

# GOA STATE INFORMATION COMMISSION AT PANAJI

**CORAM:** Shri Afonso Araujo, State Information Commissioner

Appeal No. 232/2008

Mr. Edwin Coutinho,  
Flat No. 1, Martin Arcade,  
Chaudi, Canacona – Goa.

..... Appellant.

V/s.

1. The Public Information Officer,  
Office of the Superintendent of Police (South),  
Margao – Goa.
2. The First Appellate Authority,  
Inspector General of Police, Goa,  
Panaji - Goa.

..... Respondents.

Adv. M. D'Souza for the Appellant.

Adv. Mrs. Nilima N. Narvekar for both the Respondents.

## **J U D G M E N T**

(Per Afonso Araujo)

The Appellant moved with the request dated 28/07/2008 to the Public Information Officer, Supdt. of Police, Respondent No. 1 and sought information on items 1 – 1, 2, 3 and 4 and 2 a to g. The Respondent No. 1 in the reply to this request by letter dated 26/08/2008 gave a reply at point No. 1 and regarding point No. 1 – 2, 3 and 4 stated that the information cannot be given being part of an enquiry and it will impede the process of enquiry and the requested documents are rejected under section 8(1)(h) of the Right to Information Act, 2005 (for short the Act). Aggrieved by this reply, the Appellant approached the First Appellate Authority, Respondent No. 2 on 1<sup>st</sup> September, 2008 and by order dated 8/10/2008, the Respondent No. 2 disposed the appeal by stating that all documents in Canacona Police Station U.D. No. 22/08 under section 174 Cr.P.C. has been forwarded to the SDM and Appellant to approach the SDM for relevant information.

2. Not content with the averment made in the order of the First Appellate Authority, Respondent No. 2, the Appellant preferred the present appeal praying for an order directing the Respondent No. 1 to furnish the Appellant copies of scene panchanama dated 21/07/2008 along with photos, copies of all statements of all persons, recorded by

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the Canacona Police in the enquiry pertaining to the death of Domnic Coutinho and all other documents pertaining to the enquiry conducted by the Canacona Police Station, with respect to the unnatural death of Domnic Coutinho and also praying for an order directing the Respondent No. 1 to furnish information free of cost as per section 7(6) of the Act and any other orders deemed fit in exercise of the powers under section 18, 19 and 20 of the Act.

3. Arguments were heard. Shri D'Souza submitted it was the brother of the deceased who sought information and being a relative the information should have been given and that section 8(1)(h) of the Act is applicable only if the Accused seeks information and that the First Appellate Authority merely stated that all documents pertaining to the unnatural death case has been transferred to the SDM, Margao and that as all the documents were now provided it was harassment for the Appellant for which the penalty should be imposed. Smt. Narvekar for the Respondents has stated the information was given within time and at point No. 1 – 2, 3 and 4 could not be given as it pertains to the enquiry and file has to be sent to the SDM and Respondents have not denied the information and there is no question of imposing any penalty.

4. I have gone through the records of the case. The Appellant in his request dated 28/7/2008 sought the following information: -

1) Certified copies of the following documents:-

1. Record of the first information received by the Canacona Police with respect to the death of Mr. Domnic Coutinho
2. Panchanama of the scene alongwith photos
3. Statements of all persons, recorded by the Canacona Police in the said enquiry
4. All other documents pertaining to the enquiry conducted by the Canacona Police Station, with respect to the unnatural death of his brother, Mr. Domnic Coutinho.

The Respondent No. 1 on 26/8/2008 replied to the queries raised by the Appellant in his letter dated 28/7/2008 stating that the death of deceased Mr. Domnic Coutinho was reported by the Canacona Police

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Station by Mr. Eliza Coutinho, wife of deceased on 21/07/2008 at 15.40 hrs. and the reply at points 2, 3, and 4 is that the information called is part of the Canacona Police Station unnatural death No. 22/08 174 Cr.P.C. and being of such nature cannot be given at the stage being part of the enquiry as it will impede the process of enquiry and rejected the information under section 8(1)(h) of the Act.

5. When an unnatural death occurs, all the documents pertaining to the death have to be submitted to the SDM and until such time it will be not proper to provide all the documents while the inquiry is going on such death. The mere fact that the information-seeker is a relative of the deceased it does not mean that the information must be provided. It may be so happen the relatives themselves may thwart the process of enquiry. Similarly, the contention that the exemption from disclosure under section 8(1)(h) of the Act is attracted only when the offenders seek information, does not hold good. It is the nature and gravity of the offence which will determine whether the exemption clause is attracted or not.

6. In the order dated 8/10/2008 of the First Appellate Authority – the Respondent No. 2 stated that all the documents in Canacona Police Station U.D. No. 22/08 under section 174 Cr.P.C. has been forwarded to S.D.M. and directed the Appellant to approach the S.D.M. for the information required. As per the provision of section 6(3) of the Act when an application is made to the public authority requesting for an information which is held by another public authority, the former must transfer such application to the later and inform the applicant about such transfer. The Respondent No. 2 ought to have directed the Respondent No. 1 to transfer the request of the Appellant for the information sought rather than direct the Appellant to approach the S.D.M. to obtain the information required.

7. Acting on the order of the Respondent No. 2, the Appellant approached the Public Information Officer of S.D.M. on 11/12/2008 seeking again the required information, which were provided to the Appellant on 14/01/2009. Right from the time the order of the Respondent No. 2 dated 8/10/2008, directing the Appellant to approach

the S.D.M. for the required information, to the date the information was provided on 14/01/2009, there was delay, for which the Appellant is entitled for the copies of documents free of cost.

8. Since the delay in providing information was not intentional or deliberate, but due to non-compliance of the procedural part regarding the transfer of information from one public authority to another, the question of imposing any penalty does not arise. The Appellant is entitled only for the copies of the documents free of costs. Hence, the following order: -

### **ORDER**

The appeal is partly allowed. The Respondent No. 1 to provide the Appellant the information at Sr. No. 1 – 2, 3 and 4 free of cost.

Pronounced in the open court on this 30<sup>th</sup> day of April, 2009.

Sd/-  
(Afonso Araujo)  
State Information Commissioner



