide intention for non-furnishing the information by the PIO, hence, I am not inclined to grant any relief to the Appellant, accordingly, the matter is disposed off with following:-

ORDER

- The appeal is dismissed.
- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner

