

GOA STATE INFORMATION COMMISSION

AT PANAJI

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

Appeal No. 22/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 filed the present appeal praying that Respondent No. 1 be directed to give information/certified copies of documents at Sr. No. 1 to 3 of the application dated 24/01/2011; that disciplinary action proceedings be initiated and that penalty be imposed on the Respondents.

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

That vide an application dated 24/01/2011, the Appellant sought certain information under Right to Information Act 2005 ('RTI' Act for short) from the Respondent no. 1/Public Information officer ('PIO). 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 RTI Act i.e. "concerned the life of a person. "That inspite of this the Respondent No.1 failed to furnish the information to the Appellant and therefore the Appellant treated the said application 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 information pertains to the life of a person hence the appellant treated the First Appeal as deemed rejected by the Respondent no. 2. Being aggrieved the Appellant has preferred the present appeal on various grounds as mentioned in the memo of appeal.

...2/-

3. The Respondents resist the appeal and the say of Respondent No. 1 is on record. It is the case of Respondent No.1 that the information sought is in the form of queries and the same is voluminous. That the Respondent No. 1 has furnished the information vide letter dated 28/01/2011 vide answer NO. III. That even otherwise the information sought by the Appellant pertains to the third party. The Respondent No. 1 denies that the information concerns the life of the person and the same ought to have been furnished within 48 hrs. That no case is made out to provide the information within 48 hrs. The Respondent No.1 denies the grounds as set out in the application. According to the Respondent the appeal is liable to be dismissed.

4. Heard the arguments. The Appellant argued in person and the learned Adv. Smt. Harsha Naik argued on behalf the Respondent No. 1.

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

Adv. for Respondent No. 1 argued on similar lines as per the reply. According to her in view of section 8 (1) (h) the 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 24/01/2011 sought certain information from the Respondent No. 1. The information was in respect of FIR. Lodged by the Appellant. By letter dated 27/01/2011 the Appellant informed that information has not been furnished within 48 hours as the same concerns the life of a person.

6. From the records it is seen that respondent furnished the information by letter dated 28/01/2011. It is seen that on 29/01/2011 the Appellant filed the First Appeal and during the pendency filed the present appeal on 03/02/2011.

7. Now coming to the information sought the same refers to the F.I.R. lodged by the Appellant. Therefore, in my view, the same can be furnished.

8. In the instant case, it is seen that 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 RTI 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 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. In Shekhar & Aruna Roy V/s Prime Minister's Officer (Appeal NO. CIC/WB/C/2006/0066 dated 19/04/2006) the CIC held that for the matter to be treated as one of life and liberty in case of a hunger strike, the application should be accompanied with substantive evidence such as medical report that a threat to life exists.

9. Normally appeal to this Commission lies against the order of FAA. However, the Appellant has directly approached this Commission without waiting for the same F.A.A to dispose the Appeal. This is not proper. Such things will not be entertained in future. Though this time in the ends of justice, this Commission is entertaining this appeal. The Appellant to take note that statutory period to dispose the Appeal is 30/45 days.

10. 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 furnish the information as sought by the appellant vide his application dated 24/01/2011 within 6 days from the receipt of the order and report compliance.

The Appeal is accordingly disposed off.

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

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

