

# **GOA STATE INFORMATION COMMISSION AT PANAJI**

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

Appeal No. 162/SCIC/2011

Mr. T. Nagarajan,  
C-1/1, Silvergate Estate,  
Aquem,  
Margao - Goa

.... Appellant

V/s.

1) State Public Information Officer,  
Superintendent of Police (Crime),  
Crime Branch, Police Department,  
Government of Goa, Dona Paula,  
Panaji - Goa

... Respondent No. 1.

2) First Appellate Authority,  
The Inspector of General of Police (Goa),  
Police Department, Police Headquarters,  
Government of Goa,  
Panaji - Goa

.... Respondent No. 2.

Appellant in person.

Shri Uday Naik, P.I., representative of Respondent No. 1.

## **J U D G M E N T** **(23.01.2012)**

1. The Appellant, Shri T. Nagarajan, has filed the present Appeal praying for a direction to the Public Information Officer to supply the information sought by the Appellant vide application dated 15.02.2011 without any further delay.

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

That the Appellant, vide application dated 15.02.2011, 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. 1. That the Respondent No. 1, vide his letter dated 03.03.2011 refused to supply the information under some flimsy technical grounds quoting the decision of the High Court of Bombay at Goa in W.P. 419/2007. Being not satisfied the Appellant preferred an Appeal before the First Appellate Authority. By Order dated 06.05.2011 the F.A.A. overruled the reasons based on which S.P.I.O.

had refused to supply the information and ordered thus: "The case is under trial, hence under public domain. P.I.O. to provide information if available on record." That the P.I.O. vide his letter dated 20.05.2011 advised him to inspect the case paper file for records at CID Crime Branch. That the Appellant inspected the file on 24.05.2011 and found two records – the complaint filed by Shri A.K. Teli on 08.04.2011 and chargesheet filed by Shri L. S. Mamledar in the Court on 17.09.2002. That the Appellant informed the S.P.I.O. vide his letter dated 02.06.2011 that the information sought can be supplied from those two documents. That the S.P.I.O., vide his letter SP/Crime/RTI/Pet. 102/11/1095/2011 dated 05.06.2011 refused to supply the information on the grounds that whatever he had sought does not come under the definition of 2(f) of R.T.I. Act and it is something like demanding explanation from the P.I.O. or deduce certain conclusion to give information on the basis of contents in F.I.R. That the S.P.I.O. also advised him to inspect the file again and take necessary documents. That the Appellant did not opt to inspect the file again because whatever documents he could file he obtained copies of the same and brought them to his notice to help him to supply the information he had sought and thought no useful purpose will be served by inspecting the file again. In short, according to the Appellant the information he sought is definitely available with the S.P.I.O. of the Police Department, Government of Goa. Being aggrieved the Appellant has filed the present Appeal.

3. The Respondent No. 1 resists the Appeal and reply is on record. It is the case of Respondent No. 1 that the Appellant sought information under Section 6 of the RTI Act on 15.02.2011. That by letter dated 03.03.2011 the said information was denied to the Appellant vide his letter dated 03.03.2011 as the same does not come/cover under Section 2(f) of R.T.I. Act and it is not open for the Appellant to ask in the guise of seeking information questioning to Public Authority. That it was also informed that R.T.I. Act does not cast on Public Authority any obligation to answer queries as raised in

Point no. 3 and that the definition of "information" doesn't include within its fold answers to the question "why", "what", "when" and "whether", etc. That the Appellant was also informed about the ruling of the Hon'ble High Court in Dr. Celsa Pinto case. That the Appellant preferred First Appeal and by Order dated 06.05.2011 ordered the Respondent to provide the information if available on record. That by letter dated 20.05.2011 P.I.O. informed to the Appellant that information is not available on record and that he may inspect the case paper file available at their office. That the Appellant verified the documents and collected the required documents available in the file on 24.05.2011 i.e. total five documents under acknowledgement. That the required documents traceable into the records are collected. The Respondent also refers to the letter about taking inspection, etc. It is the case of the Appellant that P.I.O. is not supposed to form his opinion on the basis of material in the documents collected by the Appellant and help him on to fortify his case in the Court. That the Appellant is misleading the Commission and has not come with clean hands. That the case is charge sheeted and is sub-judice. That the information sought by the Appellant does not come under Section 2(f).

4. Heard the arguments. The Appellant argued in person and Shri U. Naik, representative of Respondent No. 1 argued on behalf of Respondent No. 1.

Appellant referred to the facts of the case in detail. That the application is dated 15.02.2011 and reply is dated 03.03.2011. He next referred to the Appeal as well as Order passed by F.A.A. He referred to inspection taken, about letter written, etc. Appellant submitted that he is entitled to know. He also referred 1991 notification, etc.

Shri Naik, during the course of his arguments submitted that the Respondent No. 1 has filed the reply and the same be considered as arguments.

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 15.02.2011 the Appellant sought certain information, i.e. the Appellant referred to 5 notifications issued by government of Goa and sought as under:-

“Kindly inform me considering under which of the above notifications the 25% power rebate was given to Balaji Rolling Mills Pvt. Ltd., Cuncolim Industrial Estate, Cuncolim, Goa, the Complainant, Shri A.K. Teli had filed the complaint in the said case.

Kindly inform me considering under which of the above notifications the 25% power rebate was given to Balaji Rolling Mills, Cuncolim Industrial Estate, Cuncolim, Goa the investigation officer of the above mentioned case had registered the F.I.R. proceeded with the investigation and finally filed the chargesheet in the Special Court Panaji in the said case.”

By reply dated 03.03.2011 the P.I.O. informed the Appellant that the information sought does not cover under Section 2(f). The detail reply is on records. The reply also mentioned that information sought is in the nature of demanding explanation, etc. Being aggrieved by the said reply the Appellant preferred an Appeal before the F.A.A./Respondent No. 2 who by order dated 06.05.2011 observed as under:-

“The case is under trial, hence under public domain. P.I.O. to provide information if available on record.

Decision:-

The request of the appellant is granted and the appeal is hereby disposed off.”

By letter dated 20.05.2011 the P.I.O./Respondent informed the Appellant that the information sought is not available on record and further inspection of file was offered.

It appears from record that Appellant took inspection and also certain documents.

6. 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, emails, 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 Hon'ble Punjab High Court explained "information" as synonymous with knowledge or awareness in contradistinction to apprehension, suspension or misgiving.

Section 2(j) defines "record". It is to be noted here that the term "record" for the purpose has been defined widely to include any documents, manuscripts, file, etc. Under clause 2(i) "Right to Information" means the right to information accessible under this Act which is held by or under the control of any public authority.

A combine reading of Section 2(f), 2(i) and 2(j) of the R.T.I. Act would show that a citizen is entitled for disclosure of information which is in material form with a public authority and "information" and the right to seek does not include opinions, explanations, etc.

7. It is pertinent to note 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 P.I.O. of public authority. The rule of law now crystallized by the various rulings of the Central Information Commission as well as State Information Commission is that information held is to be provided and Commission's jurisdiction can go no further than only

directing that the information in the form held be provided. It is further pertinent to note that Public Information Officer is not required to collect, compile or create information for the information seeker but he is expected to provide the information available in the material form.

I have perused some of the rulings on the point:-

(i) In *K. Anand Kini v/s. Canara Bank* (as decided by C.I.C. on 10.05.2007) it is held 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 R.T.I. 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.

(ii) In *Shri Vibhor Dileep Baria v/s. Central Excise and Custom Nasik* (Appeal No. CIC/AT/A/2006/00588 dated 30.11.2006) it is observed in para 11 and 14 as under:-

“11. Right to Information Act confers on all citizens a right to access information and this right has been defined under Section 2(j) of the said Act. An analysis of this Section would make it clear that the right relates to information that is held or under the control of any public authority. If the Public Authority does not hold information or the information cannot be accessed by it or under Section 2(f) or if the information is non-existent, the Public Authority cannot provide the same under the Act. The Act does not make it obligatory on the part of Public Authority to create information for the purpose of its dissemination.”

"14. Thus information would mean any material in existence and apparently it cannot mean and include something that is not in existence or to be created. An "opinion" or an "advice" if it is a part of the record is "information" but one cannot seek from a P.I.O. either an "opinion" or an "advice" as seeking such information or advice would be in effect seeking a decision which the C.P.I.O. may not be competent or authorized to take. Similarly, the existing report is information but preparing a report after an enquiry cannot be treated as available information. Likewise the data maintained in any electronic form is "information" and the whole of such data or a part thereof can be made available to an applicant by a Public Authority under R.T.I. Act. But making an analysis or data so collected cannot be expected to be done by the C.P.I.O under R.T.I. Act. On the same analogy, answering a question, preferring advice or making suggestions to an applicant is clearly beyond the purview of the Right to Information Act."

(iii) In Shri Madan Lal Mirg v/s. Ministry of Home Affairs (F.No. CIC/AT/A/2006/00105 dated 30.06.2006) it was observed as under:-

".....  
The information which he is seeking is not about administration or any quasi-judicial function of the public Authority but it is about the public Authority's opinion and views and explanations about the documents the Appellant has accessed. We concur in the plea of A.A. and C.P.I.O. that R.T.I. Act does not cast on them an obligation to explain to the Appellant the contents of the documents that he has already been supplied. ....  
.....

What we notice is that the Appellant wants to make the department do all the research work for him and hand over to him a completed case on the basis of which he can proceed to seek appropriate relief from Court. In our understanding this does not fall within the ambit of R.T.I. Act. Once an applicant has been provided access to the information, he cannot ask the public Authority questions about who's and why's of those documents."

I have mentioned above about the information sought. The Appellant wants to know under which notifications ..... the Complainant Shri A.K. Teli, had filed the complaint in the said case. And under which of the above notifications ..... the investigating officer of the above mentioned case had registered the F.I.R. proceeded with the investigation and finally filed the chargesheet in the Special Court, Panaji.

Now chargesheet is filed case is sub-judice. The papers are also given to the concerned parties. Under this situation asking these queries may amount to opinion or view point of P.I.O. It is pertinent to note that in the application/letter dated 02.06.2011 the Appellant states that during examination of the said file he came across documents – the complaint dated 08.04.2001 filed by Shri A.K. Teli, the then Addl. Superintendent of Police and the chargesheet filed by Shri L. S. Mamledar, the then P.I. and I.O. of this case and that he had earlier received these two documents from the Court. According to the Appellant the necessary material for supplying the information sought by him in his R.T.I. application dated 15.02.2011 are available in the 2 documents mentioned above.

This itself shows that information sought is in the said documents. So the question of P.I.O. furnishing the same does not arise.

8. Both these documents are produced on record. I have perused the same. It appears from the same that charge is of criminal



conspiracy and other offences. It also speaks of forged (ante dated) letter dated 05.09.1994 of Balaji Rollings Pvt. Ltd.

From the above it is clear that documents/information is with the Appellant what is sought by the Appellant by his application does not qualify the test of Section 2(f) of the R.T.I. Act. In any case there are legal avenues available to the Appellant.

No doubt the Appellant may be having a genuine grievance. However, the Appellant has to agitate the same before concerned Authority/Forum. This Commission is not the proper forum to redress such grievance.

9. In view of all the above I do not find any infirmity in the order of F.A.A. Consequently, Appeal fails. Hence, I pass the following Order:-

**ORDER**

The Appeal is hereby dismissed.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 23<sup>rd</sup> day of January, 2012.

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





