

GOA INFORMATION COMMISSION

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

Appeal No. 38/2008

Shri. Samiro Pereira,
H. No. 50, Gontonaik,
Salcette – Goa.

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Appellant.

V/s.

1. Public Information Officer,
Shri. Shekar Prabhudesai,
Superintendent of Police (South),
Town Police Station, Margao – Goa.
2. First Appellate Authority,
Shri. Kishan Kumar,
The Inspector General of Police (Goa),
Police Head Quarters,
Panaji – Goa.

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Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 13/10/2008.

Appellant in person.

Adv. N. P. Dias for both Respondents.

ORDER

This disposes off the second appeal filed by the Appellant against the order of the Respondent No. 2 who is the first Appellate Authority under the Right to Information Act, 2005 (for short the RTI Act). The Respondent No. 2 passed a common order dated 13/02/2008 dismissing three first appeals filed before him. This order is now called the "impugned order". The impugned order dismissed the appeals because the Appellant "has not sought for specific information under RTI Act 2005 in most of the queries. -----". Whenever the PIO was not in position to supply because the information was awaited, he requested applicant to wait. Hence the three appeals are therefore rejected."

2. The Appellant by his applications to the Public Information Officer requested for certain information which was subsequently replied by the Public Information Officer on some points. From the second appeal, we

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gather that only the following queries of the Appellant are not answered by the Public Information Officer. Point No. IIa is regarding the FIR No. 46/03. The request was why Complainant is not called for reinvestigation? At query No. IIc, the Appellant sought to know why the case file of FIR No. 46/03 is given to P.I. Nelson Albuquerque inspite of his several complaints? At the same point he also wanted to know why the accused Morgan Pereira was not arrested by the Police. At point No. IIe, he wanted to know why the signature of Appellant's servant Kassim Khan was taken on a blank piece of paper by Police Constable Rafael. At point IIg(3), the Appellant wanted to know why the vehicle used by the accused to kidnap the domestic servant was not impounded.

3. The second appeal was filed on 29/05/2008 after a delay of 14 days beyond the limitation period for filing the second appeal. The Appellant wanted this delay to be condoned because he could not meet his legal advisor in time. In the interest of justice, we condone the delay. On a mere perusal of the Appellate order, it is clear that it was not disposed off on merits. The reason for rejection of above part of the information requested by the Appellant as mentioned that the Public Information Officer has not rejected the request for information but only asked the Appellant to wait till the Public Information Officer gets the information from his subordinates. This, obviously, cannot be accepted as either a reason to delay the supply of information or to reject the request. The RTI Act stipulates a specific time limit of 30 days for furnishing the reply which means that the decision has to be taken by the Public Information Officer either to supply information or refuse it with reasons. The Public Information Officer cannot buy time simply stating that the information is being gathered from various sources. This apart the first Appellate Authority himself cannot dismiss the first appeal accepting the reason given by the Public Information Officer as a valid reason for delaying the information. For this reason alone the impugned order has to be set aside and is hereby set aside.

4. We have gone into the merits of the case and find that all the information was subsequently given except for the 5 points mentioned above. For these 5 points, the Appellant has requested the reasons to be explained by the Public Information Officer why the investigation was not carried out according to his expectation. This is clearly not allowed under

the RTI Act. The issues remaining for disposal by the Public Information Officer now do not constitute "information" as defined under the RTI Act. Hence, the second appeal has no merit and is hereby dismissed. Though the impugned order is defective and set aside, the information for the remaining points need not be given by the Public Information Officer. Nothing survives further in the request for information by the Appellant. Accordingly, the appeal is dismissed.

Pronounced in the open court on this 13th day of October, 2008.

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

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