

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal No. 23/SCIC/2011

Jowett D'Souza,
H.No. 139, Sernabatim,
Colva, Salcete –Goa.

... Appellant

V/s

1) The Public Information Officer,
North District Police Headquarters,
Porvorim, Bardez –Goa.

... Respondent No.1.

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

... Respondent No.2.

Appellant in person.

Respondent No. 1 and 2 absent.

Adv. H. Naik for Respondent No. 1.

J U D G M E N T
(25/03/2011)

1. The Appellant, Jowett D'Souza, has preferred the present appeal praying that the Respondent No. 1 be directed to give inspection of (1) station Diary (2) duty chart (3) vehicle log Register from 7th, 8th, 9th and 10th of January 2011 at Sr. Nos. 1, 2 and 3 of the letter dated 17/01/2011; that disciplinary action proceedings be initiated and that penalty be imposed.

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

That the Appellant addressed an application to the Respondent No. 1 seeking inspection of (1) station Diary (2) Duty Chart (3) vehicle log Register from 7th, 8th, 9th and 10th on an application dated 17/01/2011 from the Panjim Police station pertaining to the death of late Cipriano Fernandes at Goa Medical College Bambolim on 09/01/2011. That the Appellant once again wrote a letter dated 27/01/2011 to the Respondent No. 1 and brought to his notice to furnish the information within 48 hours as it comes under section 7(1) of the Right to Information Act 2005 i.e. "concerned the life of a person" inspite of this the Respondent No. 1 failed to furnish the information to the Appellant therefore the Appellant treated the said application dated 17/01/2011 as deemed rejected. That the Respondent No. 2 failed to hear nor replied to the First Appeal of the Appellant within 48 hrs. As the

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information pertains to the life of a person. Hence the Appellant treated the F.A as deemed rejected by the Respondent No. 2 therefore preferred the second appeal before the Commission. Being aggrieved the Appellant has preferred the present appeal on various grounds as set out in the memo of appeal.

3. The Respondent resists the Appeal and the reply of Respondent no. 1 is on record. It is the case of the Respondent No. 1 that the respondent No. 1 has furnished the information in toto vide letter dated 28/01/2011 vide answer No. III. That even otherwise the information sought by the Appellants pertains to third party. That no case has been made out by the Appellant in the application dated 27/01/2011 concerning the life of the person and the same ought to have been furnished within 48 hours. That no case is made out by the Appellant in the application dated 24/01/2011 to provide information within 48 hrs. That the Appellant is not aggrieved by any reply/order. According to the Respondent No. 1 the Appeal is liable to be dismissed.

4. Heard the arguments. The Appellant argued in person the learned adv. Smt. H. Naik argued on behalf of Respondent No.1.

According to the Appellant the information sought is not in any way hamper the investigation but on the contrary help the investigation to unearth the truth.

Adv. for Respondent No. 1 argued on similar lines as per the reply according to her such an information could not be furnished.

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 application dated 17/01/2011, sought certain information i.e. inspection of station diary etc. According to the Respondent

No. 1 the same could not be provided under section 8 (1)(h) of the Right to Information Act. Being aggrieved the Appellant preferred the First Appeal. It appears that the same is not so far decided and hence the Appellant preferred the present Appeal.

6. Now coming to the information sought it is seen that the Appellant is seeking only the inspection. The same to my mind can be granted.

7. In the instant case, it is seen that the application is filed first then it is referred as the same concerns the life of a person.

It is to be noted that under sub-section (1) of the section 7 the C.P.I.O. or S.P.I.O has to provide the required information within a period of thirty days. Further under proviso to sub-section (1) the information in cases concerning life or liberty of a person " shall be provided within 48 hours.

Life and liberty are two of the most important facets of our existence. Liberty means autonomy or immunity from arbitrary exercise of authority. The R.T.I Act envisages that the 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 the life and liberty of a person has to be carefully scrutinized in a proper perspective and imminent danger has to be substantially proved.

I have perused some of the rulings of Central information Commission on this point .R.C. Sankula, New Delhi (Appeal No. 3/IC(A)/CIC/2006 dated 24/04/2006) in this case prosecution was filed by C.B.I and threat to life and liberty claimed and inspection of files within 48 hours requested. It was held that as the appellant is freely performing his duties as a Government official and is leading a normal life there is no perceived threat to his life and liberty some sort of substantive evidence such as medical report that a threat to life exists is to be established.

8. Normally appeal to this Commission lies against the order of F.A.A. However, the appellant has directly approached this Commission without waiting for the same to be disposed off. This is not proper. This Commission will not entertain such things in future though this time in the ends of justice, this Commission is entertaining this appeal. The Appellant to take note that provisions of the Act are to be complied with strictly.

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

O R D E R

The Appeal is allowed. The Respondent No. 1 is hereby directed to give inspection to the Appellant as sought vide his application dated 17/01/2011 within 8 days from the receipt of the order.

The inspection to be given on a mutually agreed date.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 25th day of March, 2011.

Sd/-
(M. S. Keny)
State Information Commission

Appeal No. 23/SCIC/2011

Goa State Information Commission,
Shrama Shakti Bhavan, Gr. Floor,
Patto, Plaza, Panaji –Goa.

Dated: 31/03/2011.

To,

- 1) Jowett D'Souza,
H.No. 139, Sernabatim,
Colva, Salcete –Goa.
- 2) The Public Information Officer,
North District Police Headquarters,
Porvorim, Bardez –Goa.
- 3) The First Appellate Authority,
Inspector General of Police, PHQ,
Panaji –Goa.

Sub: Appeal No. 23/SCIC/2011

Sir,

I am directed to forward herewith copy of the Order dated 25/03/2011 passed by the Commission in the above referred Appeal for your information and necessary action.

Yours faithfully,

(Pratap Singh Meena)
Secretary

Encl: copy of Judgment/Order in 4 pages.

