

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

Appeal No. 89/2009

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

... Appellant.

V/s.

1) Public Information Officer,  
Superintendent of Police,  
Directorate of Vigilance, Anti Corruption Branch,  
Government of Goa, Altinho,  
Panaji – Goa

... Respondent No. 1.

2) First Appellate Authority,  
The Director of Vigilance,  
Secretariat,  
Porvorim – 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)

In the request dated 22.06.2009 the Appellant sought information under the Right to Information Act, 2005 (for short the 'RTI Act') and required:

1. List of documents/articles seized during the raid conducted on P.S.I. Jivba Dalvi's bungalow at Rawanfond, Navelim, (hereafter referred to as the third party) on 11.7.2005 in the corruption case ACB PS Cr. No. ACB PS Cr. No. 02/2005, U/S 13(1)(e) of PC ACT 1988 dated 11.7.2005, in the presence of 2 Panch witnesses – (1) Amar Heblekar, R.F.O. Forest

...2/-

Department, resident of Zuarinagar, Vasco and (2) Shrikant N. Phadte, Asst. Director of Tourism.

2. Certified copies of the documents/articles seized from item no. 1 to item no. 51 during the raid conducted on P.S.I. Jiva Dalvi's bungalow at Rawanfond, Navelim.

2. The Respondent No. 1 by communication dated 29.07.2009 stated that as the information pertains to third party the comment of the third party was taken and the information being sought being personal information it will warrant invasion of privacy and it cannot be given u/s. 8(j) of the RTI Act. Aggrieved by the decision of the Respondent No. 1, the Appellant preferred First Appeal and by order dated 03.09.2009 the First Appellate Authority upheld the decision of the Respondent No. 1 and dismissed the appeal. This is the Impugned Order.

3. The information sought by the Appellant pertains to a corruption case No. 02/2005 u/s. 13(1) (e) of PC Act 1988 registered on 11.07.2005 and the Appellant requires list of documents/articles seized during the raid conducted on the bungalow of the third party. Now the question is whether the information sought is confidential pertaining to a third party and the Respondent No. 1 was justified in denying the same to the Appellant.

4. The third party information is governed by section 11 of the RTI Act and in case the information has been treated as confidential by the third party, the Public Information Officer has to inform the third party that he intends to disclose the information and invite the third party to make submissions in

writing/orally whether the information should be disclosed and based on the submissions of the third party, take a decision about the disclosure of the information. The proviso to this section says that except in case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interest of such third party. All the documents which were seized by the police authorities form part of the Cr. No. 02/2005 registered against the third party. The Respondent No. 1 by following the procedure envisaged in section 11 of the RTI Act obtained the views of the third party whether the information should be disclosed or not and accordingly this third party stated that the same is confidential. Based on these submissions made by the third party, the information was denied to the Appellant.

5. On perusing the list of documents attached in the Crime No. 02/2005, it indicates that all the items pertain to the personal information of the third party and unless it is shown that in the public interest this personal information should be disclosed, the Respondent No. 1 is justified in denying the information. The contention of the Appellant is that the public interest requires as an FIR has been lodged and a corruption case is filed against the third party. No doubt that since the corruption case has been filed and an offence registered, the public interest is involved and unless the Appellant is the Complainant in that criminal case, he would not have been entitled for these documents as it would impede the process of investigation. In the present case the records indicate that this Crime No. 02/2005 has been finalized as case summary by the Special Judge, South Goa on 09.05.2009 stating "Perused the

records in the context of the report of SP, ACP. Apparently there is no sufficient material to proceed against the accused. Hence, summary granted". Since the third party has not been prosecuted in the court of law and the Crime No. 02/2005 has been finalized as summary, all personal documents attached in the Crime No. 02/2005 are confidential and no public interest is involved and permission of the third party is required and since the third party objected for this disclosure, the Respondent No. 1 rightly denied the information. There are no reasons to interfere with the Impugned Order, hence, the following order:

**ORDER**

The Appeal is dismissed.

Pronounced on this 19<sup>th</sup> day of March, 2010.

**Sd/-  
(Afonso Araujo)  
State Information Commissioner**

