

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 151/2009

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

.... Appellant

V/s.

1) Public Information Officer,
Superintendent of Police (South),
Margao - Goa

... Respondent No. 1.

2) First Appellate Authority,
Inspector General of Police,
PHQ, Panaji - Goa

... Respondent No. 2.

Appellant in person

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

Adv. Smt. H. Naik for Respondent No. 2.

J U D G M E N T **(30.05.2011)**

1. The Appellant, Shri Joao Pereira, has filed the present appeal praying that the Order of Respondent No. 2 dated 11.12.2009 be quashed and set aside; that the reply dated 20.11.2009 of the Respondent No. 1 be quashed, cancelled and set aside; to direct the Respondent No. 1 to allow the inspection of the inquiry file to the Appellant as sought by application dated 24.10.2009; that penalty proceedings be initiated for malafidely and deliberately denying the inspection to the Appellant.

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

That the Appellant vide application dated 24.10.2009 sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (PIO)/Respondent No. 1. That by letter dated 20.11.2009 the Respondent No. 1 rejected the request of the Appellant for the inspection of the inquiry file under section 8(1) (g) and 8(1) (h) of the RTI Act. Aggrieved by the reply of the Respondent No. 1 the Appellant preferred First Appeal before First Appellate Authority/Respondent No. 2. By Order dated

11.12.2009 the Respondent No. 2 rejected the request of the Appellant for inspection. Being aggrieved by the Order of Respondent No. 2 the Appellant has preferred the present Appeal on various grounds as set out in the Appeal.

3. The Respondents resist the application and the reply of the Respondent No. 1 is on record. It is the case of Respondent No. 1 that upon the Complaint lodged by one Shri Sanjay Vazirani on 15.01.2007 against Shri Joao C. Pereira, the appellant, an offence was registered under Crime No. 11/2007 by Verna Police Station under section 447, 504 and 506 (ii) of I.P.C. That upon the completion of the investigation, the Investigating Officer, had filed the chargesheet in the Court of Judicial Magistrate First Class Margao against the accused Shri Joao C. Pereria and the same is pending trial. That the copy of the chargesheet was furnished to the Accused. That the Appellant had sought information under section 6(1) of the R.T.I. Act. That the application was disposed of by rejecting the same. That the Appellant is an accused who had been chargesheeted in Crime Case No. 26/5/09 and that the chargesheet has been filed in the Court of J.M.F.C. Margaon against the accused. That there may be certain notes which may not be disclosed in public interest. Besides the said case is sub-judice. That the P.I.O. acted bonafidely in rejecting the information since the request attracts the provision of section 8(1) (g) and 8(1) (h) of the R.T.I. Act, 2005.

It is the case of Respondent No. 2 that the Order passed by F.A.A. is just and proper. The Respondent No. 2 denies the case of the Appellant as set out in the Memo of Appeal.

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

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 by application dated 24.10.2009 the Appellant sought certain information, i.e. Inspection of all enquiries files pertaining to Cr. No. 11/2007 registered against him at Verna Police Station on the Complaint of Shri Sanjay Vazirani. By reply dated 20.11.2009 the request was rejected under section 8(1) (g) and (h) of the R.T.I. Act as the disclosure of which would endanger the life or physical safety of the person and also it would impede the process of prosecution. Being aggrieved the Appellant preferred the Appeal before the First appellate Authority. By Order dated 11.12.2009 the reply of the P.I.O. was upheld.

The grievance of the Appellant is that chargesheet is filed, case is disposed off and that there is no difficulty to grant the request.

6. Now it is to be seen whether the request of the Appellant can be granted or not?

First I shall refer to section 8(1) (g) and (h) which are as under:-

“8. Exemption from disclosure of information – (1)
Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen

.....
.....

(g) information the disclosure of which would endanger the life or physical safety or any person or identify the source of information or assistance given in confidence for law enforcement or security purpose.

(h) information which would impede the process of investigation or apprehension or prosecution of offenders.”

In the case at hand the chargesheet is filed and as per the submissions made the case is disposed off. So 8(1) (g) may not be fully applicable. Again investigation is over as chargesheet is filed.

7. The request of the Appellant is that he wants to inspect the inquiry files pertaining to Cr. No. 11/2007 registered against him at Verna Police Station on the Complaint of Shri Sanjay Vazirani. To my mind this request can be given to some extent. I am fortified in this by the rulings of Central Information Commission some of which are as under:-

(i) Mukesh Bhasney V/s. CST Mumbai [No. CIC/OK/A/2006/00274 dated 15/12/2006. This case was about action taken on corruption complaint and to show all files. The Railways had maintained that inquiry is under process. However, the Commission directed to show to the applicant all files and documents relating to the inquiry for such construction.

(ii) In a case Ms. Pushpa V/s, Delhi Police, Delhi, [Application No. CIC/AT/A/2006/00395 dated 19/1/2007] where information sought regarding enquiry in respect of complaint of the Appellant to the Police, the Commission held that it may be disclosed after concealing from it names etc. of persons whose depositions were recorded.

8. The case diaries need not be shown. Regarding station diary only that part pertaining to the relevant C.R. may be shown if required. It is seen that chargesheet was filed. In case if any document is not available and if the same is produced with chargesheet Appellant can get the same through Court.

It is to be noted that some information was already given as chargesheet was filed and some more could be given by way of inspection without compromising the imperatives of confidentiality of the sources of information, investigation, etc.

9. In view of all the above, I am of the opinion that request of the Appellant is to be granted. The Appellant must be allowed to inspect the enquiry files pertaining to the investigation in Cr. No. 11/2007 registered against him at Verna Police Station on the complaint of Shri Sanjay Vazirani. Regarding case diary, I have mentioned above. Hence, I pass the following Order:-

ORDER

The Appeal is allowed. The Respondent No. 1 is directed to allow the inspection of enquiry file to the Appellant as sought by him vide his application dated 24.10.2009 in the light of observations in para 8 above, under proper supervision.

The investigation to be given within 15 days from the date of receipt of this Order and on a mutually agreed date.

The order of F.A.A. is set aside.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 30th day of May, 2011.

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

