

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 264/2022/SIC

Mr. Joao Pereira,
H.No. 40, Acsona,
Utorda- Majorda,
Salcete-Goa.

-----Appellant

v/s

1. The Public Information Officer,
Sub Divisional Police Officer,
Margao-Goa.

2. The First Appellate Authority,
Superintendent of Police-South,
Margao-Goa

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 27/06/2022
PIO replied on	: 24/07/2022
First appeal filed on	: 13/08/2022
First Appellate Authority order passed on	: 15/09/2022
Second appeal received on	: 17/10/2022
Decided on	: 14/03/2023

ORDER

1. The second appeal filed by the appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') against Respondent No. 1, Public Information Officer (PIO), and Respondent No. 2, First Appellate Authority (FAA) came before the Commission on 17/10/2022.
2. The brief facts of this appeal as contended by the appellant are that, vide application dated 27/06/2022 he had sought from PIO information on two points. It is the contention of the appellant that he did not receive reply and information within the stipulated period and treating this as deemed refusal he filed appeal before FAA. That, he never received any notice from the FAA, but order was passed in the matter on 15/09/2022. Being aggrieved, he filed second appeal before the Commission.
3. Pursuant to the notice, appellant appeared and pressed for the information as well as penal action against the PIO. Shri. Therron

D'Costa, Police Inspector, Colva Police Station appeared on behalf of the PIO under authority and filed PIO's reply on 19/01/2023.

4. PIO stated that, the information sought was compiled and sent to the appellant vide letter dated 24/07/2022, within the stipulated period. PIO further submitted that, as regards to information requested by the appellant at Point (b) of this application under RTI Act dated 27/06/2022, wherein he had requested to furnish name and residential address of the Police constable who came charging on him and shouted loudly in the presence of Police Personnel, Lady Police enquiry officer, complainant and Carlos Pacheco on 26/06/2022 at about 7.00 pm., it is submitted that the information sought by the appellant is not specific in nature. Moreover, the information sought by the appellant is personal in nature. The disclosure of such information has no relationship to any public activity or interest and would cause unwarranted invasion of the privacy of the individual.
5. Appellant stated that, PIO never bothered to reply nor furnished any information within the stipulated period. PIO prepared a backdated reply and furnished, information on point (a) to the appellant vide letter dated 24/07/2022, and denied information with respect to point (b) of the application on flimsy grounds.
6. Appellant further stated that, the FAA did not serve notice for the hearing but stated in his order that the appellant never appeared before him, which is false observation made by the FAA. Action of the appellate authority is wrong, and that since the information qualifies as information under the Act, he prays for the remaining information.
7. During the proceeding on 07/02/2023 arguments of both the sides were heard. Appellant argued stating that the PIO has not stated any reasoning for denying the information on point (b) of his application. The said denial needs to be enquired. Also, PIO and FAA have together manipulated records during the proceeding of the first appeal and he feels affected and abused by these procedure.
8. Shri. Therron D'Costa, Police Inspector, while arguing on behalf of the PIO stated that, reply was furnished and appellant received the same within the stipulated period. With respect to point (b) information as available has been furnished and information which does not exist cannot be provided to the appellant. Also, allegations

made by the appellant are baseless, therefore, he requests the Commission to pass an appropriate order in the matter.

9. Upon perusal it is seen that, vide application dated 27/06/2022 appellant had sought information on two points, i.e. (a) and (b). Information on point (a) has been furnished by the PIO vide reply dated 24/07/2022 which was acknowledged by the appellant before the Commission. Therefore, issue remains to be decided pertains to PIO's reply with respect to information on point (b).
10. Appellant under point (b) of his application had sought following information.
 - (b) Furnish me the name and residential address of the police constable who came charging on me and shouted loudly (get out several times and sent me out of the police station) in the presence of other police personal, lady police enquiry officer, complainant and Carlos Pacheco on 26.06.2022 at about 7.00 pm.

To this query, vide letter dated 24/07/2022 PIO replied , "As per APIO/PI of Colva Police Station, no such information is available."

11. PIO, alongwith his reply produced copy of the reply dated 24/07/2022 sent to the appellant and stated that no such information pertaining to the incident quoted by the appellant is available in the police station, hence no more information can be furnished. On the other hand, appellant though made some allegations against the respondent PIO and FAA, has not produced any evidence to substantiate his allegations.
12. In such a situation, after considering the available facts the Commission finds that the PIO had furnished information on point (a) of the application and the appellant has received the same. The Commission further finds that there is no information on point (b) available with the PIO, hence he cannot be directed to furnish the information which is not available.
13. FAA, while deciding the first appeal had rightly upheld the stand of the PIO and in the background of these facts the Commission concludes that the FAA's order needs to be upheld and the instant appeal is required to be disposed accordingly.
14. In the light of above discussion, the Commission finds the present appeal bereft of merit, thus the same is disposed as dismissed and the 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