

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 236/2023/SIC

Sunita M. Furtado,
H. No. 51, Copelwaddo,
Sernabatim, Salcete-Goa 403708

-----Appellant

v/s

1. The Public Information Officer,
Office of the Sub-Divisional Police Officer,
Margao, Salcete-Goa 403601.
2. The First Appellate Authority,
Office of the Superintendent of Police (South)
Margao, Salcete-Goa 403601.

-----Respondents

Relevant dates emerging from appeal:

RTI application filed on	: 01/04/2023
PIO replied on	: 27/04/2023
First appeal filed on	: 15/05/2023
First Appellate Authority order passed on	: 07/06/2023
Second appeal received on	: 03/07/2023
Decided on	: 12/02/2024

ORDER

1. The appellant under Section 6 (1) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') had sought information on eight points from Respondent No. 1, Public Information Officer (PIO). Being aggrieved by the reply of the PIO, he filed first appeal before Respondent No. 2, First Appellate Authority (FAA). The first appeal was disposed by the FAA vide order dated 07/06/2023. Aggrieved by the said order, the appellant has appeared before the Commission by way of second appeal.
2. The concerned parties were notified, pursuant to which, Shri. Therron D'Costa, P.I., Colva Police Station appeared on behalf of PIO, filed reply on 23/08/2023 and submission on 23/11/2023. Shri. Nixon Furtado appeared on behalf of the appellant under authority letter and filed written arguments dated 24/01/2024.
3. PIO stated that, the application of the appellant was replied within the stipulated period as required under the Act. That, the appellant was informed that the said case, mentioned in the application has been finalised as 'A Final' vide No. 18/06 dated 03/08/2006 and same

has been granted as 'A Summary' by JMFC 1st Additional Court, Margao on 28/08/2007. PIO further submitted that, the appellant was informed that the information on point no. 2 to 8 has been weeded out upto the year 2015, hence the same is not available at the Police station.

4. Appellant, vide written arguments, submitted that, the PIO in his reply filed before the Commission on 23/08/2023, has not denied existence of information with respect to point no. 1,2,3,7 and 8. As such, information on these points needs to be provided. Further, under point no. 1, he had sought information regarding status of the F.I.R. 57/98, lodged on 17/08/1999, by Police Inspector, Colva Police Station with reference to the complaint dated 20/07/1999 lodged by the Block Development Officer, Salcete, based on the complaint filed by the appellant. In reply, the PIO had stated that the said case has been granted as 'A Summary' by JMFC 1st Additional Margao, however, the PIO has not produced the said order of JMFC. Appellant further contended that, the respondents are hiding the information towards F.I.R. filed by the Government Department itself, i.e. Block Development Officer.
5. The Commission has perused the appeal memo, reply of the PIO as well as written arguments of the appellant. Upon careful perusal, it is seen that, the appellant had sought information on eight points and she is primarily aggrieved by non receipt of information on any of the points. She is further aggrieved by the stand of the FAA of upholding PIO's say.
6. Appellant vide application dated 01/04/2023 had sought information as below:-

"Subject : certified copies of Documents under Section 6 (1) of the Right to Information Act 2005.

Reference: Complaint dated 20/07/1999 lodged by the Block Development Officer, Salcete based on my complaint (FIR No. 57/99 u/s 468 lodged on 17/08/1999 by PI, Colva Police Station, Colva).

Sir,

With reference to the above, kindly issue me certified copies the following documents/ information mentioned herebelow.

1. Status of the F.I.R 57/98.

2. Whether the document 01/10/1985 (repair certificate) was subjected to forensic investigation.

3. *Whether the report of forensic investigation has been received.*
4. *Date on which the document was sent to forensic investigation.*
5. *Date on which the forensic investigation report was received by the Goa Police.*
6. *Copy of the outward letter of the Goa Police referring the matter to the forensic investigation.*
7. *Copy of the outward register maintained by the Goa Police in reference to the outward letter referring for forensic investigation.*
8. *Certified copy of the Forensic Investigation Report."*

7. With respect to point no. 1, PIO has replied by stating that, "case is finalised as 'A Final' vide No. 18/16 dated 03/08/2006 and same has been granted as 'A Summary' by JMFC 1st Additional Margao on 28/08/2007."

Referring to the Police Manual, 'A Summary' report is filed in a case where the offence is made out but the evidence is untraceable or the accused persons are not found. 'A Summary' means that evidence was not sufficient, but offence was there. Meaning, the investigation is yet to reach completion due to lack of evidence.

Here in the present matter, according to the PIO, the JMFC has granted 'A Summary' meaning, there is an offence and it is not a case of discharge or closure. It means it was a genuine case of offence, but the investigation could not collect evidence. Thus, in the considered opinion of the Commission, 'A Summary' reflects incomplete investigation. Hence, if the JMFC 1st Additional Margao had granted 'A Summary', then, the PIO should be in possession of the said order of JMFC Margao and is required to furnish copy of the same to the appellant.

8. Further, with respect to point no. 2 to 8, PIO's reply to the appellant states that, "As per APIO/PI of Colva Police Station, point no. 2 to 8 has been weeded off vide order no. SP/S-Goa/Reader/ 9026/2018".

The Commission is of the opinion that the PIO has to substantiate the said statement regarding weeding out the concerned information. Thus, the PIO was directed to furnish documental evidence to substantiate his reply. Accordingly, PIO on 23/11/2023 furnished copy of the order, under subject: weeding of old Records, signed by Shri. S. M. Prabhudessai, Superintendent of Police, South Goa District, Margao.

However, the Commission observes that, the information sought by the appellant was weeded out according to the PIO vide order No. SP/S-Goa /Reader/9026/2018 and the copy of the weeding out order furnished by the PIO is No. SP/S-Goa/Reader/3814/2014. Meaning, the PIO has furnished weeding out order of the year 2014, although according to him, the information sought by the appellant was weeded out vide order of the year 2018. Thus, the Commission finds that the PIO has failed to furnish relevant weeding out order to substantiate his contention that the information sought by the appellant on point nos. 2 to 8 was weeded out vide order of the year 2018.

9. This being the case, the Commission concludes that, the PIO has failed to substantiate his statement that the information on point nos. 2 to 8 was weeded out. Hence, it is held that, the said information has to be available in the records of the PIO and the PIO is required to furnish the same to the appellant.

Similarly, as held in Para 7 above, the PIO is mandated to furnish information on point no. 1 to the appellant.

10. In the light of facts and findings of the Commission in the instant matter, as mentioned above, the present appeal is disposed with the following order:-

- a) PIO is directed to furnish the information on point nos. 1 to 8, sought by the appellant vide application dated 01/04/2023, within 15 days from receipt of this order, free of cost.
- b) In case, the said information is not available, the PIO is directed to file an affidavit stating reasons as to why the said information is not available in his records. The said affidavit has to be filed before the Commission within 20 days from receipt of this order.
- c) In case, the said information has been weeded out, the PIO is directed to furnish copy of relevant weeding out order by highlighting the information sought by the appellant, within 20 days from receipt of this order.
- d) All others 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.