

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.257/SIC/2010

Shri Sadanand D. Vaingankar
R/o.Madhalawada, Harmal,
Pernem, Goa 403524

... Appellant.

V/s.

1. The Public Information Officer,
Mr. A. K. Gawas,
Superintendent of Police(North),
Porvorim, Bardez, Goa
2. First Appellate Authority,
O/o. Inspector General of Police,
Police Head Quarters,
Panaji, Goa

... Respondents

Appellant absent.

Respondent No.1 & 2 absent.

Adv. Smt. N. Narvenkar for respondent No.2 present

J U D G M E N T
(11/04/2012)

1. The Appellant, Shri Sadanand D. Vaingankar, has filed the present appeal praying that the appeal be allowed and the respondent No.1 be directed to furnish information; that the respondent No.1 be directed to pay fine as applicable; that disciplinary proceedings be initiated against respondent No.1 and order of respondent No.2 be set aside.

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

That the appellant, vide application dated 04/06/2010, 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 by letter dated 23/6/2010 the respondent No.1 furnished the information. Being not satisfied the appellant preferred the appeal before First Appellate Authority (F.A.A.)/Respondent No.2. By order dated 28/7/2010 the respondent No.1 upheld the reply of the respondent No.1

and dismissed the appeal. Being aggrieved by the said order the appellant has preferred the present appeal.

3. The respondent No.2 has filed the reply which is on record. In short it is the case of the respondent No.2 that after hearing the parties i.e. sister of appellant on behalf of appellant, order was passed on merits. That the information refused by P.I.O. at Sr. No.3 was a question of presumption of appellant and since P.I.O. had no information about the same, the reply "No" was correct. According to respondent No.2 appeal is liable to be dismissed.

4. It is seen that initially appellant appeared and thereafter he did not appear. Of course matter was pending for some time being of S.I.C. On 28/2/2012 notices were issued to the parties. However appellant did not appear. Adv. Smt. N. Narvenkar appeared for respondent No.2. In any case, I am proceeding on the basis of record.

5. Heard the Learned Adv. Smt. N. Narvenkar for respondent No.2.

6. I have carefully gone through the records of the case. It is seen that by application dated 04/06/2010, the appellant sought certain information. The information consisted of 3 points Sr. No.1 to 3. By reply dated 23/6/2010 the P.I.O./Respondent No.1 furnished the information. In respect of point No.1 some survey records are furnished. In respect of point No.2 it is mentioned "Not available" and in respect of point No.3, it is stated "No"

Being not satisfied the appellant preferred an appeal before First Appellate Authority on the following grounds :-

"While going through the information furnished it is seen that P.I.O. had not furnished documents as no where in the documents name of Harmal Panchakroshi Shikshan Mandal appears. As regards point No.3, the amount of bribe received by P.I.O. is asked but answer furnished is 'No' As such information furnished is wrong as amount figure cannot be 'No'."

In the memo of appeal before this Commission he mentions that this is not answered. No doubt First Appeal was dismissed.

Of course information sought was on the basis of say of Police filed in the bail application. It is to be noted here that, that information as held by Public Authority in terms of Sec.2(j) of the R.T.I. Act is to be furnished. The information which is not maintained or held by the Public Authority cannot be furnished. R.T.I. Act can be invoked only for access to permissible information.

Regarding point No.1 the P.I.O. has furnished available information. If the name of the said Mandal does not figure it is for the concerned authority to see or look into the matter. P.I.O's function is to give available information which he has done.

Regarding point No.3 in the first place the query does not come within the purview of R.T.I. Secondly whether such records are kept. In any case the query has been answered, though answer is not in complete sentence looking at the nature of the complaint nothing turns on the same.

7. Looking at the material on record, I do not find any infirmity in the order of F.A.A. and as such the appeal is liable to be dismissed.

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

ORDER

The appeal is dismissed.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 11th day of April, 2012.

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