

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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Appeal No. 305/2022/SCIC

Mr. Edwin Herculano Peres,
H.No. 152, Non Mon Bandar,
Khariwada, Vasco-da-Gama,
Goa, 403802.

.....Appellant

V/S

1. Public Information officer,
Assistant Registrar (Judge),
High Court of Bombay at Goa,
Porvorim-Goa 403521.

2. First Appellate Authority,
Registrar (Judicial),
High Court of Bombay at Goa,
Porvorim-Goa 403521.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 08/12/2022

Decided on: 21/07/2023

ORDER

1. The Appellant, Mr. Edwin Herculano Peres r/o. H.No. 152, Non Mon Bandar, Khariwada, Vasco-da-Gama-Goa vide his application dated 14/11/2022 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), Assistant Registrar, High Court of Bombay at Goa, Porvorim-Goa.
2. The said application was responded by the PIO on 14/11/2022 in the following manner:-

"Information sought by you pertains to judicial proceedings which can be obtained under existing Bombay High Court Rules. You may apply for certified copies in the Registry as per rules."

3. Being aggrieved and not satisfied with the reply of the PIO, the Appellant filed first appeal on 17/11/2022 before the Registrar (Judicial), High Court of Bombay at Goa, Porvorim-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 05/12/2022.
5. Aggrieved and dissatisfied with the order of the FAA dated 05/12/2022, the Appellant landed before the Commission by this second appeal under Section 19(3) of the Act, with the prayer to direct the PIO to furnish the information, to impose penalty and to recommend disciplinary action against the PIO for denying the information.
6. Notices were issued to the parties, pursuant to which the Appellant appeared in person on 17/01/2023, the PIO Ms. Seema Ferrao appeared and filed reply on behalf of Respondents on 23/02/2023.
7. It is the case of the Appellant that, he filed a criminal writ petition before the Hon'ble High Court of Bombay at Goa seeking the relief for quashing of FIR No. 52/2018 registered by Vasco Police Station against him.

According to him when the said Criminal Writ Petition No. 132/2018 came up for hearing on 09/07/2019, the Public Prosecutor appearing on behalf of the State informed the Hon'ble Court that pursuant to the final report, a charge-sheet has been filed in the matter. Based on the submission of the Public Prosecutor, the said writ petition has been disposed off on 09/07/2019 being infructuous.

Further according to the Appellant, the Hon'ble High Court disposed off his Criminal Writ Petition No. 132/2018 on the basis of charge-sheet filed by the Vasco Police Station at Vasco-Goa and

therefore in order to know the details of charges levelled against him, he sought the copy of the charge-sheet from the PIO, Asst. Registrar of the High Court of Bombay at Goa. However, according to him the PIO has denied to furnish that information and informed him that the information sought for, pertains to judicial proceedings and same can be obtained under existing Bombay High Court Rules. According to him, the information has been denied to him on wrong footing and the reply of the PIO is not tenable by law, and to substantiate his claim, he relied upon the judgement of CIC in the case Usha Kant Asiwali v/s Directorate of Vigilance GNCTD (CIC/DS/A/2013/001254 - SA) and judgement of the High Court of Bombay at Goa in the case Isabela Gomes Nee Rebello v/s Judas Simon Barreto & 16 Ors (Writ Petition No. 467/2019).

8. On the other hand the PIO and FAA filed joint reply dated 22/02/2023 wherein they contended that, the information sought by the Appellant is pertains to one Criminal Writ Petition No. 132/2018 and same pertains to the Judicial proceeding. According to the Respondents, the Bombay High Court Rules provides the mechanism for accessing such information. Therefore by responding to his RTI application they informed the Appellant to obtain said information as per the existing Bombay High Court Rules. To substantiate their case they also relied upon the judgement of Hon'ble Supreme Court in the case Chief Information Commissioner v/s High Court of Gujarat & Anrs. (MANU/SC/0275/2020).

9. At this stage, it would be appropriate to cite the judgement of Hon'ble Delhi High Court in the case **The Registrar Supreme Court of India v/s R.S. Misra (2017 244 DLT 179)**. The Court has observed as under:-

"53. The preamble shows that the [RTI Act](#) has been enacted only to make accessible to the citizens the information with the public authorities which hitherto was not available. Neither the Preamble of the RTI Act nor does any other provision of the Act disclose the purport of the [RTI Act](#) to provide additional mode for accessing information with the public authorities which has already formulated rules and schemes for making the said information available. Certainly if the said rules, regulations and schemes do not provide for accessing information which has been made accessible under the [RTI Act](#), resort can be had to the provision of the [RTI Act](#) but not to duplicate or to multiply the modes of accessing information.

54. This Court is further of the opinion that if any information can be accessed through the mechanism provided under another statute, then the provisions of the [RTI Act](#) cannot be resorted to as there is absence of the very basis for invoking the provisions of [RTI Act](#), namely, lack of transparency. In other words, the provisions of [RTI Act](#) are not to be resorted to if the same are not actuated to achieve transparency."

10. Reiterating above ratio of the Delhi High Court, the Hon'ble Supreme Court in the case **Chief Information Commissioner v/s High Court of Gujarat & Anrs.(Supra)** has held that:-

"32. We fully endorse above views of the Delhi High Court. When the High Court Rules provide for a mechanism that the information/certified copies can be obtained by filing an application/affidavit, the provisions of the [RTI Act](#) are not to be resorted."

11. I have carefully gone through the judgement relied upon by the Appellant in the case Isabela Gomes Nee Rebello v/s Judas Simon Barreto & 16 Ors. (Supra) and judgement of Central Information Commission in the case Usha Kant Asiwat v/s Directorate of Vigilance, GNCTD (Supra). In my considered opinion that, the factual position obtaining therein is quite distinguishable vis-a-vis the case in hand.

12. In the present case, the PIO replied the RTI application within stipulated time and communicated the factual position to the Appellant. It is not the case that, the PIO was unwilling to furnish the information with malafide intention. Therefore, I find no ground to impose penalty on the PIO as prayed by the Appellant.

13. Taking into consideration the observations of Hon'ble Supreme Court and the principles laid down therein, I do not find any perversity or error apparent in the findings of the PIO or the FAA. For all these reasons, the order of the FAA calls for no interference. Hence appeal is dismissed.

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner