

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Appeal No. 7/SCIC/2011

Dr. C. A. B. Rebello,
Flat No. 2, Fantasia,
Sherly Rajan Road,
Bandra (W),
Mumbai - 400 050

.... Appellant

V/s.

1) Inspector General of Police,
First Appellate Authority,
Police Department,
Panaji - Goa

.... Respondent No. 1.

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

.... Respondent No. 2.

Appellant in person.

Adv. Shri A. Talaulikar for Respondent No. 1.

Respondent No. 2 in person.

J U D G M E N T **(24.08.2011)**

1. The Appellant, Shri (Dr.) C.A.B. Rebello, has filed the present Appeal praying that the Respondent No. 1 and 2 be directed to furnish the information sought at para vii(b) of this application which was denied by the Respondent No. 2 in his Order dated 28.07.2010.

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

That the Appellant vide his application dated 10.06.2010 sought certain information under Right To information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer (P.I.O.)/Respondent No. 2. That by letter dated 28.07.2010 the Respondent No.1 disposed off the request. Being not satisfied with the same the Appellant preferred an appeal before the First Appellate Authority (F.A.A.)/Respondent No. 1. By order dated 15.09.2010 the F.A.A disposed off the appeal i.e. partly allowed the appeal in respect of queries at Sr. No. II, III (A), V, VI and VII(a) and dismissed the appeal in respect of query at Sr. No VII(b). That the typographical mistake that had occurred was corrected by Respondent No. 2 and

information ordered by F.A.A. was furnished by letter dated 11.10.2010. Being aggrieved by the order 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 the reply of the Respondent No. 2 is on record. It is the case of the Respondent No. 2/P.I.O. that application seeking information was received and information was furnished by letter dated 28.07.2010. That information was furnished by two letters. That information available has been already furnished and that too within the stipulated time period and that the order of F.A.A. is also complied within time. According to the Respondent No. 1 the information is fully furnished and that Appeal be dismissed.

4. Heard the arguments of the Appellant and the learned Adv. A. Talaulikar for 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 information is sought by application dated 30.06.2010. The same was furnished by reply dated 28.07.2010. However, since the same was not fully furnished the Appellant preferred the Appeal before F.A.A. and the same was ordered to be furnished except one item by order dated 15.09.2010. According to the Appellant all information is received and only one item is not received i.e. "(vii) Details of legal opinion obtained from Public Prosecutor."

According to P.I.O. this information is 'Nil'. That means legal opinion is not available. F.A.A. also held that legal opinion is not forthcoming in case file.

6. The rule of law now crystallized by various rulings of Central Information Commission and also State Information Commissions is that information/document that is not available cannot be furnished. The Right to Information Act can be invoked only for access to permissible information.

7. Apart from this whether such an information can be given. This opinion normally does not form part of record. Normally such opinion cannot be deemed to have been 'held' by Public Authority under section 2(j).

8. In any case the issue in question can be settled by giving inspection of the concerned file to the Appellant. Adv. Shri A. Talaulikar agrees to that and further states that he will inform concerned party to give inspection. Accordingly inspection can be taken by the Appellant on 25.08.2011 between 10:30 a.m. to 11:30 a.m. Hence, I pass the following Order:-

ORDER

The Respondent No. 2/P.I.O. is hereby directed to give inspection of the concerned file/records to the Appellant. The inspection be given on 25.09.2011 at 10:30 a.m. to 11:30 a.m. or at any time convenient to the parties. The Appeal is disposed off.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 24th day of August, 2011.

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

