

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 253/SCIC/2010

Shri Jowett D'Souza,
H. No. 139,
Ambeaxir, Sernabatim,
Colva,
Salcete - Goa

.... Appellant

V/s.

1) Public Information Officer,
Superintendent of Police,
South District Headquarters,
Margao, Salcete-Goa

.... Respondent No. 1.

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

.... Respondent No. 2.

Appellant in person.

Adv. Shri K. L. Bhagat for Respondent No. 1.

Adv. Smt. N. Narvekar for Respondent No.2.

J U D G M E N T **(30.06.2011)**

1. The Appellant, Shri Jowett D'souza, has filed the present Appeal praying that the letter of the Respondent No. 1 dated 03.04.2010 addressed to the Appellant be quashed, cancelled and set aside; that the Respondent No. 1 and 2 may be directed to furnish the information to the Appellant as sought on the letter dated 03.04.2010 at Sr. No. 1 to 8; that the Order of Respondent No. 2/First Appellate Authority (FAA) dated 21.07.2010 vide No. 43/2010 passed by the First Appellate Authority be quashed, cancelled and set aside; that disciplinary proceedings against Respondent No. 1 and 2 be initiated against the Respondent and penalty be imposed on the Respondent for causing inconvenience and loss of precious time.

2. The brief facts leading to the present Appeal are as under:-
That the Appellant vide an application dated 06.03.2010 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 the Respondent No. 1 vide letter dated 03.04.2010 addressed to the Appellant transferred the said application under section 6(3) of the RTI Act to Respondent No. 2 in respect of documents at Sr. No. 1, 2, 3, 4, 5 and 6 of the Appellant's letter and 7 and 8 have been rejected by applying section 2(f) of the RTI Act. That Respondent No. 2 failed to provide information at Sr. No. 1 to 6 of the application dated 03.04.2010. That the Respondent No. 2 served wireless note/message on the Appellant dated 20.07.2010 at around 17:55 hours fixing the hearing before Respondent No. 2 office at around 12:00noon which is less than 24 hours in advance. That, therefore, the Appellant moved an application dated 21.07.2010 seeking the adjournment of the hearing before Respondent No. 3. That the Respondent No. 2 never bothered to decide on the said application for adjournment but instead made merely a reference on the order dated 21.07.2010. Being aggrieved by the said order of the Respondent No. 3 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 replies are on record. It is the case of Respondent No. 1 that vide application dated 06.03.2010 the Appellant had sought information on 8 points as set out in his application in respect of Maina Curtorim Police Station. That the PIO informed the Appellant vide letter dated 03.04.2010 that as regards point No. 1 to 6 the same was transferred under section 6(3) of RTI Act to PIO, Superintendent of Police (Crime), CID, Dona Paula. That as regards point No. 7 and 8 information could not be furnished as the same was not coming under the purview of section 2(f) of the RTI Act. That PIO has to furnish the information in the available form and not create the information in the form desired by the applicant. That aggrieved by the said decision the Appellant preferred the Appeal before the FAA and by order dated 21.07.2010 the FAA upheld the decision of the PIO. It is the case of the Respondent No. 1 that all the case papers in Maina Curtorim

Police Station Crime No. 52/05 were handed over to CID Crime Branch, Dona Paula, Panaji for further investigations of the case pursuant to the order issued by IGP, Goa. That the allegations made by the Appellant in various grounds are denied being baseless. That there is no malafide intention whatsoever on the part of PIO/Respondent No. 1 that he acted bonafidely while applying section 2(f) of the RTI Act.

It is the case of Respondent No. 2 that Appellant filed an FIR under section 154 of Cr. PC at Maina Curtorim Police Station vide Crime No. 52/05 under section 465, 466, 467, 468-120-B IPC and the same was transferred to Crime Branch on 29.10.2008 and name of the Inquiry Officer who investigated the case at the Crime Branch and South Goa are shown in the list annexed to the reply. That I.O. Shri Shamba Sawant, Dy. SP, CID, Crime Branch sent an opinion of sending report under section 173 of Cr. P.C. and the chargesheet in this case was filed on 25.05.2010 and the matter is sub judice. That it is for the Court to take cognizance in terms of section 190 (1) (b) of CrPC. That the investigation is done as per the provisions of Cr PC by I.O. Shri Shamba Sawant and not by the PIO. That report under section 173 Cr.PC proposed to be an opinion of the I.O. That the entire file pertaining to Crime No. 52/05 is inspected by the Appellant on 01.12.2009 and 19.05.2010 and is fully aware of the documents data in the file. It is the case of the Respondent No. 2 that application under section 6(3) of PIO, SP (South) was received by Respondent No. 2 on 05.04.2010. That the Appellant suppressed the letter dated 01.04.2010 wherein information sought by the Appellant is furnished. That the Appellant is also informed by letter dated 13.04.2010 to furnish the information. That Respondent No. 2 denied of having sent the wireless message. The Respondent No. 2 also denies the grounds as set out in the Memo of Appeal. In short, it is the case of the Respondent No. 2 that information is furnished to the Appellant as well as inspection has been given to the Appellant. According to him Appeal is liable to be dismissed.

It is the case of Respondent No. 3 that Appeal was filed before Respondent No. 3 and the same was taken up for hearing on 21.07.2010. That after hearing the PIO as well as on going through the records of the case the Order was passed and that the Respondent No. 3 acted bonafidely in disposing of the Appeal. That RTI Act does not bar the FAA from deciding the First Appeal after the expiry of time limit. That the time limit for disposing the First appeal prescribed under section 19(6) is exclusively for the purpose of not causing unnecessary delay for disposing of the appeal. However, the said section 19(6) had not taken away the right of FAA for disposing Appeal under special circumstances.

5. Heard the arguments. Appellant argued in person, the Learned Advocate Shri K. L. Bhagat argued on behalf of Respondent No. 1 and the Learned Adv. Smt. N. Narvekar argued on behalf of Respondent No. 2. All the three advanced elaborate arguments.

6. 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, by application dated 06.03.2010, sought certain information from PIO/Respondent No. 1. By reply dated 03.04.2010 the Respondent No. 1 partly furnished the information. It appears that Respondent No. 1 transferred the said application to the Respondent No. 2. It is seen that similar application was also filed with Respondent No. 2. By reply dated 01.04.2010, the Respondent No. 2 furnished the information. The said application is also dated 06.03.2010 received in the office of Respondent no. 2 on 08.03.2010. It is seen that by letter dated 13.04.2010 the S.P. Crime Branch, Dona Paula informed the Appellant about transfer under section 6(3) by Respondent No. 1 and also informed the Appellant about similar application and information

being furnished on 01.04.2010 which was sent by Registered A/D Post.

From the above it appears that the information is fully furnished as per records.

7. The Appellant contends about F.A.A. I need not refer to these contentions in detail. Suffice it to say that First Appellate Authority should give sufficient time to appear for the hearing. Principles of natural justice also require that fair opportunity is required to be given.

It is to be noted that R.T.I. Act is a time bound programme and every act should be within the stipulated time. Appeal is to be preferred within 30 days and the same is to be disposed within 30 days or within 45 days with reasons. Hope the F.A.A. will take note of the same in future.

8. Since information is furnished no intervention of this Commission is required. Hence, I pass the following Order.

ORDER

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

The Appeal is accordingly disposed off.

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

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

