



process of prosecution of offenders in the Court of Law. Hence, the information sought by you is rejected under section 8(1) (g) and 8(1) (h) of Right to Information Act.” Being not satisfied the Appellant preferred an appeal before First Appellate Authority (F.A.A.)/Respondent No. 2. By Order dated 19.07.2011 the Respondent No. 2 upheld the decision of P.I.O on the basis of say filed by the P.I.O. Being aggrieved by the said order the Appellant has preferred the present Appeal.

3. Along with the Appeal the Appellant has filed an application for condonation of delay.

According to the Appellant he was not given copy of the say filed by the P.I.O. On 30.06.2011 due to which Appellant was not aware of the reasons for which the decision of the P.I.O. was upheld by the F.A.A. That on receipt of the Order dated 19.07.2011 the Appellant immediately on 25.08.2011 addressed a letter to the F.A.A. requesting for a copy of the say filed by P.I.O. on 30.06.2011. That another letter dated 17.11.2011 was also sent. That ultimately on 25.11.2011 copy was furnished and thereafter the present appeal was filed.

4. The case of the Respondent No. 1 is fully set out in the reply which is on record. In short it is the case of the Respondent that information sought by the Appellant was rejected stating that matter is sub-judice and pending before the Court of Judicial Magistrate First Class at Panaji Goa, as the Reports sought were submitted to the Hon’ble J.M.F.C. Court, Panaji, was rejected under section 8(1) (g) and 8(1)(h) of R.T.I. Act. That Appeal preferred was rejected. In short according to the Respondent No. 1 application of the Appellant cannot be provided since the matter is sub-judice and pending before Hon’ble J.M.F.C.

The Respondent No. 1 also objects condonation of delay. According to Respondent No.1 delay is not liable to be condoned.

5. Heard the Appellant and Shri Uday Naik, representative of the Respondent No. 1 and perused the records.

It is seen that request of the Appellant was rejected on the ground that the matter is sub-judice. It is seen that the Appellant sought information as under:-

- “(i) A certified copy of the ‘A’ Summary Report sent to the Court. Investigation conducted by Dy. S.P. Mohan S. Naik.
- (ii) A certified copy of the ‘A’ Summary Report sent to the Court. Investigation conducted by P.I R. Shetgaonkar.”

The same is in connection with Criminal Case No. 81/08 registered by the Crime Branch, CID, Dona Paula.

It appears that request is rejected because matter is sub-judice.

Under section 8(1) (b) of R.T.I. Act, the disclosure of information is barred if (i) it is expressly forbidden to be published by any Court of law or tribunal or (ii) disclosure of which may constitute contempt of Court. In other words where the matter is sub-judice only and no order is passed by any court/tribunal forbidding publication thereof, the information can be disclosed under section 8(1)(b). Similarly, where the disclosure does not constitute contempt of Court or violate the directions made by the Court, the information can be allowed to be furnished.

I have perused some of the rulings of C.I.C. on the point.

In *Pankaj v/s. Employees Provided Fund Organisation*, (Case No. 2194/IC(A)/2008, dated 04.04.2008) where the information related to the vigilance file and the documents pertaining to the CBI inquiry sought and the CPIO refused to furnish the information under Section 8(1)(g), (h) and (f), the Commission noted that the process of investigation is complete and over and the matter is already before the Court for proper direction in the matter. In order to ensure natural justice to the parties, the information available to the prosecutor should also be available to the alleged offender, in order to enable him to prove his innocence. Accordingly, there was no justification for withholding the information asked for, as revealing of truth cannot be misused. The Commission thus directed to obtain the permission of the Court as per the requirement of Section 8(1)(b) of the Act, and accordingly examine the disclosure of information as asked for by the appellant.

It has been held time and again that a matter being sub-judice cannot be a ground for denial of information.

6. In the instant case crime is of 2008. Besides, the matter is before Court. That means investigation part is over. This being the position there is no point in withholding the evidence. Besides Appellant, it appears, is interested in the matter and therefore he is entitled for the same.

7. Regarding condonation of delay the cause shown constitutes a sufficient cause. In any case in the factual matrix of this case the delay is to be condoned.

8. In view of all the above I am of the opinion that Appellant is entitled for the said information. Hence I pass the following Order:-

### **ORDER**

The Appeal is allowed. The Respondent No. 1 is hereby directed to furnish information to the Appellant as sought by him vide his application dated 10.05.2011 within 15 days from the receipt of this Order.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 29<sup>th</sup> day of March, 2012.

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

