

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

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

Appeal No. 316/2008

Shri Ranjit Satardekar,  
R/o. Flat No. D1/2, 1<sup>st</sup> Floor,  
Cedmar Apartments,  
Next to Fidalgo Hotel, M.G. Road,  
Panaji – Goa

...

Appellant

V/s

1. The Dy. Inspector General of Police,  
Government of Goa,  
Police Headquarters,  
Panaji – Goa

...

Respondent No.1.

2. The Superintendent of Police (North),  
Government of Goa,  
Porvorim,  
Bardez – Goa

...

Respondent No.2.

Appellant Adv. R. Satardekar in person.

Adv. Mrs. N. Narvekar for Respondent No. 1 and 2.

**J U D G M E N T**  
**(31.01.2011)**

1. The Appellant, Shri Ranjit Satardekar, has filed the present Appeal praying for calling the records and proceedings of First Appeal and for a direction to the Respondent No. 1 and 2 to transfer the said application dated 22.12.2008 of the Appellant to the said J.M.F.C. or the said District and Sessions Judge as per the provisions of R.T.I. Act.

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

That the Appellant, vide his application dated 22.12.2008 sought certain information under Right to Information Act, 2005 ('R.T.I.' Act for short) from the Respondent No. 2. That, by his letter dated 02.01.2009, the Respondent No. 2 rejected the request of the Appellant on the ground that the case is finalized as "C" final on 06.12.2007 before Judicial Magistrate, First Class Panaji, and that the same is pending before the

Court and as such the inspection and copies be obtained from him. That the said ground is baseless and is an attempt to conceal information from the Appellant. Being not satisfied the Appellant preferred First Appeal before the First Appellate Authority, however, the First Appellate Authority dismissed the same on the same grounds. 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 case of the Respondents is fully set out in the reply which is on record. In short it is the case of the Respondent that the application seeking information was received and the same was disposed off by reply dated 02.01.2009 and the Appellant was advised to approach before the Court for inspection of files as the same was pending in the Court. That the Appellant preferred the First Appeal and the First Appellate Authority disposed off the same. It is the case of the Respondent that on the complaint dated 09.03.2002 of Shri Sadiq Shaikh Crime Case No. 41/2002 was registered by Panaji Town Police Station against the Appellant and others. That on completion of investigation the case file pertaining to Panaji Police Station Cr. No. 41/2002 was forwarded to the Judicial Magistrate First Class Panaji, alongwith Final report No. 113/07 and "C" Final summary on 06.12.2009 for granting of "C" final. It is further the case of the Respondents that the matter is presently under the jurisdiction of J.M.F.C. Panaji and the office of the Director of Prosecution Panaji. That it is not possible for the P.I.O. to refer the matter to the Court or to the Director of Prosecution, as these authorities are not within the jurisdiction of the Police Department. That the Respondent No. 1 and 2 rightly advised the Appellant.

4. Heard the arguments. The learned Adv. R. Satardekar/Appellant and the learned Adv. Smt. N. Narvekar argued on behalf of the Respondents.

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, vide application dated 22.12.2008, the Appellant sought certain information i.e. inspection files of Cr. No. 41/2002, the attested true copies of all the documents and whether chargesheet is filed, etc. By reply dated 02.01.2009 the Respondent No. 2/P.I.O. informed the Appellant that investigation papers were forwarded to J.M.F.C. Panaji alongwith "C" final summary on 06.12.2007 before J.M.F.C. and the same is pending before the Court. P.I. O also advised the Appellant to approach the Court.

During the course of the arguments the Advocate for Respondent submit that matter is sub-judice.

It is to be noted here that R.T.I. Act provides no exemption from disclosure requirement in case of sub-judice matters. The only exemption in such matters would be what has been expressly forbidden from disclosure by a Court or Tribunal and sometimes what may constitute contempt of Court. If information is not forbidden by a Court of law can be provided.

It is the contention of the Respondent that papers are sent to the Court and case is pending before J.M.F.C. In such a case request is to be made to the concerned Court which is examining the matter.

7. In the present case the Appellant seeks to transfer the Application. Whether such a request can be granted. According to Advocate for Respondent such a request cannot be granted and she relied on Shri Gurubaksh Singh, Ludhiana v/s. P.I.O., O/o. Director, Local Bodies Punjab & anr. [2008]<sup>1</sup> ID 469 (SIC Punjab).

Section 6 reads as under:-

*“1. Request for obtaining information. – (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to –*

*(a) the Central Public Information Officer or State Public Information Officer, as the cases may be, of the concerned public authority;*

*(b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her:*

*Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.*

*(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contracting him.*

*(3) Where an application is made to a public authority requesting for an information, --*

*(i) which is held by another public authority; or*

*(ii) the subject matter of which is more closely connected with the functions of another public authority,*

*The public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:*

*Provided that the transfer of an application pursuant to this subsection shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.”*

8. Sub-section (1) of section 6 expressly requires that a person who desires to obtain information under the Act shall make a request alongwith the prescribed fee to the Public Information Officer of the concerned Public Authority specifying the particulars of the information. Sub-section (3) carves out an exception to the requirement of sub-section (1). As per the same where a public authority to whom an application for information is made, finds that information demanded is not with it but is held by some other authority, it is duty bound to transfer the application for information to the concerned authority under intimation to the applicant/information seeker. In my view sub-section (3) of section 6 cannot be read in isolation, sub-section (1) of section 6 being the main section. Intention of the Legislature in enacting sub-section (3) is noble considering right to Information is a people friendly Act. The pure objective behind enacting this provision is perhaps to lessen the travails of an information seeker, lest he is lost in the labyrinth of procedural technicalities.

I have perused the above ruling relied by the Advocate for the Respondent No. 1 Gurubaksh Singh v/s. P.I.O, Director, Local Bodies Punjab (Supra). It is observed as under:

..... However, in some cases where on account of a bona fide mistake an application seeking information is made by a person to a public authority which is not in possession of the information demanded, the application is required to be transferred by the authority receiving it to the concerned public authority. But this does not give an unfettered option to the person seeking information to make his application to any public authority of his choice. The provisions of sub section (3) would come into play only where for some reasonable cause emanating from a bona fide mistake or doubt etc., an application has been made to a public authority not in possession of the information demanded. It is only in such cases that the public authority to whom the application is made would be under an obligation to transfer it to the other public authority.

It is not that in all cases the public authorities are obligated to entertain and thereafter transfer applications to the appropriate public authorities.

In the case before me the application was filed as the matter was with the Respondents. However, it transpires that the same was referred to the Court. Under the circumstances the application could be transferred to the concerned Court. It is for the concerned Court to deal with the same. In a normal situation the information seeker should apply for information to the P.I.O. who may be in possession of requisite information.

9. In view of the above I am of the opinion that the request of the Appellant in the instant case is to be granted. Hence, I pass the following Order:

**ORDER**

The Appeal is allowed and the Respondent No. 1 is directed to transfer the said application of the Appellant dated 22.12.2008 to the concerned authority within five days from the date of receipt of this Order and the Appellant be intimated about the same.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 31<sup>st</sup> day of January, 2011.

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