

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

Appeal No. 85/SIC/2010

Shri Shankar Raghunath Jog,  
Margawadi, Sancordem,  
Via Tisk - 403 406

.... Appellant

V/s.

1) First Appellate Authority,  
DIG of Police, Government of Goa,  
Police Headquarters,  
Panaji - Goa

.... Respondent No. 1.

2) Public Information Officer,  
Superintendent of Police (North),  
Government of Goa,  
Porvorim - Goa

.... Respondent No. 2.

Appellant absent.

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

**J U D G M E N T**  
**(07.10.2011)**

1. The Appellant, Shri Shankar Raghunath Jog, has filed the present Appeal praying that the Respondent be directed to give the information sought immediately at S.D.P.O. Office, Ponda, where the concerned papers are filed free of cost in view of section 7 (6) of the Act and that Appellant be awarded costs and expenses of Rs.1000/- and also further fine of Rs.250/- per day.

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

That the Appellant had submitted, by registered post, an application dated 01.12.2009 to the Respondent No. 2 seeking 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 04.01.2010 the Respondent No. 2 informed the Appellant that information called by the Appellant is not falling under section 2(f) of R.T.I. Act. Being not satisfied with the reply the Appellant preferred an Appeal before the First Appellate Authority/Respondent No.1. That by Order dated 27.01.2010 the Respondent No. 1 upheld the decision of the Respondent

No. 2. Being aggrieved by the said order the Appellant has preferred the present Appeal praying for the above mentioned reliefs.

3. The Respondents resist the Appeal and the reply of the Respondent No. 2 is on record. In short it is the case of the Respondent No. 2 that application was received, reply was furnished. The Respondent No. 2 denies that Respondent No. 2 did not elaborate as to how exactly it is not falling under R.T.I. Act. That in the said reply dated 04.01.2010 it is also stated that on receipt of the application dated 19.11.2009 at Ponda Police Station, P.I. Ponda requested the Secretary, Goa Pollution Board Panaji to conduct site inspection as early as possible and opine whether there is any violation of Environment (Protection) Act, 1986 which is not yet received. That only on 20.02.2010 the Goa State Pollution Control Board issued a letter to Ponda Police Station stating that "the owner has not obtained the relevant documents and permission and the said board also forwarded the copy of the inspection report and also the same was forwarded to the Department of Mines and Geology by the said Goa Pollution Control Board." It is further the case of the Respondent No. 2 that the information sought does not come under the purview of R.T.I. Act.

4. Heard Adv. Smt. H. Naik for Respondent No. 2 and perused the records.

It is seen that by application dated 01.12.2009 the Appellant sought certain information consisting of 10 points at Sr. No. 1 to 10. By reply dated 04.01.2010 the Respondent No. 2/P.I.O. informed the Appellant that the application was received on 04.12.2009 and that information called for does not fall under section 2(f) of R.T.I. Act. The letter/reply also states about requesting the Secretary, Goa Pollution Board Panaji to conduct site inspection and opine whether there is any violation of Environment (Protection) Act, 1986 which is not yet received. Being not satisfied the Appellant preferred Appeal before First Appellate Authority/Respondent No. 1. By order dated 27.01.2010 the F.A.A. observed:-

"The Appellant has alleged that P.I.O., SP North has not elaborated as to how the information sought by him vide application dated 01.12.2009 is not falling under R.T.I. Act, 2005.

P.I.O., SP North has given the intimation that report from Goa Pollution Control Board is awaited. There is no further information which can be given to him.”

5. It would not be out of place to mention here about the definition of information. Under section 2(f) “information” means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a Public Authority under any other law for the time being in force. In an old case (AIR 1957 Punjab 226) the Punjab High Court explained ‘information’ as synonymous with knowledge or awareness in contradistinction to apprehension, suspension or misgiving.

Section 2(j) “record” includes -

- (a) any document, manuscript and file;
- (b) any microfilm, microfiche and facsimile copy of a document;
- (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- (d) any other material produced by a computer or any other device;

It is to be noted here that the term “record” for the purpose has been defined widely to include any documents, manuscript, file, etc. under clause 2(j) under “The Right to Information” means the right to information accessible under this Act which is held by or under control of any public authority and powers under the Act include the right to :- (a) inspect works, documents, records of any Public Authority; (b) take notes, extracts or certified copies of documents or records; (c) take certified samples of material and (d) obtain information of printouts, diskettes, folders, tapes, video cassettes or any other electronic mode or through printouts where such information is stored in a computer or in any other device.

It is to be noted here that section 2(j) provides only information held by or under the control of any public authority. It does not mean that an information seeker can solicit opinion from the PIO of a Public authority. The rule of law now crystallized by the various rulings of Central

Information Commissioner as well as State Information Commissioner is that the information held is to be provided and Commission's jurisdiction can go no further than only directing that information in the form held be provided.

I am also aware of the decision of the Hon'ble High Court, Bombay Goa Bench in Dr. Celsa Pinto case wherein it was observed that definition of information cannot include answers to the question 'why' and that the Public Authorities cannot be expected to communicate to the citizen the reason why a certain thing was done or not done in the sense of justification.

Again it is held (as decided by CIC in K . Anand Kini V/s Canara Bank on 10/05/2007) that no queries like why, what, how, etc can be answered by a Public Authority. In the guise of information seeking explanations and queries about nature and quality of action of public authority need not be raised for answer. Again it is held that RTI Act does not cast on the Public Authority any obligation to answer queries in which attempt is made to elicit answers to questions with prefixes such as why, what, when and whether.

It is pertinent to note here that just because certain queries start with prefixes such as "what", "which", "whether" does not necessarily mean that information is to be denied. It is not a straight jacket formula to be denied. If these prefixes solicit any concrete record based information it is to be provided. If these prefixes solicit opinion, reason for not doing a particular thing in a particular fashion, etc. then the same is to be denied.

6. Coming to the information sought. Item at Sr. No. 1 'Whether criminal cases were registered or not' can be given. Sr. No. 2 cannot be given under R.T.I.

Sr. No. 3 and 4 can be given. Sr. No. 5, 7 and 8 cannot be given. Sr. No. 6 and 9 can be given. In fact, initial queries cover query at item No. 8.

To my mind a citizen is entitled to know what action has been taken on his complaints, representations, etc. In fact, I am fortified in this by

the observations of Central Information Commission in the following ruling:-

In Arun Kanti Dasgupta v/s. South Eastern Coalfields Ltd. (SECL), Bilaspur, (Case No. CIC/AT/A/2006/00593 dated 20.02.2007), where the information in respect of the action taken on the petitions submitted by the Employees Union solicited, the Central Information Commission observed that the respondents were not right in concluding that the queries of the Appellant did not qualify to be information. A citizen has a right to know from Public Authority whether it had acted on those representations or had chosen to ignore them. Thus, Respondents were directed to give to the Appellant within four weeks of the receipt of this order, point-wise replies regarding action taken in respect of the six petitions listed in the Appellant's R.T.I. request dated 21.08.2006.

7. In view of all the above, I am of the opinion that information on some queries asked can be given. Hence, I pass the following Order:-

### **ORDER**

Appeal is allowed. The Respondent No. 2 is directed to furnish information to the Appellant in respect of points at Sr. No. 1, 3, 4, 6 and 9 as per the application dated 01.12.2011 within 20 days from the receipt of this order free of charge and report compliance.

The order of the First Appellate Authority to that extent is set aside.

Appeal is accordingly disposed off.

Pronounced in the Commission on this 7<sup>th</sup> day of October, 2011.

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