

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 144/2022/SIC

Shri. Mohammad Firoz,
R/o Aguada Anchorage Colony,
Singerim, Candolim,
Bardez-Goa

-----Appellant

V/s

1. The Public Information Officer (PIO),
Deputy Superintendent of Police,
Crime Branch, Ribandar, Tiswadi-Goa
2. The First Appellate Authority (FAA),
Superintendent of Police (Crime),
Panaji-Goa
3. The Public Information Officer (PIO),
Dy. Superintendent of Police,
Cyber Crime, Ribandar-Goa

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 17/01/2022
Application transferred on	: 27/01/2022
PIO replied on	: 16/02/2022
First appeal filed on	: 21/03/2022
First Appellate Authority order passed on	: Nil
Second appeal received on	: 31/05/2022
Decided on	: 27/02/2023

ORDER

1. The second appeal filed by the appellant under section 19(3) of the Right to Information Act against Respondent No. 1, Public Information Officer (PIO), Deputy Superintendent of Police, Crime Branch, Ribandar, Respondent No. 2 First Appellate Authority (FAA), Superintendent of Police (Crime) and Respondent No. 3, Public Information Officer, Deputy Superintendent of Police, Cyber Crime, Ribandar, Goa, came before the Commission on 31/05/2022.
2. The brief facts of this appeal as contended by the appellant are that, he had sought information on two points from PIO, Goa Police Headquarters. The said application was transferred to Respondent No. 1, PIO. However, not satisfied with the reply received from PIO, appellant filed appeal before the FAA, which

FAA failed to hear within the mandatory period. Being aggrieved, the appellant appeared before the Commission by way of second appeal.

3. Notice was issued to the concerned parties, pursuant to which appellant appeared alongwith Advocate Atish Mandrekar, filed submission on 05/08/2022. Respondent No. 1, PIO was represented by official representative under authority letter, filed reply on 22/06/2022 and submission on 05/07/2022. During the proceeding PIO, Deputy Superintendent of Police, Cyber Crime was impleaded as Respondent No. 3. Respondent No. 3, PIO was represented by Shri. Devendra Pingle, APIO and Shri. Sarvesh Sawant, PSI and filed reply on 01/08/2022 and 13/09/2022.
4. Appellant submitted that, Respondent No. 1 and Respondent No. 2 have deliberately not complied with the provisions of the Act and avoided disclosure of the information. It was obligatory on the part of the PIO to call for the information from his subordinates or superiors to furnish the same to the appellant. Appellant further stated that access to information under section 3 of the Act is the rule and exemption under section 8 of the Act the exception, yet information is not furnished. The said act of PIO amounts to deemed refusal under section 7(2) of the Act.
5. Respondent No. 1, PIO stated that he received the said application, transferred from PIO, Goa Police Headquarter on 10/02/2022 and vide reply dated 16/02/2022 furnished the information to the appellant. There is no offence registered pertaining to the complaint of the appellant in Crime Branch and it is learnt that Cyber Crime Police Station had registered an offence upon the complaint of the applicant. Similarly, appellant had filed first appeal dated 21/03/2022 before the appellate authority of Superintendent of Police (HQ) and office of the FAA, Crime Branch did not receive any appeal.
6. Upon perusal it is seen that, though the application was filed by the appellant before the PIO of Goa Police Headquarters, the information was not available in the office of the PIO, Goa Police Headquarters, hence the said application was transferred to the PIO of Crime Branch. However, the matter referred in the application by the appellant was not part of record of Respondent No. 1, hence he replied that the information sought on point No. 1

and 2 is 'Nil'. Appellant, if aggrieved by the said reply, was required to file appeal before the FAA, Superintendent of Police, Crime Branch, but appellant filed appeal before the FAA, Goa Police Headquarter. According to Respondent No. 1, PIO the said appeal was transferred vide letter dated 29/03/2022 to the FAA, Superintendent of Police, Crime Branch, but there is no record available showing the FAA, Superintendent of Crime Branch received the appeal. Consequently, the first appeal was not heard and decided.

7. Being aggrieved by non receipt of the information and non hearing of the appeal, appellant preferred second appeal before the Commission. Upon realizing that the Complaint referred in the application by the appellant is under investigation before the office of the PIO, Deputy Superintendent of Police, Cyber Crime, Ribandar, the Commission directed Respondent No. 1, PIO to forward the application to the office of the Deputy Superintendent of Police, Cyber Crime and impleaded the PIO of the said authority as Respondent No. 3.
8. Pursuant to the notice dated 15/07/2022 Respondent No. 3, PIO appeared before the Commission through official representative under authority and filed reply on 01/08/2022 and 13/09/2022. Respondent No. 3 PIO stated that he has already informed the appellant that FIR has been registered and the matter is under investigation. PIO further contended that, the above mentioned case is under investigation and only partial details/data is received till date. The required data is awaited from the service providers and the banks involved in the matter. The matter pertains to different banks including ICICI Bank, Punjab National Bank and others and the information received so far is being investigated. The investigation includes ATM withdrawals, electronic transfers of money to more than one account. The matter is very sensitive, involves many suspects and any disclosure at this stage will impede the investigation. Cyber Crime Police are taking all the efforts to trace the accused persons involved in the crime, hence disclosure of the available information should be exempted at this stage as the disclosure may help the accused persons.
9. The Commission observes that the case referred in the above para pertains to online transactions done at different places involving many bank accounts in number of banks. The appellant has lodged

a complaint before the Goa Police stating, he was fraudulently made to transfer total amount to the tune of Rs. 5,04,300/- into different bank accounts. The said Complaint is being investigated by the Cyber Crime Branch of Goa Police.

10. The Commission endorses the contention of the PIO of Cyber Crime Branch that the investigation of the said case is not complete and disclosure of any available information at this stage may affect the process of investigation, which may help the online fraudsters. Similarly, the Commission notes the argument of the PIO that his office is currently investigating number of such cases, total number of suspects is still not known, number of persons got cheated through online transaction and number of banks and accounts involved in such cases is also under investigation. Section 8(1)(h) of the Act allows the public authority to exempt from disclosure the information which would impede the process of investigation or apprehension or process of prosecution of offenders. Thus, the Commission agrees with the stand of the PIO that the disclosure of the information sought by the appellant will impede the ongoing investigation, hence the same should not be disclosed till the investigation is complete.
11. Advocate Atish P. Mandrekar, while arguing on behalf of the appellant requested for the updates on the status of the investigation of the case mentioned in the application. Advocate Mandrekar stated that FIR was registered on 20/06/2022, yet there is no any progress on the front of investigation, and being the complainant, he needs to know the status of the investigation.
12. Here, the Commission, though agrees with the stand of the PIO of not disclosing the information in view of section 8(1)(h) of the Act, is of the opinion that the appellant being the complainant of the matter before the Cyber Crime Branch, should be given updates of the status of investigation. This can be done by the PIO by allowing the appellant to inspect the relevant records of investigation of his complaint. However, documents disclosure of which may impede the investigation, need not be furnished after inspection, until the investigation is complete.
13. In the background of the above discussion the Commission finds no fault in the stand of the PIO, however, concludes that PIO

is required to provide inspection of the documents pertaining to the ongoing investigation of the complaint lodged by the appellant.

14. Thus the present appeal is disposed with following order:-

a) Respondent No. 3, PIO, Deputy Superintendent of Police, Cyber Crime, Ribandar Goa is directed to provide inspection of the information sought by the appellant, vide application dated 17/01/2022, within 10 days from receipt of this order.

b) All other prayers are rejected.

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