

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 65/SCIC/2011

Shri Jowett D'Souza,
H. No. 139, Ambeaxir,
Sernabatim, Colva,
Salcete – Goa

.... Appellant

V/s.

1) Public Information Officer,
Superintendent of Police,
North District Police, Police HQrs.,
Porvorim,
Bardez – Goa

... Respondent No.1.

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

... Respondent No. 2.

Appellant in person.

Adv. Shri N. Dias for Respondent No. 1.

J U D G M E N T
(30.03.2012)

1. The Appellant, Shri Jowett D'souza, has filed the present Appeal praying that the Respondents be directed to give information/certified copy of documents at Sr. No. 1 to 18 of the application dated 14.03.2011; that disciplinary action/proceedings be initiated against the Respondents for malafidely denying information/request to the Appellant's letter dated 14.03.2011 and that penalty be imposed on the Respondents for causing inconvenience and loss of precious time.

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

That the Appellant, vide an application dated 14.03.2011, sought certain information under Right to Information Act, 2005 ('R.T.I. Act for short') from the Public Information Officer (P.I.O.)/the Respondent No. 1. That the information was sought within 48 hours as it concerns the life of a person. That the Respondent No. 1 replied within 48 hours vide letter dated

15.03.2011 rejecting the information under Section 8(1)(h) of the RTI Act. That Respondent No. 2 failed to hear nor replied to the First Appeal of the Appellant within 48 hours 'as the information pertains to the life of a person' hence the Appellant treated the First Appeal as deemed rejected by the Respondent No. 2. Being aggrieved the Appellant has preferred the present Appeal on various grounds as set out in the reply.

3. The Respondents did not file the reply as such, however, the Advocate for Respondent No. 1 Shri Dias advanced arguments.

4. Heard the Appellant and the learned Adv. Shri N. Dias for the Respondent No. 1.

The Appellant referred to the facts of the case in detail. According to him the information ought to have been furnished. He also referred to the aspect of life of a person.

During the course of his arguments the learned Adv. Shri Dias submitted that investigation was going on and as such no information could be furnished. He also referred detail to the facts of the case.

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 determination is whether the relief prayed is to be granted or not?

It is seen that the Appellant, vide application dated 14.03.2011 sought certain information. The information consisted of 18 items at Sr. No.1 to 18. It was also mentioned that the same is covered under Section 7(1) of the RTI Act, 2005 as it concerns with the life of a person and the information should be supplied in 48 hours. By reply dated 15.03.2011 the Respondent No. 1 replied that Bicholim P.S. Cr. No. 50/11 under Section 302 IPC and UD No. 16/2011 under Section 176 Cr. P.C. is under investigation, hence the information called for cannot be provided under Section 8(1) (h) of RTI Act as it would impede the process of investigation. Being not satisfied the Appellant preferred an appeal before the First Appellate Authority/Respondent No. 2. Since the Respondent No. 2 failed to hear the Appeal before 48 hours, the Appellant preferred to file the present Appeal.

In short the information is rejected as investigation is in progress and it would impede the process of investigation.

6. It is to be noted here that R.T.I. Act ensures maximum disclosures and minimum exemptions. Ordinarily all information should be given to the citizen but there are certain informations protected from disclosure. Section 8 is an exception to the general principles contained in the Act. Section 8(1)(h) exempts the disclosure of information which would impede the process of investigation or apprehension or prosecution of offenders.

There is absolutely no dispute with the proposition that information which would impede the process of investigation, apprehension or prosecution of offenders is to be denied or withheld. However, it is to be noted that mere existence of an investigation process cannot be a ground for refusal of information. In *Bhagat Singh v/s. Chief Information Commissioners & Others* 2008 [2] ID 200 (Delhi High Court) in para 13 observed as under:-

“13. Access to information under Section 3 of the Act is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this Fundamental right must, therefore, is to be strictly construed. It should not be interpreted in a manner as to shadow the very right itself. Under Section 8, exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders. It is apparent that the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8(1) (h) and other such provisions would become the haven for dodging demands for information.”

7. Apart from this it is seen that most of the information has been furnished to the Appellant either by police or by other authorities. Therefore, to my mind there is no point in denying this information.

Coming to the information sought item at Sr. No. 1, 2, 3, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17 can be given. Regarding Sr. No. 4 information be furnished, however, only relevant entry in station diary be given.

Regarding 5 the information be furnished, however, only relevant entry if any be furnished.

Regarding 10 information be furnished as to steps/action taken by investigating office.

8. Another aspect is about life and liberty. Under sub-Section (1) of Section 7 the Public Information Officer has to provide the required information within a period of 30 days. Further, under proviso to sub-Section (1), the information in cases concerning “life or liberty of a person” shall be provided within 48 hours. In the instant case death has already taken place. Appellant on his part has not shown how the same concerns his life or liberty.

9. In view of all the above, I pass the following Order:-

ORDER

Appeal is allowed and the Respondent No. 1 is hereby directed to furnish the information as sought by the Appellant vide his application dated 14.03.2011 and as mentioned in para 7 hereinabove, within 15 days from the receipt of this Order.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 30th day of March, 2012.

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

