

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Complaint No. 96/2009

Mr. Socorro D'Souza,
Noronha Heritage Bldg.,
1st Floor, Dongor Waddo, Fatorda,
Margao – Goa

... Complainant.

V/s.

Public Information Officer,
Directorate of Prosecution,
Shrama Shakti Bhavan, 7th Floor,
Panaji – Goa

Complainant absent.
Opponent in person.

Dated: 16.07.2010

ORDER

The Complainant by request dated 29.10.2009 sought information under RTI Act from the Opponent and requires:

- 1) Copy of letter addressed by PI Rajendar Prabhudessai, (posted at Margao town Police Station in the year 2008) for legal opinion of APP, Margao civil Court in Crime No. 257/07 registered at Margao Town Police Station.
- 2) The Opinion dated on 12.09.2008 given by APP Margao to PI Rajendra Prabhudessai directing for filing of Charge Sheet.
- 3) Name of the Learned APP issuing the legal opinion to charge sheet the crime No. 257/07 registered at Margao Town Police Station.

2. The Opponent on 16.11.2009 transferred the information sought at Sr. No. 2 to the Public Information Officer, the Superintendent of Police, South Goa and on the same date provided the information at Sr. No. 1 and 3 to the Complainant and also in respect of Sr. No. 2 informing the Complainant that

...2/-

the opinion tendered by APP, Margao in Crime No. 257/07 is barred u/s. 8(1) (h) of RTI Act. The Complainant, aggrieved by the transfer of the information sought to the Superintendent of Police, South, and the decision of the Opponent refusing the information, preferred this Complaint.

3. Apart from the fact that the opinion in a criminal case pending investigation which is sought by the Police Authorities from the Prosecution Authorities, is an internal arrangement between them not forming part of the records, without any force of law and where no public interest is involved, such opinion given by the Prosecution Authorities stands in a fiduciary relationship with the Police Authorities seeking opinion and such opinion the former need not give to the latter, being exempted u/s. 8(1) (e) of RTI Act. An element of trust and confidentiality is present when an opinion is sought and the Complainant cannot ask this opinion from the Opponent.

4. Though on different clause of exemption, the First Appellate Authority rightly decided that the opinion of the APP is exempted from disclosure and which is u/s. 8(1) (e) of RTI Act.

With the above observations, the Complaint is accordingly disposed off.

Sd/-
(Afonso Araujo)
State Information Commissioner