

GOA STATE INFORMATION COMMISSION
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Appeal No. 267/2022/SCIC

Shri. Nitin Y. Patekar,
Oshalbag Dhargal,
P.O. Colvale, Goa,
403513.

.....Appellant

V/S

1. The Public Information Officer (PIO),
O/o. Dy. Superintendent of Police,
Pernem-Goa.

2. The First Appellate Authority,
O/o. Superintendent of Police,
North Goa, Porvorim-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 10/10/2022

Decided on: 16/06/2023

ORDER

1. The Appellant, Shri. Nitin Y. Patekar r/o. Oshalbag Dhargal, P.O. Colvale, Goa vide his application dated 13/07/2022 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), Deputy Superintendent of Police, Pernem, Goa.
2. The said application was responded by the PIO on 18/08/2022 in the following manner:-

"Refer to your application dated: - 08.07.2022 on the subject cited above addressed to the PIO, Dy. Superintendent of Police, Pernem, Goa and the same is received by this office on 13.07.2022. The information furnished by APIO/PIO Pernem Police Station is as follows:-

<i>S.No.</i>	<i>Question</i>	<i>Answer</i>
<i>1.</i>	<i>Furnish the complaint copy dated 13/09/2021 against Dy. Collector Pernem Shri. Ravishankar Nipanikar regarding the demolition of wooden compound and fertilizers storage (cottage)</i>	<i>As per PI Pernem Police Station information sought by the applicant is enclosed.</i>
<i>2.</i>	<i>Furnish station diary of Pernme Constable only dated 06/08/2021</i>	<i>As per PI Pernem Police Station, Station diary is an important document which contains entries with respect to the investigation of event reported and registered at Pernem Police Station, hence the information called for could not be provided U/Sec 8(1)(h) of RTI Act, 2005</i>
<i>3.</i>	<i>To inspect the station diary of Pernem Police Station dated 06/08/2021</i>	<i>As per PI Pernem Police Station as per point 2.</i>

3. Not satisfied with the reply of the PIO, the Appellant preferred first appeal on 05/09/2022 before the Superintendent of Police (North), North District Headquarters, Porvorim-Goa being the First Appellate Authority (FAA).
4. The FAA vide its order upheld the reply of the PIO and dismissed the first appeal on 25/10/2022.
5. Being aggrieved and dissatisfied with the order of the FAA dated 25/10/2022, the Appellant preferred this second appeal before the Commission under Section 19(3) of the Act, with the prayer to direct the PIO to furnish the information and to penalise the PIO for denying the information under RTI.

6. Notices were issued to the parties, pursuant to which, the Appellant appeared in person on 23/11/2022, the representative of the PIO, Shri. Dattaram Raut appeared and placed on record the reply of the PIO on 23/11/2022. The FAA duly served, chose not to appear in the matter.
7. It is the case of the Appellant that, vide his application dated 13/07/2022 he sought information from the PIO with regards to the complaint dated 13/09/2021 lodged against the Deputy Collector of Pernem, Shri. Ravishankar Nipanikar for demolition of wooden compound and fertilizer storage (cottage). The Appellant also sought inspection and copy of station dairy of Pernem Police dated 06/08/2021. According to the Appellant, by letter dated 18/08/2022 the PIO furnished him the information at point No. 1, however he denied to furnish the information at point No. 2 and 3 on the pretext that same is exempted from disclosure under Section 8(1)(h) of the Act.
8. As against this, the PIO through his reply dated 23/11/2022 submitted that, vide letter No. SDPO/PER/RTI-122/234/2022 dated 18/08/2022 he furnished the information at point No. 1. According to the PIO, the information at point No. 2 and 3, the Appellant sought inspection and copy of Station dairy of Pernem Police Station. Same has been rejected on the grounds that station dairy is an important document which contains entries with regards to the investigation of crimes and important entries of event reported and registered at Pernem Police Station, hence, the information called for could not be provided under Section 8(1)(h) of the Act.
9. Considering the rival contention of the parties, it is appropriate to deal with Section 8(1)(h) 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,____

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;"

From the above, it is clear that, the information which would impede the process of investigation is denied to be disclosed.

10. In the case in hand, the PIO has denied the information on a mere blanket statement and not supported by any cogent material or reasoning. It is settled position law that, mere pendency of an investigation cannot be a ground for refusal of the information.

11. The High Court of Delhi in the case of **Bhagat Singh v/s Chief Information Commissioner & Ors. (W.P. (c) 3114/2007)** has observed at para No. 13 as under:-

"13. Access to information, under [Section 3](#) of the Act, is the rule and exemptions under [Section 8](#), the exception. [Section 8](#) being a restriction on this fundamental right, must therefore is to be strictly construed. It should not be interpreted in manner as to shadow the very right itself. Under [Section 8](#), exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders. It is apparent that the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should

be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8(1)(h) and other such provisions would become the haven for dodging demands for information."

12. In an another identical judgement the High Court of Delhi in the case of **B.S. Mathur v/s Public Information Officer of Delhi High Court (2011 (125) DRJ 508)**, has held that:-

22..... The mere pendency of an investigation or inquiry is by itself not a sufficient justification for withholding information. It must be shown that the disclosure of the information sought would "impede" or even on a lesser threshold "hamper" or "interfere with" the investigation. This burden the Respondent has failed to discharge."

13. In the present case, the Appellant is seeking the inspection and copy of station diary of Pernem Police Station dated 06/08/2021. The station diary is used to record all important transaction/ events taking place in the Police Station including arrest of person, law & order duties, arrival and departure of Police staff. The station diary is a public record and even a certified copy of the same can be obtained.

14. I have considered the arguments advanced by the Appellant and perused the reply of the PIO. Since the PIO did not participate in further hearings inspite of fair opportunities, I presume and hold that the PIO has no say to offer other than the reply.

15. The Appellant argued that, the Deputy Collector has already demolished the compound wall and the investigation has been completed and matter is disposed off. Therefore, there is no

reason to withhold the information by the Pernem Police Station. I find force in the arguments of the Appellant that, information has been denied on wrong footing. The PIO failed to establish that by providing the copy of the station diary how it would hamper the process of investigation.

16. Therefore, the Commission is of the view that, information at point No. 2 viz. extract of Station dairy dated 06/08/2021 can be furnished to the Appellant by deleting the entries which are not connected with the case of the Appellant. Such a procedure is possible under the provision of severability under Section 10(1) of the Act.

17. Considering the above appeal is partly allowed. The PIO is hereby directed to provide to the Appellant an extract of the Station diary dated 06/08/2021 pertaining to the issue of the Appellant, within the period of **FIFTEEN DAYS** from the date of receipt of this order.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner