

# GOA STATE INFORMATION COMMISSION

## **AT PANAJI**

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

**Appeal No. 25/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

(05/04/2011)

1. The Appellant, Shri Jowett D'Souza, has filed the present appeal praying that the Respondent No. 1 be directed to give information/certified copy of documents at Sr. No. 1 to 3 of the application dated 24/01/2011; that disciplinary action be initiated against Respondents as per service rules and that penalty be imposed on the Respondents.

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

That the Appellant, vide his application dated 24/01/2011, sought certain information under Right to Information Act (RTI' Act for short) from the S.P. Headquarters, Panaji –Goa. That the said application was transferred under section 6 (3) by the Public Information Officer (PIO) Suptd. of Police (H.Q) to the Respondent NO. 1 herein. 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. "concerns the life of a person'. That in spite of this the respondent No. 1 failed to furnish the information to the Appellant, therefore, the Appellant treated the said Application dated 24/01/2011 as deemed rejected. That the Respondent No. 2 failed to hear nor replied to the first Appeal of the

...2/-

Appellant within 48 hours "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 and hence 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. 1 is on record. It is the case of the 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 in toto vide letter dated 28/01/2011 vide answer No. IV. That even other wise the information sought by the Appellant pertains to the third party. The Respondent No. 1 denies that the information sought vide letter dated 27/01/2011 concerning the life of a person and ought to have been furnished within 48 hours. That no case has been made out by the Appellant in his application dated 24/01/2011 to provide information within 48 hrs. The Respondent No. 1 denies the grounds as set out in the memo of appeal. According to the Respondent No.1 the appeal is liable to be dismissed.

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

According to the Appellant the information sought does 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 points 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 Public Information Officer, Superintendent of Police (H.Q) District Head Quarters, Panaji –Goa. By letter dated 25/01/2011 the PIO, Suptd of Police transferred the same under section 6(3) to the Respondent No. 1. By letter dated

27/01/2011 the appellant informed that information "concerned the life of a person" However the said letter is not produced in the present case though produced in other 3 cases. It is seen that the appellant preferred appeal before First Appellate Authority on 29/01/2011 and thereafter filed this Appeal on 03/02/2011. It is seen that by reply dated 28/01/2011 it is informed that information could not be furnished in view of section 8 (1)(h).

6. Now coming to the information sought the same refers to the inquiry reports from various authorities. There is no dispute that information which impedes investigation cannot be furnished.

But in the instant case most of the reports i.e. Report submitted to Registrar N.H.R. Commission dated 11/01/2011, Report submitted to the Collector & District Magistrate, Panaji Goa; preliminary enquiry report dated 10/01/2011 submitted to the sub-Divisional Magistrate Panaji -Goa; Report regarding custodial death of Shri Cipriano Fernandes; Report dated 02/02/2011 from Dy. Collector & S.D.O & Sub-Divisional Magistrate, Tiswadi etc., are already furnished. Since most of the Reports are furnished the defense of the Respondent No. 1 regarding section 8(1) (h) may not be available to the Respondent No.1. Most of the reports bear the stamp of under Secretary Home Department.

In view of this position in my view this Commission has no choice but to grant the request of furnishing information.

However it is to be noted that Appellant to see that the same information should not be asked again and again.

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. 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 the Central Information Commission on this point. The rule of law now crystallised by various rulings of Chief Information Commission is that the application should be accompanied with substantive evidence that a threat to life exists.

8. Normally, appeal to this Commission lies against the order of First Appellate Authority. However, the appellant has directly approached this Commission without waiting for the First appellate Authority to disposed off the appeal. This is not proper. Such thing 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.

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

**O R D E R**

The Appeal is allowed and the Respondent No. 1 is hereby directed to furnish the information as sought by the Appellant vide his application dated 24/01/2011 within 8 days from the receipt of the order and report compliance.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 5<sup>th</sup> day of April , 2011.

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



