

GOA INFORMATION COMMISSION

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Appeal No. 62/2008

Smt. Sucheta Dessai,
Police Inspector,
CID Special Branch,
Police Headquarters,
Panaji - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Superintendent of Police (Immigration),
Police Headquarters, Panaji - Goa.
2. First Appellate Authority,
Shri. Kishan Kumar,
The Inspector General of Police, Goa,
Police Headquarters, Panaji - Goa.

..... Respondents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner
&
Shri G. G. Kambli
State Information Commissioner

(Per A. Venkataratnam)

Dated: 30/12/2008.

Adv. B. Prabhudessai for the Appellant.

Adv. D. Kinlekar for both the Respondents.

ORDER

A request was made by the Appellant to the Respondent no. 1 requesting information on 7 points under Right to Information Act, 2005 (for short the RTI Act). The Respondent No. 1 replied in time. Not satisfied with the reply, a first appeal was made by the Appellant on 25/04/2008 which was also disposed off in time by the Respondent No. 2. The First Appellate Authority directed in his order "If the Passport Office has no objection then the information (points 5 and 6) may be provided subject to the other legal provision of the RTI Act, 2005." The Appellant is still not satisfied with this order and moved the present second appeal, praying for directions to give her the following documents:

- i) Copies of station diary extract;
- ii) Copies of note sheets of 47 cases may be given to her.

...2/-

2. Notices were issued to all the parties. A reply was filed by the Respondent No. 1. The written arguments were also filed by both the sides and the matter was argued.

3. In her second appeal, the Appellant contended that the information which was supplied was incomplete and information on some points has not been given at all citing the sections 8(1)(h) and 8(1)(j) of the RTI Act. On points 1 and 2 asking for information, the names and other details of the citizens who have applied for an endorsement on their passports and the replies furnished by the Immigration Department of the Police, the details were given by the Public Information Officer. However, one name was repeated twice and hence, the total number of cases was reported as 48 initially. This was corrected by the Public Information Officer as 47. There is, therefore, no further information to be supplied for the 2 points.

4. In reply to the question No. 3, while giving the information, copies of station diaries relating to these cases which were asked were denied by the Public Information Officer on the ground that they are confidential. The matter is already decided by this Commission regarding the supply of station diary in the case of Adv. S. S. Saudagar V/s. Public Information Officer, Police Department, Margao by its judgment and order dated 04/12/2007 in Complaint No. 29/2007-08/Police. This has not been set aside by the High Court of Bombay at Panaji Bench. On the other hand, there is already a case law of the Bombay High Court in the case of criminal appeal 38/94, Mohammad K. A. Mohidin V/s. State of Goa upholding the request for issuance of a copy of station diary. There is, therefore, no further reason for withholding the copies of the station diaries as already asked for by the Appellant.

5. Point No. 4 deals with the supply of copies of embarkation cards. They have already been given by the Public Information Officer except for 9 cases which was said to be with other officials. The Public Information Officer has simply stated that they are available with the senior officials like DGP's office (OS office) and 4 cases are with DY. S.P. Shri. G. P. Mhapne of GRP. These are neither given nor refused. The First Appellate Authority has not made any mention of these cases. The copies may be obtained from wherever they are available and should be given to

the Appellant.

6. Point No. 5 refers to the replies submitted by the Immigration office to the Passport Officer in response to the request by the latter. 33 replies were given by the Immigration Police to the Passport office. These replies are not given to the Appellant. The contention of the Public Information Officer is that they are exempted under section 8(1)(h) and (j) of the RTI Act. In the first appeal, in the impugned order, the Respondent No. 2 has considered that this is the information relating to the third party and could be given if there is no objection from the Passport Officer. It is the contention of the Appellant that it is neither the third party information nor any effort is made by the Public Information Officer subsequent to the decision of the First Appellate Authority to obtain the views of the Passport Officer.

7. The third party is defined in section 2(n) of the RTI Act as any person other than the citizen requesting information and also includes the public authority. This definition is wide enough to include the public authority namely, the Passport Office, Panaji. However, the information requested does not either relate to the Passport office nor was supplied by the Passport office. Therefore, neither the Passport Officer is the third party here in this case nor the information requested namely, the replies sent by Immigration Officer to Passport Officer can be called third party information. Therefore, the question of following procedure of third party laid down in section 11 of the RTI Act is irrelevant in this case. The Public Information Officer has to necessarily give this information.

8. The sixth point is about note sheets of the files investigated by the Immigration office in all the cases wherever replies have been forwarded by the Police to the Passport office. The Respondent No. 1 has rejected this request under section 8(1)(h) and 8(1)(j) of the RTI Act. Section 8(1)(h) of the RTI Act relates to information which would impede the process of investigation or apprehension or prosecution of offenders. For all we know the report of investigation by the Immigration office sent to the Passport office has no any connection with any criminal investigation or apprehension and prosecution of any offenders. The request for endorsement on the Passport applications were made by the passport holders about whom no claim has been made by the Public Information

Officer and First Appellate Authority that they are offenders. Therefore, the question of investigation, apprehension and prosecution of them does not arise much less withholding of information of inquiry reports by the Police into their request. What the Public Information Officer and First Appellate Authority are confused is about the Departmental and Vigilance inquiry pending against some of Immigration officials including the present Appellant. By no stretch of imagination, can the pending inquiry against the Appellant termed as impeding the process of investigation or apprehension or prosecution of offender to deny the request. What seems to be apprehension of Police Department is that some skeletons will tumble out of the cupboard of the Immigration office if the information on this point is disclosed. This obviously cannot be supported by this Commission. If any faulty investigation by any of the Police officials is disclosed, it will only help the public interest in exposing the mistakes of the Department. In any case, provisions of section 8(1)(h) are not attracted at all in this case. Section 8(1)(j) of the RTI Act relates to personal information. For the same reason, which we have mentioned earlier, this cannot be termed personal information of the citizens requesting for the endorsement on their passport. The passport application is public document though containing personal information of the passport holder and not the Police Officials, the investigation into the request and the decisions of both the Police Department (Immigration Section) and the Passport Officer are public documents. There is, therefore, no question of invasion of any privacy of any individual nor weighing of larger public interest against the possible harm caused to any individual in this case.

9. The supply of note sheets in the files maintained by the Police Department in the investigation files of cases referred by the Passport Office is also denied by the Public Information Officer for the same reason. This Commission has already held in number of cases, note sheets of a Government file are records maintained by the public authority and are covered squarely under the definition of "information" under section 2(f) of the RTI Act. Therefore, the question of refusal to supply note sheets does not arise. These documents also have to be supplied to the Appellant on payment of prescribed fees. Finally, there is a discrepancy in supplying the data regarding the number of cases pending

inquiry by the Immigration. The Advocate for Respondents did not explain either in the reply or at the time of the arguments even after a specific question was put by the Commission. The discrepancy is as follows:

1. Cases referred from the passport office	47
2. Replies sent to the Passport Office	33
3. Pending investigation	<hr/> 14
4. Shown in reply to question 7 by the Public Information Officer	9
5. Unaccounted cases	<hr/> 5
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The Advocate for the Respondents in the written reply dated 29/10/2008 stated blandly that there is no discrepancy. This should be explained to the Appellant now, whether the investigation in these cases also is pending.

10. For the reasons mentioned above, the appeal succeeds and is hereby allowed. Both the impugned order dated 14/05/2008 of the First Appellate Authority and the letter dated 29/03/2008 of the Public Information Officer are set aside to the extent they are inconsistent with this order. The Public Information Officer is directed to furnish the information on all the points referred above to the Appellant within 15 days from the date of pronouncement of this order.

Pronounced in the open court on this 30th day of December, 2008.

Sd/-
(A. Venkataratnam)
State Chief Information Commissioner

Sd/-
(G. G. Kambli)
State Information Commissioner

