

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 320/2022/SIC

Shri. John Yury Lobo,
H.No. 56, Ward No. 8, Kamarkhajan,
Mapusa, Bardez-Goa 403507.

-----Appellant

v/s

1. Public Information Officer,
Sub-Divisional Officer,
Mapusa Police Station,
Mapusa, Bardez-Goa 403507.

2. Police Inspector,
Mapusa Police Station,
Mapusa, Bardez-Goa 403507.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 14/09/2022
PIO replied on	: 06/10/2022
First appeal filed on	: 12/10/2022
First Appellate Authority order passed on	: 08/11/2022
Second appeal received on	: 15/12/2022
Decided on	: 24/04/2023

ORDER

1. Being aggrieved by denial of the information sought under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), appellant under Section 19 (3) of the Act filed second appeal against Respondent No. 1, Public Information Officer (PIO) and Respondent No. 2, First Appellate Authority (FAA), which came before the Commission on 15/12/2022.
2. The brief facts of this appeal, as contended by the appellant are that, he had sought information on four points, which was denied under Section 8 (1) (h) and 8 (1) (j) of the Act by the PIO. Subsequent appeal filed the before FAA was dismissed. It is the contention of the appellant that the said information does not fall under the exemption clause as provided under Section 8 (1) (h) and 8 (1) (j), hence he has appeared before the Commission praying for the information.
3. Notice was issued to the concerned parties, pursuant to which appellant appeared in person and filed submissions dated 15/02/2023, 06/03/2023 and 03/04/2023. Shri. Jivba G. Dalvi, PIO was represented by his official representative, under authority. Reply was filed on behalf of the PIO on 24/01/2023.

4. PIO stated that, appellant vide application dated 14/09/2022 had sought information on four points. Information on point no. 1 was rejected under Section 8 (1) (h) of the Act, as the station Diary is an important/ privileged documents of the Police Station. Information on point no. 2, 3 and 4 was rejected under Section 8 (1) (j) of the Act, being the third party information and Mr. Alvito D'Mello had objected to supply the information being personal in nature. PIO further stated that, with respect to information requested on point no. 1, station Diary contains entries regarding investigation of crimes and other important entries of events reported and registered at Mapusa Police Station. Hence, providing such information would impede the process of further investigation of those crimes. PIO further submitted that, he had issued appropriate reply within the stipulated period to the appellant as per the information available on record.
5. Appellant stated that, the PIO denied the information on point no. 1 under Section 8 (1) (h), however, PIO has not stated how the disclosure would impede the investigation. Similarly, appellant has requested for details from the station Diary only pertaining to Shri. Alvito D'Mello, hence the same has to be furnished. Appellant further contended that the information on point no. 2, 3 and 4 was denied to him under Section 8 (1) (j), under the pretext of being third party and personal information. The said information is public domain information and disclosure of the same is not going to invade privacy of any party. Appellant further stated that, he is seeking the said information in larger public interest, to expose illegal and fraudulent activities of Shri. Alvito D'Mello, who is working as Head Constable at Mapusa Police Station.
6. Upon perusal it is seen that, the appellant vide application dated 14/09/2022 had sought information pertaining to the details of Shri. Alvito D'Mello, who is stationed at Mapusa Police Station from 01/01/2018 till the date of application. PIO under Section 8 (1) (h) denied the information on point no. 1 and denied under Section 8 (1) (j) of the Act, information on point no. 2, 3 and 4. Further, the FAA by upholding the stand of PIO dismissed the first appeal. However, the appellant is praying for the information contending that the said information is in public domain and he desires to have the said information.
7. Thus, the issue to be decided in the present matter is whether the information sought by the appellant on point no. 1 is eligible for exemption from disclosure under Section 8 (1) (h) and whether the information on point no. 2, 3 and 4 is eligible for exemption from disclosure under Section 8 (1) (j) of the Act. Similarly, whether PIO's

stand to deny the information as mentioned above and FAA's decision to uphold the stand of PIO is justified or not.

8. The application dated 14/09/2022, which is the subject matter of the present appeal reads as below:-

Kindly provide me with following the details of the said Police Constable Alvito D' Mello, B. No. 4635 who was stationed at Mapusa Police Station from the period 01-01-2018 to till date. With reference to the captioned subject, I wish to seek the following information and certified copies along with all file notings. Please provide me the following complete and full detailed information including file notings, correspondence and documents:

1. The copies of Station Dairy Extracts for the above mentioned period.
2. The Deployment Duty Chart for the above mentioned period.
3. All other additional duties conducted during the above period for Mapusa Police Station.
4. Any other related information.

9. With respect to the information on point no. 1, PIO has denied the same under Section 8 (1) (h) by stating that the disclosure would impede the process of investigation of crime. It is noted that the appellant has sought specific details from the Station Diary, pertaining to Shri. Alvito D' Mello, Head Constable, whereas, the PIO while quoting Section 8 (1) (h) has not elaborated as to how the investigation of cases would get affected by disclosure of the said details from the Station Diary. Appellant has not sought for entire details of Station Diary, information from Station Diary is sought only pertaining to Shri. Alvito D' Mello, Head Constable.

10. It is therefore necessary to examine PIO's argument. Various sub clauses of section 8 (1) of the Act does not provide blanket exemption in refusing the information. The onus lies on PIO to show the reason for such exemption. In a similar matter, B. S. Mathur v/s Public Information Officer, Writ Petition (C) 295/ 2011, the Hon'ble Delhi High Court has observed in para 19 which reads :-

"19. The Question that arises for consideration has already been formulated to the court order dated 21st April 2011. Whether the disclosure of the information sought by the petitioner to the extent not supplied to him yet would impede the investigation in favour of section 8 (1) (h) of the RTI Act ? The scheme of the RTI act, its objects and reasons indicate that disclosure of information is the rule and non disclosure the exception. A public authority which seeks to withhold

information available with it has to show that the information sought is of the nature specified in section 8 of RTI Act”.

11. The Hon'ble High Court of Delhi has clearly held that the onus lies on the PIO to establish how the disclosure of any information may impede the ongoing investigation. PIO in the present matter, while denying the information on point no. 1 under Section 8 (1) (h) has not brought to the notice of the Commission, how the disclosure of the information sought by the appellant on point no. 1 will impede the investigation. Hence, the Commission holds that the said information is required to be furnished.
12. With respect to the information on point no. 2 and 3, PIO has refused to furnish the same under Section 8 (1) (j) by stating that the requested information is third party information and as Shri. Alvito D' Mello has objected for disclosure of the same, being personal information. It is observed that the appellant under point no. 2 and 3 of his application had sought the deployment duty chart and other additional duties conducted by Shri. Alvito D' Mello, Head Constable from 01/01/2018 till the date of application.
13. Hon'ble High Court of Bombay at Goa in Writ Petition No. 1 of 2009, Kashinath J. Shetye v/s Public Information Officer and others, has held in para 7:-

"7. The first thing that needs to be taken into consideration is that the petitioner is a public servant. When one become a public servant and as such, every member of public, gets a right to know about his working, his honesty, integrity and devotion to duty. In fact, nothing remains personal while as far as the discharging of duty. A public servant continues to be a public servant for all 24 hours. Therefore, any conduct/ misconduct of a public servant even in private, ceases to be private. When therefore, a member of a public , demands an information as to how many leaves were availed by the public servant, such information though personal, has to be supplied and there is no question of privacy at all. Such supply of information, at the most, may disclose how sincere or insincere the public servant is in discharge of his duty and the public has a right to know."

14. With this, there is no ambiguity with respect to the disclosure of the information sought by the appellant on point no. 2 and 3 of his application. Considering the ratio laid down by the Hon'ble High Court of Bombay at Goa, the said information cannot be denied by terming

the same as personal information under Section 8 (1) (j) of the Act. Also, it is necessary to read the proviso to Section 8 (1) (j). The proviso states that the citizen is entitled for any information which Parliament can have. The Parliament has a right to know which officer was deployed where and on what duty and additional duty, if any. Hence, the Commission is of the opinion that the appellant deserves the information on point no. 2 and 3, and the said information cannot be classified as personal information.

15. Appellant under point no. 4 of his application has requested for 'any other related information'. Section 6 (1) (b) requires the applicant to specify the particulars of the information sought, whereas, the applicant at point no. 4 of his application has not specified any information, hence the PIO is not required to furnish any information on point on. 4.
16. Considering the findings as mentioned above, the Commission concludes that the information sought by the appellant vide application dated 14/09/2022 does not qualify for exemption from disclosure under Section 8 (1) (h) and 8 (1) (j) of the Act. Information on point no. 2 and 3 is required to be furnished as it exists in the records, and information on point no. 1 needs to be furnished only with respect to Shri. Alvito D' Mello, Head Constable attached to Mapusa Police Station, after covering/ severing other details from the Station Diary.
17. In the light of above discussion the present appeal is disposed with the following order:-
 - a) PIO is directed to furnish information on point no. 1 sought by the appellant vide application dated 14/09/2022 after details not pertaining to Shri. Alvito D' Mello, Head Constable are covered / severed, within 20 days from receipt of this order, free of cost.
 - b) PIO is directed to furnish information on point no. 2 and 3 sought by the appellant vide application dated 14/09/2022, within 20 days from receipt of this order, free of cost.

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