

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal 156/SIC/2011

Shri Raya V. Karapurkar,
H.No.46, Near Cement Agency,
Karaswada,
Post Tivim Industrial Estate.
Mapusa-Goa,

... Appellant
V/s

1) Public Information Officer,
Police (North),
Office of North Goa District,
Superintendent of Police,
Porvorim-Goa.

2) The First Appellate authority,
Cum I.G.P. (Goa),
Office of I.G.P. of Goa ,
Police Head Quarters,
Panaji-Goa.

..... Respondents

Appellant in person
Adv. A Talaulikar for Resp. No.1,
Respondent No.2 absent.

JUDGEMENT
(12-04-2012)

1. The Appellant, Shri Raya V. Karapurkar, has filed the present appeal praying that the P.I.O. be directed to furnish to the Appellant all the information sought from Sr. no.1 to Sr.No.7 with immediate effect free of cost under section 7(6); that P.I.O. be directed to compensate the Appellant to the loss and other detriment suffered in filing appeals; that penalty be imposed on the Deemed P.I.O./P.I.O. under section 20 of the Right to Information Act and that the disciplinary action be initiated against the Public Information Officer.

2. The brief facts leading to the present Appeal are as under;-
That the appellant, vide his application dated 17/05/2011 sought certain information under Right to Information 2005 ("R.T.I. Act for short) from the Public Information officer (P.I.O.)/Respondent No.1. That the information was under life and liberty clause of section 7(1). That the P.I.O. failed to reply in 48 hours time limit so the Appellant filed 1st Appeal on 20/05/2011. That the notice of hearing was served on the Appellant on 16/06/2011 at 6.30 p.m. to appear on 16/6/2011 at 12.00 noon. That the Appellant was maliciously and malafidely being prevented from attending the hearing by the deemed P.I.O. (Shri Rajesh Kumar)

whom the I.G.P./F.A.A. had entrusted the task of delivering the notice in due time. Later vide letter No.794 dtd. 1/06/2011 received by the Appellant on 4/6/2011, the Public information Officer refused to provide information to the Appellant. That the First Appellate authority (F.A.A.)/Respondent No.2 dismissed the first Appeal. Being aggrieved by the said order the Appellant has preferred the present Appeal.

3. The Respondent 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 information sought by the Appellant was kept ready in the office of respondent No.1/P.I.O. and the Appellant was requested vide letter dated 1/6/2011 to collect the information by paying required charges towards the costs of the same. That the Appellant did not bother to collect the said information and instead preferred to file Appeal before F.A.A. The Respondent No1 denies that Respondent No.1 denied the information to the Appellant. That the contention of the Appellant that deemed P.I.O. prevented the Appellant from attending the hearing before First Appellate Authority is false, fabricated and without any basis. According to Respondent No.1 the Appellant is not entitled to any of the relief sought and the appeal deserves to be dismissed. It is also the case of the Respondent No.1 that the Appellant's reliance on clause 7(1) of the R.T.I. Act is totally misconceived as the same is not applicable in this case as no right to liberty of Appellant was or is at stake. That the Appellant has failed to adduce any evidence to show that clause No.7 (1) of R.T.I. Act is applicable to the Appellant in this case.

4. The Appellant has filed a reply dated 1/11/2011 running into 11 pages which is on record. In short according to the Appellant reply is vague and irrelevant to the subject matter and that respondent No.1 did not manage to prove as to how his denial was justified. The detail reply is on record.

Another application/reply was received on 6/9/2011 and the same is on record.

Application for disposing of appeal dated 28/12/2011 and 30/01/2012 are on record.

5. Heard the arguments. The Appellant argued in person and the learned Adv. Shri A. Talaulikar argued on behalf of the Respondent No.1.

The Appellant referred to the facts of the case in detail. According to him application is dated 17/5/2011. He submitted that no information was furnished within 48 hours. He referred to reply dated 1/6/2011 to

pay Rs. 2/-. According to him he was arrested and this is the question of his liberty. He also submitted about Human rights. He next referred to First Appellate Authority's order. In short according to him no information has been furnished.

During the course of his arguments the Adv. for Respondent No.1 submitted that there is no evidence to substantiate about life and liberty. According to him no life and liberty was in danger. He next submitted that Appellant was asked to collect information but he did not come. According to him appeal is liable to be dismissed.

6. 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 the appellant vide his application dated 17/5/2011 sought certain information/documents under life and liberty clause of Right to Information Act. By reply dated 1/6/2011, the Public Information Officer/Respondent No.1 informed the Appellant that information is ready and requested him to collect the same. It appears that the Appellant did not collect the same.

It is seen that on 20/05/2011, the Appellant preferred an appeal before the F.A.A./Respondent no.2. By order dated 16/06/2011, the F.A.A. dismissed the appeal upholding the reply of the Public Information Officer.

7. The main contention of the appellant is that information concerns the life and liberty of the appellant and the same ought to have been provided within 48 hours on receipt of the request.

It is to be noted here that under sub-section (1) of section 7 the C.P.I.O. or S.P.I.O. 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. However the same has to be substantially proved.

Appellant wants some time to prove the same. The request is granted.

However In R.T.I. matters prime concern is to furnish information. Hence I am directing the P.I.O./Respondent no.1 to furnish the information as stated by Respondent no.1 in letter dated 01/06/2011. The information may be provided free of cost, however, whether to pay or not would depend on the outcome of 'Life or liberty' issue is decided.

Needless to say that the issue of deciding "Life or Liberty of person" is kept open to be decided at a later stage.

8. In view of all the above, the issue of “Life or Liberty of a person” is kept open. That the information be furnished free of cost as now but depending on the said issue.

Hence I pass the following order:

ORDER

Appeal is partly allowed and the Public Information Officer/Respondent no.1 is hereby directed to furnish the information sought by the Appellant vide his application dated 17/05/2011 and /or as per reply of the Respondent no.1 dated 01/06/2011, within 8 days from the date of receipt of this order.

Needless to add that issue regarding “ Life or liberty of a person” is kept pending to be heard on 30/04/2012 at 10.30. a.m.

Pronounced in the Commission on this 12th day of April, 2012.

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