

**GOA STATE INFORMATION COMMISSION**  
**AT PANAJI**

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

Appeal No. 50/SIC/2010

Smt. Vijaya R. Satardekar,  
Flat No. d1/2, 1<sup>ST</sup> Floor,  
Cedmar Apartment,  
Panaji - Goa

...

Appellants

V/s

1. First Appellate Authority,  
Inspectorate General of Police,  
Panaji -Goa
2. Public Information Officer,  
Superintendent of Police (North)  
Porvorim,  
Bardez - Goa

...

Respondent No.1.

...

Respondent No.2.

Adv. F. Fernandes for Appellant.

Adv. Smt, Harsha Naik for Respondent No. 2.

**J U D G M E N T**  
**(23.12.2010)**

1. The Appellant, Smt. Vijaya R. Satardekar, has filed the present Appeal praying that impugned order be quashed and set aside. That Respondent No. 2 be ordered to give to the Appellant the said information as per her request made in the application dated 18.09.2009; that penalty be imposed on the Respondent No. 2 for baselessly denying information to the Appellant and that disciplinary action against Respondent No. 2 be recommended.

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

That the Appellant filed an application dated 18.09.2009 seeking inspection of the files in respect of Crime Case No. 38 of 2002 registered at Panaji Town Police Station on the false complaint dated 25.02.2002 of one Smt. Rucmini Raghunath Narvekar against her, her husband Shri Ranjit D. Satardekar, her brother Shri Umesh Pokhare, one Antonio Fernades and Sadiq Shaikh and for copies of documents therefrom. That by letter dated 13.10.2009 the Respondent No. 2 rejected the said

request of the Appellant on the ground that charges are framed against the other accused persons one of them being Appellant's husband and the same would impede the process of prosecution of offenders. That the ground given by the Respondent No. 2 is baseless and is an attempt to conceal the information to the Appellant to protect himself and other police authorities including the State against whom Appellant and her husband have filed civil suits claiming compensation for their malicious prosecution. Being not satisfied the Appellant preferred the Appeal before the First Appellate Authority, however, the same was dismissed on baseless ground. Being aggrieved by the said order the Appellant has preferred the present Appeal on various grounds as set out in the memo of appeal.

3. The Respondents resist the Appeal and the reply of the Respondent No. 2 is on record. Respondent No. 2 denies that there is refusal of information on the part of Respondent No. 2. That the Respondent No. 2 admits that the reply dated 13.10.2009 was sent stating that the information cannot be provided as the charges are being framed against the other accused persons one of them being husband of the Appellant and if provided it would impede the process of prosecution of offenders. The Respondents No. 2 denies the case of the Appellant as set out in the Memo of Appeal. It is further the case of the Respondent No. 2 that Cr. Case No. 36/02 is for the offences of forgery and cheating. That F.I.R. has been registered in the said crime case and accordingly chargesheet has been framed. That the Appellant is already in possession of documents/information sought under R.T.I. Act. That the Respondent No. 2 reiterates what is stated in the reply.

4. Heard the arguments. The learned Adv. Ms. F. Fernandes argued on behalf of the Appellant and the learned Adv. Ms. Harsha Naik argued

on behalf of Respondent No. 2. Both sides advanced elaborate arguments.

Advocate for Appellant referred to the facts of the case in detail including application filed, reply, etc. which are on record. She also referred to the orders of the Supreme Court. According to her chargesheet is filed. She next submitted that documents ought to have been furnished to her and that the ground of denial of information is not a valid one.

Advocate for Respondent No. 2 also referred to the facts of the case in great details. She referred to the application and submitted that the information sought is general and not specific. Adv. for Respondent No. 2 also referred to the reply of the Public Information Officer and submitted that Public Information Officer rightly rejected the request. According to her what is sought is all the Files and that there is no specific query. Advocate for Respondent No. 2 next submitted that the matter of other Accused is still sub-judice and that copies can be sought from the Court. According to her the Commission has to decide what documents to give.

In reply Advocate for Appellant submitted that files are of C.R. No. 36/2002. She admits that matter is pending before J.M.F.C.

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

It is seen that by application dated 18.09.2009 the Appellant herein sought certain information under R.T.I. Act from Respondent No. 2. The information sought is as under:

“.....give me the inspection of all files pertaining to the Crime Case No. 36/2002 registered at the Panaji Police Station on the

complaint dated 25.02.2002 of Smt. Rucmini Raghunath Narvekar of Sawantwadi, alleging offences under section 420 etc of I.P.C. against me and others. I further request you to give me the attested/true copies of all the documents/papers in the said files.”

By reply dated 13.10.2009 the Public Information Officer/Respondent No. 2 informed the Appellant that the information called for could not be provided under section 8(1)(g) and (h) of R.T.I. Act as the charges are framed against other accused one of whom is the husband of the Appellant which would impede the process of prosecution of offenders. It appears that Appellant preferred Appeal before the First Appellate Authority i.e. Respondent No. 1 herein. By order dated 18.11.2009 it was observed: “The Appellant who was a co-accused has been discharged by the Supreme Court. However the husband of the Appellant is one of the accused against whom trial is sub-judice before the Court as chargesheet is filed by police. Reply of the Public Information Officer is upheld.” Thus the Appellant’s request for information was not granted.

6. It is pertinent to note that the information sought was not provided under section 8(1) (g) and (h) of the R.T.I. Act.

First I shall refer to section 8(1) (g) and (h).

“8. Exemption from disclosure of information – (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, -----  
-----  
-----

(g) the information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in compliance for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

In the case at hand the question of “identify the source of information” would not come in play as Appellant herself states in her application about Complainant, Rucmini Raghunath Narvekar of Sawantwadi. Besides, chargesheet is filed. Regarding (h) above, there is no dispute with the proposition that investigation which would impede the process of investigation, apprehension or prosecution of offenders is to be denied or withheld. However, it is to be noted here that mere existence of an investigation process cannot be a ground for refusal of information. Right to Information Act provides no exemption from disclosure requirement in sub-judice matters. The only exemption in sub-judice matters is regarding what has been expressly forbidden from disclosure by a Court of Law or Tribunal.

7. In the case before me it is an admitted position that chargesheet is filed in the Court. It is also not in dispute that Appellant was initially roped in as accused, however, the Appellant was discharged. The relevant orders are on record.

I have also perused some rulings on the same such as (i) Bhagat Singh v/s. Chief Information Commissioner & Others 2008 [2] ID 200 (Delhi High Court); (ii) Writ Petition Civil No. 8396/2009, 16907/2009, 4788/2008, 9914/2009, 6085/2008, 7304/2007, 7930/2009 and 3607 of 2007 (Delhi High Court decided on 30.11.2009) and some rulings of Central Information Commission on this point. I need not elaborate them herein. From these various rulings it emerges that a matter being sub-judice is not a ground to deny disclosure of information under R.T.I. Act. Time and again Central Information Commission has held that a matter being sub-judice is not a ground to apply the provisions of section 8(1) (h) of R.T.I. Act. It is also observed that the term ‘investigation’ used in

section 8(1) (h) in the context of this Act should be interpreted broadly and liberally.

Apart from all this in the present case chargesheet is filed. Moreover, the documents were referred in one way or other during discharge application. Investigation is over so there is no point in withholding any information.

8. It was contended by Adv. Smt. H. Naik that information sought is vague.

It is seen that request of the Appellant is twofold. Firstly the Appellant wants inspection of all files pertaining to C.R. No. 36/2002 registered at Panaji Town Police Station on the Complaint dated 25.02.2002 of Smt. Rucmini R. Narvekar of Sawantwadi. That means, Appellant wants to see the files in respect of C.R. No. 36/2002. To my mind this can be given since chargesheet is already filed. Secondly, the Appellant wants true copies of all the documents/papers in the said files. In respect of this after taking inspection the Appellant can point out what documents the Appellant wants and the Public Information Officer/Respondent No. 2 can furnish the same. However, certain documents such as case diaries, station diary as a whole need not be given as disclosing the details of case diary will have far reaching consequences. Station diary entry in respect of Appellant only can be furnished if asked.

Assuming if any documents, papers, etc. are sent to any other authority Public Information Officer to follow section 6(3) of the R.T.I. Act.

9. Advocate for the Appellant contended about penalty, etc. It is to be seen whether there is any delay in furnishing the information. It is seen from the record that request for information was made by application dated 18.09.2009. The reply was sent on 13.10.2009.

Apparently this is in time. It is the contention of the Appellant that Public Information Officer/Respondent No. 2 illegally, willfully and deliberately denied the information. I do agree that time and again various commissions including ours have decided this issue. Public Information Officer should bear this in mind and must follow the said rulings. But in the instant case good or bad the ground taken by Public Information Officer has some legal backing and therefore it is not possible to hold that denial is illegal or willful or malafide.

10. In view of all the above I am of the opinion that the request of the Appellant is to be granted as observed above. Hence, I pass the following order:-

### **ORDER**

The Appeal is allowed. The order of First Appellate Authority is set aside. The Public Information Officer/Respondent No. 2 is hereby directed to furnish the information to the Appellant vide her application dated 18.09.2009 within twenty days from the date of receipt of the order.

Public Information Officer/Respondent No. 2 to give inspection to the Appellant on a mutually agreed date and the Appellant to specify the documents as observed in para 8 hereinabove. All this to be completed within twenty days from the date of receipt of the Order and report compliance.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 23<sup>rd</sup> day of December, 2010.

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