

GOA INFORMATION COMMISSION

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

Appeal No. 93/2007-08/Police

Shri. Joao C. Pereira,
H. No. 40, Acsona, Utorda,
Majorda, Salcete - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Superintendent of Police (South),
Town Police Station, Margao - Goa.
2. First Appellate Authority,
The Dy. Inspector General of Police,
Police Headquarters, Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 30/01/2008.

Appellant in person.

Respondents No. 1 and 2 are represented by Shri. Nolasco Raposo, Police Inspector, Verna Police Station.

ORDER

This matter is already disposed off by us in our earlier Appeal No.95/2006 dated 16/04/2007. This is regarding the non-issuance of a copy of station diary of Verna Police Station for specific dates namely, 7th, 10th July, 2005, 4th and 5th August, 2005, 5th to 15th September, 2005, 10th April, 2006 and 10th, 11th and 12th June, 2006. The first Appellate Authority i.e. Respondent No. 2 herein, by his earlier order dated 06/12/2006 in the first appeal pending before him, has directed the Public Information Officer to furnish the information. However, in the same case suddenly by another "corrigendum" dated 15/12/2006 he reversed his decision completely and upheld the refusal of the Public Information Officer to give the documents requested. This Commission vide its order dated 16/04/2007 has set aside the corrigendum as there is no such provision under the Right to Information Act, 2005 (for short the RTI Act) to

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revise or correct one's own orders in either first appeal or second appeal that too without giving opportunity to the Appellant. Against this order of the Commission dated 16/04/2007 the Police Department filed a Writ Petition and the Hon'ble High Court vide its order dated 20th July, 2007 remanded the matter to the first Appellate Authority to pass "a detailed and reasoned order after hearing both the sides". The matter was re-heard by the Respondent No. 2 who passed the present "impugned orders" dated 1/10/2007 and 12/10/2007, rejecting the request of the Appellant.

2. The short point is whether a station diary can be given to a citizen who is also an accused person in the same criminal case after the investigation is completed by the Police and chargesheet filed in the criminal court. The matter regarding the disclosure of station diary entries was already decided by the Hon'ble High Court of Bombay, Panaji Bench in a criminal appeal 38/94 by order dated 26/09/1995 in the matter of Mohammed K. A. Khan V/s. State of Goa. This was relied by us in our earlier order dated 16/8/2007 in the case of Adv. S. S. Saudagar V/s. Public Information Officer, S.P., South Goa in Appeal No. 16/2007-08/Police which was decided in favour of the Appellant. The Supdt. of Police, Margao is well aware of this decision. Though a Writ Petition No. 599/2007 was filed by the Police Department against this Commission's orders dated 16/08/2007 in Adv. Saudagar's case, Hon'ble High Court of Bombay, Panaji Bench did not stay our order allowing the disclosure of station diary entries. The Hon'ble High Court has stayed the penalty proceedings against the S. P., South Goa by their order dated 18/12/2007 in Misc. Civil Application 982/2007 in that Writ Petition. Accordingly, we find no merit in the contention of both the Public Information Officer and the first Appellate Authority in this matter that revealing the contents of the station diary to the Appellant will impede the process of prosecution of the offender.

3. The case of both the Respondents is that there are certain entries in the station diary of Verna Police Station for the dates mentioned in the Appellant's request that would reveal the source of information obtained by the Police during the course of its investigation in this criminal case No. 74/05 in which the Appellant himself is an accused. Normally, such information and the progress of investigation in a criminal complaint is recorded by the investigating officer in a "case diary" which is not the subject matter before us. However, if the Police

recorded the "source of information" in the station diary also as claimed by them in this case, we agree that there is a possibility of the accused interfering the prosecution case against him. However, there is also a provision of "Severability" under section 10 of the RTI Act where such information could be withheld and other information could be furnished. We, therefore, direct the Public Information Officer to issue the copies of the station diary entries in respect of the Verna Police Station for the dates requested by the Appellant, after withholding the direct references to the "source of information" as recorded in the station diary by the Verna Police Station. They should make it very clear that some portions were withheld because they contained the source of information and are exempted from disclosure under the RTI Act. With this direction, we partly allow the second appeal and direct the Public Information Officer accordingly, to give the information as per our direction above.

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

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

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