

# GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: **Shri M. S. Keny, State Chief Information Commissioner**

**Appeal No. 53/SCIC/2010**

Shri Andre Joao Fernandes,  
Alto Desterro, Bogda,  
Vasco –da-Gama –Goa.

....

Appellant.

V/s.

1) Public Information Officer,  
Supdt. of Police (South),  
Margao-Goa.

....

Respondent No.1.

2) First Appellate Authority,  
Inspector General of Police,  
Panaji –Goa.

....

Respondent No.2.

## **JUDGEMENT**

(22/09/2010)

1. The Appellant, Andre Joao Fernandes, has preferred the present appeal praying that orders of the Respondents be quashed and set aside; that the information sought by the Appellant be submitted to him by issuing necessary directions to Respondent No. 1 and 2 and that the information be provided to him free of cost.

2. The brief facts leading to the present appeal are as under:-

That the appellant, vide his application dated 27/10/2009 sought certain information under Right to Information Act 2005 ('RTI' Act for short) from the Director General of Police. That the same was transferred under section 6(3) to the Public Information Officer, the Superintendent of Police (South), Margao Goa to furnish the information. It is the case of the Appellant that the Public Information Officer/Respondent No. 1 failed to furnish part of the information within the statutory period of 30 days and rejected the information pertaining to point No. 1 under section 8(1) (4) of Right to Information Act 2005. That First Appeal was filed.

...2/-

Being aggrieved the appellant has preferred the present Appeal on the grounds as set out in the memo of appeal.

3. The Respondents resist the Appeal and the reply of Respondent No. 1 is on record. It is the case of the Respondent No.1 that Superintendent of Police of Margao transferred the application dated 27/10/2009 to the S.D.P.O. Vasco for necessary action. That vide letter dated 20/11/2009 the Respondent No. 1 furnished the information to the Appellant that is copies of arrest/Court surrender form/arrest card and complaint, however, the copy of the Panchanama was not furnished, as the said document was part of Mormugao Police station in Cr. No. 41/09 which is under investigation. That the appellant is the accused in the said Cr. No. 41/90. The Respondent No. 1 denies the grounds as set out in the Memo of appeal.

4. This matter was posted for the first time on 19/04/2010, on that day Appellant was present. However, on subsequent hearing i.e. 06/05/2010, 28/05/2010, 14/06/2010, 08/07/2010, 30/07/2010, 24/08/2010 and to-day on 20/09/2010 the Appellant remained absent. Notices were issued and various opportunities were given to the Appellant but he remained absent. Neither he informed this Commission. On 20/09/2010 the matter was posted for order but still one chance was given to the Appellant. Today also appellant is absent. However I am proceeding on the basis of material on record.

5. Heard Adv. Smt. Harsha Naik for the Respondent No. 1 and perused the records.

It is seen that by application the applicant sought certain information from Director General of Police. The information was sought as under:- "All the documents with regards to the arrest made on 23/09/2009 by Mormugao Police

authorities including statements of the Complainant, Panchanama, report etc". This letter was transferred to the Public Information Officer Superintendent of Police, Margao Goa. The same was received by the Respondent No. 1 on 04/11/2009. The information was furnished by letter dated 20/11/2009. It is seen that copies of Arrest/Court surrender form, arrest card and complaint are enclosed. However copy of panchanama was not furnished on the ground that it would impede the process of investigation. Form the records it appears that investigation is pending.

Section 8 is as under

Section 8(1) notwithstanding anything contained in this Act, there shall be no obligation to give any citizen -----

(a) .....

(b) .....

(c) .....

(d) .....

(e) .....

(f) .....

(g) .....

(h) Information which would impede the process of investigation or apprehension or persecution of offenders;

(i) .....

No doubt investigation is pending and what is sought is the copy of the panchanama which is in Cr. No. 41/2009. According to Respondent No. 1 Appellant is the accused in the said C.R. Under such circumstances the concerned authorities have right to deny information once section 8(1)(h) of the Act is attracted. If investigation is pending the Respondent No. 1 is justified in invoking section 8(1) (h) of Right to Information Act and claim exemption from furnishing such information.

7. It is not known whether by now charge sheet is filed. The Appellant also is not attending the hearing nor any body on his behalf appears. In any case if charge sheet is filed the Appellant will get the same as a matter of course. The Respondent No. 1 also can furnish the same to the Appellant under Right to Information Act once the chargesheet is filed.

8. Regarding prayer (d). According to Appellant information be furnished to him free of cost.

It is seen that application is dated 27/10/2009. The same was transferred under section 6(3) to the Respondent herein. Reply is dated 20/11/2009. Considering this the same is within time. So section 7(6) is not attracted.

9. In view of all the above, I pass the following order:-

**ORDER**

The Respondent No. 1 is hereby directed to furnish the remaining information to the Appellant vide his application dated 27/10/2009 only after charge sheet is filed. The information be furnished within 15 days after filing the charge sheet. In case charge sheet is filed the same be furnished within 15 days from the date of receipt of the order.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 22<sup>nd</sup> day of September, 2010.

Sd/-  
(M.S. Keny)  
Chief Information Commissioner



