

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal 196-SCIC-2010

Carmen de Miranda,
H.No.561, Orgao,
Loutolim, Salcete-Goa.

...Appellant

V/s

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

...Respondent No.1

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

... Respondent No.2

Appellant Absent

Adv. Harsha Naik for Resp. No.1

JUDGEMENT
(16/08/2011)

1. The Appellant, Smt. Carmen de Miranda, has filed the present appeal praying that the present appeal be allowed and the Respondent No.1 and 2 be directed to furnish forthwith the information as sought by the Appellant that appropriate action be taken against Respondent No.1 and 2 for defying the Goa Right to Information Act and thereby causing undue harassment, stress, delay to the Appellant by denial of sought information and that penalty be imposed on the Respondent No,1 and 2.

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

That the appellant along with 23 villagers of Loutolim had filed a F.I.R. with the Maina Curtorim Police Station in regards to a fake Regional Plan 2021 for Loutolim village illegally prepared and submitted by the Sarpanch to the Chief Town Planner with a fake outward No. and without even placing the same before the body. That the said F.I.R. was registered and subsequently the Sarpanch, Secretary were summoned at the police station and their statements were recorded and necessary investigation was initiated by the police. That the Appellant then sought certified

copies of statements by Sarpanch and Secretary and also certain other documents from the investigation records of the Police in respect of the said case. Initially, the information was denied by the P.I.O. under Section 8 (1) (h) of R.T.I. Act citing the same reason that information of such nature cannot be provided as being part of the investigation and that it would impede the process of the investigation. That the F.A.A., in appeal filed therein directed the P.I.O. to provide all information as sought by the Appellant and that the said information was provided to the Appellant by the P.I.O. That the Appellant, subsequently, learnt that the said investigation file was forwarded to the Public prosecutor to seek opinion for prosecution.

That the Appellant, vide application dated 04/06/2010 sought certain information under Right to Information Act, 2005 (R.T.I. Act for short) requesting for information and certified copies of relevant information in regards to the said case to be updated on the matter and to ensure that the investigation is not dormant as it normally happens. That the Respondent No.1, vide reply dated 29/06/2010 informed the Appellant that the Application under R.T.I. has been rejected under section 8(i) (h) of the R.T.I. Act as the information requested is part of Maina Curtorim Police Station Cr.No.4/2010 under section 464, 465, 466, 468, 471, r/w 34 of I.P.C. and that it would impede the process of investigation. Being not satisfied the Appellant preferred the appeal before F.A.A. however, the F.A.A. in the absence of Appellant dismissed the appeal. Being aggrieved by the said decision the Appellant has preferred the present appeal.

3. The Respondent resist the appeal and the reply of the Respondent is on records. In short it is case of the Respondent that by reply dated 29/06/2010 he informed the Appellant that as

per provisions of section 8(1) (h) of the R.T.I. Act the information sought cannot be furnished as it will impede investigation process. That the Respondent acted within his jurisdiction and wisely which is legal and sensibly decided. According to the Respondent the Appeal is to be dismissed.

4. Heard the arguments. The Appellant filed the written arguments which are on records.

5. I have carefully gone through the records of the case and also considered the arguments on record. The point that arises for any consideration is whether the relief prayed is to be granted or not.

It is seen that the Appellant vide application dated 04/06/2010 sought certain information. The information consisted of opinion obtained from Public Prosecutor and about statement of Sarpanch/Secretary. By reply dated 29/06/2010. The Respondent furnished the reply rejecting the request under section 8(1) (h) of R.T.I. Act as the information called, is part of Maina Curtorim Police Station Cr. No.4/2010 and that information of such nature cannot be given being part of investigation as it will impede the process of investigation. Being not satisfied the Appellant preferred the First Appeal, however the same was dismissed by order dated 28/07/2010.

It is the contention of the Appellant in the written arguments that the nature of information sought in the previous application wherein the first appeal was allowed and the present information wherein the first Appeal is rejected is of the similar nature. I have perused the earlier application wherein certified copies of statements recorded by the police from the Sarpanch and Secretary of Village Panchayat of Loutolim were asked. The request was rejected. However, the F.A.A. granted the request.

6. Ordinarily all information should be given to the citizen but there are certain information protected from disclosure. Section 8 is an exception to the general principles contained in the Act. This provision exempts disclosure of information or apprehension or prosecution of offenders.

Section 8(1) (h) is as under:-

8. Exemption from disclosure of information.

1. Notwithstanding any thing contained in this Act, there shall be no obligation to give any citizen.

(a).....

(b).....

(c)

(d).....

(e).....

(f).....

(g).....

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

There is absolutely no dispute with the proposition that investigation which would impede the process of investigation apprehension or prosecution of offenders is to be denied or withheld. However, it is to be noted here that mere existence of an investigation process cannot be a ground for rejecting information. P.I.O. has to show satisfactorily as to why the release of such information would hamper the investigation process. Apart from all this it is to be noted that the Appellant herein was one of the villagers who lodged F.I.R. and naturally would be interested in the progress of the case.

Again by application dated 1/02/2010 , the Appellant sought certified copies under R.T.I. as under:-

1. Certified copies of statement recorded by the police from the Sarpanch and Secretary of village Panchayat of Loutolim in regard to F.I.R. No. 04/2010 dated 05/04/2010 registered in respect to complaint filed by villagers of Loutolim.

2.

3.

P.I.O. rejected the request under section 8 (1) (h) . However F.A.A. granted the same.

The present request is of similar type.

7. Now it is to be seen whether the request of the Appellant can be granted..

It appears that investigation by now is over. Again Appellant is interested in the outcome of the case as Appellant is one of the villagers who lodged the complaint .Therefore question of impending process of investigation does not arise. Again such information is furnished earlier.

Appellant wants copy of opinion of Public Prosecutor. To my mind such information cannot be granted.

Point No.2 Sr.No.2 is in connection with the statement and as such can very well be granted.

8.In view of all the above. I am of the opinion that point No.2 of the application dated 4/06/2010 can be granted. Hence I pass the following order :

ORDER

Appeal is partly allowed. The order of the F.A.A. is set aside. The Respondent is hereby directed to furnish the information in respect of point No. 2/Sr. No.2 of the Appellants

Application dated 04/06/2010 within 20 days from the date of receipt of the order and report compliance.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 16th day of August 2011.

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