

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 189/SCIC/2010

Shri Joao C. Pereira,
H. No.40, AC,
Acsona, Utorda,
Majorda, Salcete - Goa

... Appellant.

V/s.

1) The Public Information Officer,
Superintendent of Police (HQ),
Police Headquarters,
Panaji – Goa

... Respondent No.1.

2) First Appellate Authority,
Inspector General of Police,
Police Headquarters,
Panaji – Goa

... Respondent No. 2.

Appellant in person.

Representative of Respondent No. 1 and 2, Ms. Exaltacao Fernandes.

Adv. Smt. N. Narvekar for Respondent No. 1.

Adv. N. Dias for Respondent No. 2.

J U D G M E N T

(28.04.2011)

1. The Appellant, Shri Joao C. Pereira, has filed the present Appeal praying to direct the Respondent No. 1 to furnish the correct information to the Appellant as sought on the application dated 01.05.2010; to initiate action against Respondent No. 1 and 2 as per section 18 and 20 of the Act for deliberately and malafidely not implementing section 4 of the Act and to impose penalty on Respondent No. 1.

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

That the Appellant, vide an application dated 01.05.2010 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (P.I.O.)/Under Secretary (Home), Secretariat, Porvorim, Panaji, Goa. That the said application was transferred under section 6(3) of the Act by P.I.O., Under Secretary, Home to the Respondent No. 1 herein by letter dated 07.05.2010. That the Respondent No. 1 addressed a

letter to the Appellant dated 24.05.2010 alongwith annexure under the title 'Order' thereby denying the information to the Appellant. Being aggrieved the Appellant preferred the Appeal before the First Appellate Authority(F.A.A.)/Respondent No. 2. That the F.A.A. without hearing the Appellant passed the order dated 03.06.2010 after the expiry of stipulated period of 30 days, without assigning any reasons. Being aggrieved by the order of F.A.A. 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 their reply is on record. It is the case of the Respondent No. 1 that the request of the Appellant was specific. That the Respondent No. 1 in compliance with the request of the Appellant after due reference to the records of the Department has found only order issued by the Government of Goa to the officers of the Police Department related specifically to delegation of financial powers to the Director General of Police as Head of the Department under the Fundamental Rules and the supplementary rules with effect from 02.02.1999. That the order dated 08.04.1999 was made available to the Appellant by letter dated 24.05.2010. That there was no other order in possession of Respondent No. 1. According to Respondent No. 1 the present Appeal is liable to be dismissed.

It is the case of Respondent No. 2 that he decided the matter after perusal of the documentary evidence, within the provisions of the R.T.I. Act. In short, according to Respondent No. 2 order is just, proper and legal. The Respondent No. 2 denies the grounds in respect of the same as set out in the Memo of Appeal.

4. Heard arguments. The Appellant argued in person and the learned Adv. Smt. N. Narvekar argued on behalf of Respondent No. 1 and Adv. Shri N. Dias argued on behalf of Respondent No. 2.

Appellant referred to the facts of the case in detail. According to him application is dated 01.05.2010 and reply is dated 24.05.2010. He next submitted that no information is furnished. He referred to the order of F.A.A. and submitted that no notice given and no hearing was fixed. According to him

Section 4(1) (a) and (b) is not complied. He relied on the Judgment of Bombay High court in Swarup Singh Naik case. According to him his prayers be granted.

Adv. Smt. N. Narvekar submitted that available information has been furnished. She submitted that there is only one order and the same has been furnished.

Adv. Dias submitted that Respondent No. 2 passed the order on the basis of record and that F.A.A. found that information furnished was sufficient and hence the order was passed.

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 information is furnished and whether the same is in time?

It is seen that the Appellant sought certain information vide letter dated 01.05.2010. By reply dated 24.05.2010 the Respondent No. 1 furnished the information. Copy of the order is also furnished. It is also informed that as regards other officers mentioned therein there are no such orders on record from the Government. It is the contention of the Advocate for the Respondent that the order which is available is furnished. Regarding others there are no such orders.

It is to be noted here that section 2(j) provides only information held by or under the control of any public authority. The rule of law now crystallized by various rulings of Central Information Commission as well as State Information Commissions is that the information held is to be provided and the Commission's jurisdiction can go no further than only directing that information in the material form held be provided.

Viewed in this context, the information is furnished.

6. It was contended by the Appellant that no personal hearing was given.

Normally parties are to be heard. No doubt under R.T.I. Act there is no clear stipulation been made for hearing before Appellate Authority. However, principles of natural justice require that parties be heard. In any case, I have

perused the order of F.A.A. and I do not find that any prejudice has been caused to the Appellant.

7. Regarding section 4(1) (a) and (b). No doubt this has been mentioned at Second Appeal stage. Section 4 aims to make automatic disclosure of maximum information to the public. The object of this provision, i.e. section 4 is to make the most of the information available by a Public Authority at the doorstep of the citizens. In fact it is a mandate of law. The authorities are duty bound to make compliance with the provisions of section 4. The mechanism for suo motu disclosure is such that maximization of section 4 would result in minimization of recourse to section 6(1) of the R.T.I. Act thereby saving time, energy and resources of Public Authority.

In Complaint No. 492/SIC/2010 Jowett D'Souza v/s. Goa Police Department through Director General of Police & Anr., this Commission has passed the Order dated 10.01.2011. In view of the same there is no need of any other separate order.

8. Now it is to be seen whether there is delay in furnishing information. It is seen that the application is dated 01.05.2010. The same was transferred to Respondent No. 1 on 07.05.2010. The reply is dated 24.05.2010. Considering this the reply furnished is in time. There is no delay as such.

9. In view of this no intervention of this Commission is required as the information is furnished. Regarding section 4(1) (a) and (b), I have already observed above. Hence, I pass the following Order:-

ORDER

No intervention of this Commission is required. The Appeal is disposed off.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 28th day of April, 2011.

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

