

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 28/2009

Shri Jowett D'Souza,
H. No. 139, Ambeaxir,
Sernabatim, Colva,
Salcete – Goa

... Appellant.

V/s.

1) Public Information Officer,
Superintendent of Police,
Crime Branch,
Dona Paula, Goa

... Respondent No. 1.

2) First Appellate Authority,
The Inspector General of Police,
Police Headquarters,
Panaji – Goa

... Respondent No. 2.

Appellant in person.

Mrs. H. Naik, Advocate for the Respondents.

J U D G M E N T

(Per Afonso Araujo)

The order of the First Appellate Authority confirming the refusal of information by the Public Information Officer on the reasoning that the information is exempt from disclosure is being challenged in this appeal.

2. The Appellant on 18.02.2009 sought from the Respondent No. 1 the following information under the Right to Information Act, 2005 (for short, the RTI Act):

- 1) Give me the date and the name and designation of the Investigation Officer who is handling the investigation in Cr. No. 52/05 at Crime Branch, Dona Paula till date.

- 2) Give me details of investigation carried out from October 2008 by the Investigation Officer Crime Branch Dona Paula in Cr. No. 52/05 from the date of taking over of the case from Maina Curtorim Police Station till date.
- 3) Give me details of whether the statements of ICICI Bank Officials (Accused) i.e. Amar Talwadkar, Claude Lobo and Anthony Dias, have been recorded, if so when; and who was the Investigation Officer.
- 4) Give me details of whether the statements of R.T.O. Officials i.e. Assistant Director of Transport Mr. Manuel Afonso and other have been recorded, if so when; and who was the Investigation Officer.
- 5) Give me detailed statement of witnesses/accused recorded by Crime Branch, till date.
- 6) Whether the car Hyundai Accent GA-02 J-8268 has been attached by the Crime Branch, if so, copy of the attach Panchanama.
- 7) Whether the Crime Branch Police Team have gone to Mallapuram, Kerala, if so, when and what purpose/mission?
- 8) Whether any arrests have been effected and details of the accused persons arrested by the Crime Branch.

The Respondent No. 1 in the communication dated 27.02.009 stated that the information sought which is in respect of Crime No. 52/05 cannot be furnished as the investigation of the case is still going on and the report under Cr PC No. 52/05 yet to be submitted to the Court and rejected the application under section 8(1) (h) and 8 (1) (g) of the RTI Act. On 19.03.2009 the Appellant preferred the First Appeal and by order dated 15.04.2009 the First Appellate Authority – Respondent No. 2 upheld the rejection of the information by the Public Information Officer. This is the Impugned Order.

3. Written arguments were filed by the Appellant and Smt. H. Naik, Ld. Advocate appearing for the Respondents submitted that the information sought is in respect of offence registered and still under investigation and that the information sought is also vague and not specific.

4. I have gone through the records of the case and taken into consideration the submissions of both the parties. In the request dated 18.02.2009 the Appellant requires information in respect of Crime No. 52/05 initially registered at Maina Curtorim Police Station and thereafter transferred to CID, Dona Paula in the month of October 2008. Now the question is whether the information sought through items 1 to 8 can be rejected being exempted under section 8(1) (g) and (h). Section 8(1) says: "Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, -

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;"

The mere fact that the Appellant requires the name of the Investigation Officer it does not mean that the provision of section 8(1) (g) is attracted. After all, the information seeker is none other than the complainant who has initiated the F.I.R and an offence under Crime No. 52/05 was registered.

5. The rejection of the information on the reasoning that the information sought would impede the process of investigation is also not justified as the information seeker is again no other person than the Complainant – Appellant himself. The concern of the Appellant who is the author of F.I.R. paving the way for registering offence No. 52/05 of Maina Curtorim Police Station

and subsequently transferred to CID, Dona Paula, is to vindicate for the crime which was committed against him and eager to know the progress of investigation. By seeking the information on the progress of investigation in no manner will impede the investigation. On the contrary the Appellant can help the investigating agency to trace the culprits and put the investigations on the right track. It may be pointed out here that in Appeal No. 86, 87 and 90/2007-08/Police, the information sought by the Appellant is in respect of the same Crime No. 52/05 of Maina Curtorim Police Station and by order dated 17.01.2009 this Commission directed the Respondents to provide the information to the Appellant.

6. Since the Appellant is the Complainant who has initiated F.I.R. in the offence registered in Crime No. 52/05 of Maina Curtorim Police Station now transferred to CID, Dona Paula and considering the fact that the information sought in no manner attracts the exemption under section 8(1) (h) and (g), the Appellant is entitled for the information sought. Hence, the following order:

ORDER

The Appeal is allowed. The Respondent No. 1 to provide the information at point 1, 2, 3, 4, 5, 6, 7 and 8 of the request dated 18.02.2009 within twenty days from the receipt of this order and report compliance on 07.12.2009.

Pronounced in the open court on this 29th day of October 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner