

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 66/SCIC/2011

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

.... Appellant

V/s.

1) Public Information Officer,
Superintendent of Police,
Crime Branch,
Dona Paula – 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 Respondent No. 1 be directed to furnish the information/certified copies at Sr. No. 1 to 4 of the application dated 11.02.2011; that disciplinary action/proceedings be initiated against the Respondents as per Service Rules for malafidely denying information and that penalty be imposed on the Respondents.

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

That the Appellant, vide his application dated 11.02.2011, sought certain information under Right to Information Act, 2005 ('R.T.I. Act for short') from the Public Information Officer (P.I.O.)/the Respondent No. 1. That the Respondent No. 1 deliberately delayed to reply to the Application of the Appellant within 48 hours inspite of clearly specifying in the said application dated 11.02.2011, that the said information "concerned the life of

a person". That by letter dated 08.03.2011 the Respondent No. 1 rejected the application under Section 8(1) (g) and 8(1) (h) of the RTI Act. That the Respondent NO. 2 failed to hear nor replied to the First Appeal within 48 hours hence the Appellant treated the First Appeal as deemed rejection. Being aggrieved the Appellant has filed the present Appeal on various grounds as set out in the Memo of Appeal.

3. The Respondent No. 1 resists the Appeal and the reply of the Respondent No. 1 is on record. In short it is the case of the Respondent No. 1 that the investigation of this case is conducted by the Special Investigating Team appointed and the Investigating Officer of this case raised objection to furnish the information since investigation of the same is in progress. That by reply dated 08.03.2011 the Appellant was informed that information cannot be given in view of Section 8(1) (g) and 8(1)(h) of the RTI Act. The Respondent No. 1 denies the grounds set out in the Memo of Appeal.

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

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 11.02.2011 the Appellant sought certain information from the Respondent No. 1/P.I.O. By reply dated 08.03.2011 the Respondent No. 1 informed the Appellant "that the information sought is in respect of Cr. No. 4/2011 of Crime Branch, the investigation of which case is in progress and the information sought for cannot be provided since furnishing any information may endanger the life or physical safety of those persons or identify the source of information and may impede the process of investigation or apprehension or prosecution of offenders. Hence information sought by you is rejected under Section 8(1)(g) and Section 8(1)(h) of Right to Information Act, 2005."

Being aggrieved the Appellant preferred an Appeal before First Appellate Authority/Respondent No. 1 and since the same was not decided within 48 hours preferred the present Appeal.

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. It is seen that more than one year passed from the date of seeking information. By now it appears that investigation is over. I have also seen the Report of Sub-Divisional Magistrate, Panaji-Goa.

It is also seen that some of the information has been furnished to the Appellant. Therefore, I feel that the same can be given.

Coming to the information sought the information sought at point 1, 2 and 3 can be given.

Regarding point at Sr. No. 4 the same is not specific. The Appellant to be specific about the same.

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

ORDER

The Appeal is allowed. The Respondent No. 1 is hereby directed to furnish the information sought by the Appellant in respect of point No. 1, 2 and 3 vide his application dated 11.02.2011 within 20 days from the date of receipt of this Order.

The Appellant to clarify or specify regarding point No. 4 within 5 days from the receipt of the Order and thereafter the Respondent No. 1 to furnish the information. All the process to be completed within 20 days from the receipt of the 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**

