

GOA STATE INFORMATION COMMISSION
AT PANAJI
CORAM: Shri M. S. Keny, State Chief Information Commissioner

Appeal 34/SIC/2010

Mr. Norman Albuquerque,
R/o H.No. 215-A,
Alto Porvorim,
Bardez –Goa.

...

Appellant

V/s

1) Supdt. of Police (South),
Public Information Officer,
Bardez–Goa.

...

Respondent No. 1

2) Inspector General of Police,
FAA, Panaji –Goa.

...

Respondent No.2

Appellant in person.

Respondent No. 1 and 2 absent .

Adv. H. Naik for Respondent No. 1 in person.

Adv. N. Narvekar for Respondent No. 2 in person.

J U D G E M E N T
(29/11/2010)

1. The Appellant, Norman Albuquerque, has filed the present appeal praying that records and proceeding to be called for from Respondent No. 1 and 2, that the impugned order of the Respondent NO. 2 dated 28/01/2010 in Appeal No. 07/2010 be quashed and set aside or modified and the relief of penalty compensation and disciplinary action against Respondent No. 2 be granted.

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

That the Appellant, vide his letter dated 17/12/2009, sought certain information under Right to Information Act 2005 ('RTI' Act for short) from the Public Information Officer ('PIO'/Respondent No.1). That by reply dated 04/01/2010 information regarding point (a) was not furnished as the Appellant was not the party concerned in CR No. 43/2009. Being aggrieved the Appellant preferred the appeal before the First Appellate Authority. That during hearing parties were heard and the order dated 28/01/2010 was past rejecting the appeal. Being aggrieved the Appellant has preferred the appeal on various grounds as set out in the Memo of appeal.

3. The Respondent resists the appeal and their replies are on record. It is the case of Respondent No. 1 that Appellant is not at all aggrieved and that information does not concern about life and liberty of the Appellant Respondent No. 1 denies the case as set out by the Appellant. It is, further, the case of Respondent No. 1 that the P.I. Anjuna Police Station addressed a letter dated 18/01/2010 to Shri Leonard Gracais D'Souza thereby requesting him to inform whether he has no objection to provide any information to the Appellant as sought by him. That thereafter Shri Leonard D'Souza vide letter dated 18/01/2010 to P.I of Anjuna Police Station, strongly objected for furnishing the documents to the Appellant. That documents at point (b) were furnished and documents at point (a) were not provided to the Appellant as he was not the party in Cr. No. 43/09. It is also the case of the Respondent No. 1 that the case has been referred to J.M.F.C. at Mapusa Court, to finalize whether it comes under 'A' summary or not. It is further the case of Respondent No. 1 that the investigation will be hampered if the information at point 'a' is furnished to the appellant, he being a third party. According to Respondent No. 1 appeal is liable to be dismissed.

It is the case of the respondent No. 2 that Respondent No. 2 heard the appeal and disposed off the same. That regarding penalty State Information Commission is empowered to imposed penalty, if any and such powers are not vested in First Appellate Authority. According to the Respondent No. 2 the Appeal is liable to be dismissed.

4. Heard the arguments. The Appellant agued in person Adv. Smt. Harsha Naik argued on behalf Respondent No. 1 and Adv. Smt. N. Narvenker argued on behalf of Respondent No. 2.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the relief prayed is to be granted or not.

It is seen that the Appellant, vide his letter dated 17/02/2009 sought certain information under Right to information Act. The information consisted of point (a) and (b). Point (a) refers to Cr. No. 43/09. It is seen that by letter dated 04/01/2010 Appellant was informed that information called at point (a) could not be provided as he is not the party concerned in Cr. No. 43/09. The Appellant was called to collect the information/documents at point (b) from office of S.P. North Porvorim on any working day after depositing an amount of Rs. 10/-. It appears that Appellant received the said information.

It is seen that Appellant preferred the Appeal before First Appellate Authority. It is seen that by order dated 28/01/2010 the Appellate Authority upheld the reply of the PIO. Thereby rejecting the Appeal.

6. The grievance of the Appellant is that his request ought to have been granted as the information sought was required for the purpose of safeguarding his personal liberty

From the reply of Respondent No. 1 and submission of Adv. for Respondent No. 1 it is clear that investigation would have been hampered if information at point 'a' is furnished to the Appellant, being the third party.

It is seen that investigation is complete and the case is referred to J.M.FC. at Mapusa Court to finalize whether it comes under 'A' summary or not.

Since investigation is over in my view the information sought could be furnished to the appellant.

7. It is to be noted here that right to know is a basic right of citizens of a free country. The Right to information Act 2005 has been enacted to provide for legal right to information of citizens to secure access to information under control of Public authorities. The Citizens and information seekers have subject to few exceptions, an overriding right to be given information on matters in possession of State and Public Agencies that are covered by the Act.

8. The Appellant has referred to life and liberty and according to him information ought to have been given within 48 hours. However, there is no mention of the same in the original application dated 13/12/2009.

It is to be noted here that information in cases concerning "life and liberty of a person" shall be provided within 48 hours. Life and liberty are two of the most important facets of our existence. RTI Act envisages that information pertaining to life and liberty of a person should be disclosed urgently. This has to be applied only in exceptional cases and the question as to whether information sought concerns life and liberty of a person has to be carefully scrutinized in proper perspective and imminent danger has to be substantially proved.

9. Coming to the aspect of delay. The application seeking information is dated 17/12/2009. The reply furnishing part information is dated 04/01/2010. That means reply is in time. Appeal was filed on 21/01/2010 and the same was disposed by order dated 28/01/2010. This disposal is also within time. The question of delay does not arise in view of above.

10. Adv. for Respondents submitted that the records have been sent to J.M.F.C. Court Mapusa. The Respondents to furnish the information available with them. In case the information is not available with the Respondent No. 1 the Respondent No. 1 to transfer the said application to the concerned Authority/J.M.F.C. Court under section 6(3) (ii) of RTI Act and the concerned authority to deal with the same.

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

ORDER

The Appeal is allowed. The order of FAA is set aside. The Respondent No. 1 is hereby directed to furnish the information to the Appellant in respect of point (a) of his application dated 17/12/2009 within 20 days from the receipt of this order.

...5/-

In case, if any information, is not available the Respondent No. 1 /PIO to transfer the request/application to the concerned Authority within five days from the date of receipt of the order and the concerned authority to deal with the same.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 29th day of November, 2010.

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

