

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 144/2023/SIC

Shri. Walter Fernandes,
H.No. 593/2, Grande Pulvaddo,
Benaulim, Salcete-Goa 403716.

-----Appellant

v/s

1. Shri. Ram Asare,
P.I.O./Dy. S.P. State Police Control Room,
State Police Control Room,
Panaji-Goa 403001.

2. Ezilda D’Souza,
First Appellate Authority/Supdt. of Police (SPCR),
State Police Control Room,
Panaji-Goa 403001.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 01/12/2022
PIO replied on	: 26/12/2022
First appeal filed on	: 11/01/2023
First Appellate Authority order passed on	: 30/01/2023
Second appeal received on	: 28/04/2023
Decided on	: 20/11/2023

ORDER

1. The appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act'), vide application dated 01/12/2022 had sought following information:-

- i. Certified copy of the Police Reports based on complaints to Police Control Room on Telephone Number 100 by Mr. Damaciano Mario Fernandes, r/o H. No. 593/1, Grande Pulvaddo, Benaulim Goa from Mobile No. 8888885052/ 7028608880 during the period from March 2020 to November 2022.
- ii. Based on complaint to Police Control Room on Telephone Number 100 by Mr. Damaciano Mario Fernandes, r/o H. No. 593/1, Grande Pulvaddo, Benaulim Goa from Mobile No. 8888885052/ 7028608880 on 10/04/2022, PC-7800 Shri. Sudeen Velip of SPCR (Robot-330) attached to Colva Police Station had visited the residence of Mr. Damaciano Mario Fernandes.

With respect to the above complaint, please provide certified copy of the Police Report.

2. Respondent No. 1, Shri. Ram Asare, Public Information Officer (PIO) vide reply dated 26/12/2022 informed the appellant that the information requested is denied under Section 8 (1) (g) and Section 11 of the Act.
3. Being aggrieved by the said reply, the appellant preferred first appeal before Respondent No. 2, First Appellate Authority (FAA). The FAA disposed the appeal by upholding decision of the PIO.
4. The appellant not satisfied with the FAA's order has appeared before the Commission by way of the second appeal. It is the contention of the appellant that the information sought on point no. 1 is already in public domain and known to the appellant, thus he is now seeking information only on point no. 2, i.e. certified copy of the police report with respect to the complaint mentioned in his application.
5. Notice was issued to the concerned parties pursuant to which the appellant appeared in person. Subsequently, Shri. Nilesh Prabhudessai appeared on behalf of the appellant under Special Power of Attorney and filed written arguments dated 03/08/2023. Shri. Sushant Gawas, APIO and Advocate K. L. Bhagat appeared on behalf of the PIO, filed submission on 22/06/2023, reply on 13/07/2023 and written submission dated 28/09/2023.
6. PIO stated that, the information sought by the appellant pertained to third party, hence, taking into consideration the objection of the third party for disclosure, the PIO had denied the said information. The disclosure of the said information would put the third party's safety and liberty at risk. There could be danger to life or possibility of danger to physical safety of the third party, if the said information is disclosed. In the present case the PIO has invoked Section 8 (1) (g) only to provide physical safety to the life of third party.
7. Shri. Nilesh Prabhudessai while arguing on behalf of the appellant stated that, he had not asked for the identity of the concerned person, he is seeking only copy of the report with respect to the complaint to Police Control Room on Telephone No. 100 by Mr. Damaciano Mario Fernandes. That, the said report has to be available in the records of the PIO, thus, the same needs to be furnished to the appellant.
8. Advocate K. L. Bhagat on behalf of the PIO argued that, in order to identify and obtain evidence against persons involved in criminal activity, the police often use confidential information. Disclosure of the report sought by the appellant will expose the identity of the

concerned person who is the informant of the Police and such exposure would put his life in danger. Advocate Bhagat further submitted that, if such reports are disclosed then informants will not come forward to help police. Also, the appellant has not stated any larger public interest in seeking the said information.

9. Upon perusal of the records of the present matter it is seen that, the appellant had sought for certified copy of the Police Report with respect to complaint registered to Police Control Room on telephone number 100 by Mr. Damaciano Mario Fernandes, during a specific period. The PIO after complying with Section 11 of the Act denied the said information to the appellant since the third party had objected to the disclosure of the said information. Further, the FAA while disposing the first appeal upheld the stand of the PIO.
10. It is observed that the PIO has claimed exemption under Section 8 (1) (g). The said section provides for exemption from disclosure of the information which would endanger the life or physical safety of a person or identify the source of information or assistance given in confidence for law enforcement or security purpose.

The PIO has claimed exemption by stating that he is required to protect the identify and safety of his informant since the informant is helping Police Department to investigate into criminal matters. Here the Commission is in agreement of the stand of the PIO that the PIO is required to protect the informant from any probable danger to his physical safety or life.

11. However, Section 10 (1) of the Act states:-

10. Severability __ (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

With respect to the above mentioned provision and also subscribing to the ratio laid down by the Hon'ble Supreme Court in Central Board of Secondary Education & Anr. v/s. Aditya Bandopandhyay & Ors (Civil Appeal No. 6454 of 2011, arising out of SLP (c) No. 7526 (2009), the Commission holds that the information requested by the appellant has to be furnished by the PIO by covering /severing the exempted part. Those portions of the said report which contain information regarding the name or any other details which may disclose the identity of the third party shall have to

be covered or severed and the non exempted part of the information has to be furnished to the appellant.

12. Similarly, the PIO has not claimed exemption under Section 8 (1) (h), which allows exemption from disclosure of information which would impede the process of investigation or apprehension or prosecution of offenders. Meaning, the disclosure of the requested information in no way would affect the process of investigation. Also, records such as record of calls received by Police Control Room is required to be available in public domain, unless part of such information is exempted under Section 8 (1) (g) or 8 (1) (h).
13. In the background of the facts of the present matter as mentioned above the Commission concludes that the information sought by the appellant is required to be furnished by covering or severing the portion which may disclose the identity of the third party. The PIO is authorised to take an appropriate decision while covering/ severing the part information.
14. In the light of above discussion the instant appeal is disposed with the following order:-
 - a) The appeal is partially allowed.
 - b) The PIO is directed to furnish the information on point no. 2, sought by the appellant vide application dated 01/12/2022, after covering/severing the exempted portion of the information, within 10 days from receipt of the 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.

