

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Complaint No. 67/2008

Shri Austin Fernandes,
1st Floor, Azavedo Building,
Patto,
Panaji – Goa ... Complainant.

V/s.

1) The State of Goa,
Through Chief Secretary,
Government of Goa,
Secretariat, Porvorim,
Bardez-Goa ... Opponent/Respondent No.1.

2) The Registrar (Legal),
Bombay High Court (Appellate side)
Flora Fountain,
Bombay ... Opponent/Respondent No. 2.

Shri R. Satardekar for the Complainant.
Shri K. L. Bhagat for the Opponents.

Misc. Application No. 05/2008

Shri Ranjit D. Satardekar,
1st Floor, Azavedo Bldg.,
Patto,
Panaji – Goa ... Petitioner

V/s.

1) The State of Goa,
Through its Chief Secretary,
Government of Goa, Secretariat,
Porvorim,
Bardez – Goa ...Respondent No. 1.

2) The District and Sessions Judge-cum-
Public Authority-under-RTI Act,
Panaji – Goa ... Respondent No.2.

3) The Registrar (Legal),
Bombay High Court (Appellate Side),
Flora Fountain,
Bombay ... Respondent No. 3.

Petitioner in person.
Shri K. L. Bhagat for the Respondents.

...2/-

Dated: 02.02.2010

COMMON ORDER

Since the Complaint No. 67/2008 and Misc. Application No. 5/2008 deals with the information sought under the RTI Act in the request dated 07.02.2009 of Ranjit Dattaram Satardekar, Advocate (hereinafter referred as 'the Petitioner'), both the cases are disposed by Common Order.

2. The Petitioner on 07.02.2009 sought information under the RTI Act from the Principal District and Sessions Judge, and requires the total number of criminal cases during the period from 1st January 2008 to 31st December 2008; total number of convictions during that period and total number of acquittals during that period.

3. The Principal District and Sessions Judge, Panaji on 13.02.2009 and in reference to the application dated 07.02.2009 of the Petitioner stated that the matter regarding implementation of the RTI Act, 2005 in Subordinate Judiciary in the State of Goa was referred to the Honorable High Court of Bombay – Goa at Panaji and on 17.07.2009 the High Court informed that the framing of Rules (Goa, Daman & Diu and Dadra & Nagar Haveli Right to Information Rules, 2007) and designation of Public Information Officer and Appellate Authorities for the Subordinate Judiciary in the State of Goa are under consideration of the High Court and the information cannot be furnished unless and until the said Rules are published in the Official Goa Government Gazette. In fact the Principal District and Sessions Judge in the reply in Misc. Application No. 5/2008, produced a copy of the circular No. R/1611/49/2006 of the Registrar General of High Court, Bombay, stating that the matter of supplying information under

...3/-

the RTI Act, 2005 and its applicability to judicial fora is under active consideration both of the Supreme Court of India and High Court of Judiciary at Bombay and requested all the District Judges to keep all these applications pending sine die.

4. In view of the matters of the RTI being kept in abeyance till the framing of the Rules by the High Court, the Petitioner moved an application which is the Miscellaneous Application No. 5/2008 and requires the Commission to exercise its powers vested u/s. 19(8)(a)(ii) and direct the Principal District Judge to decide the application for information under the RTI Act. No doubt there is a mandate u/s. 5(1) of the RTI Act that every Public Authority shall within one hundred days of the enactment of the Act designate as many officers as the Public Information Officers in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under the RTI Act. In case the Public Authority does not appoint such Public Information Officers a complaint can be made to the Commission u/s. 18(1)(a) of the RTI Act in this regard and the Commission in exercising of powers u/s. 19(8)(a)(ii) require the Public Authority to appoint the Public Information Officer. However, u/s. 28 of the RTI Act the Competent Authority can make rules to carry out the provisions of the RTI Act and as per definition of Competent Authority u/s. 2(e) the Chief Justice of High Court in the case of a High Court is a Competent Authority. In such circumstances, the proper course is to await for framing of the Rules under the RTI Act by this Competent Authority, which is the High Court of Bombay, for the Subordinate Judiciary in the State of Goa. Had the information sought was of such urgent nature where the question of life or liberty was involved, in which cases as per the mandate in the proviso to the section

7(1) of the RTI Act, the information has to be provided within forty eight hours and since the Courts are very much concerned about the life and liberty of a person, a fundamental right enshrined in article 21 of the Constitution of India, then the Commission could exercise this power u/s. 19(8)(a)(ii) and appoint a Public Information Officer to decide such application for information. As the application dated 7.02.2009 did not require to be dealt urgently there was no need for the Commission to exercise those powers but to await for the framing of the rules under the RTI Act by the Competent Authority.

5. The Goa, Daman & Diu and Dadra & Nagar Haveli Right to Information Rules, 2007 was published in the Official Gazette of the Goa Government at Series I, No. 25 dated 17.09.2009. The notification of the High Court published in the Official Gazette of Goa Government at Series II, No. 40, dated 31.12.2009, the Chief Justice designated, the Registrar at the station and the District and Sessions Judge-I at the station, as Public Information Officer and First Appellate Authority respectively in the District and Sessions Court, South Goa, Margao and District and Sessions Court, North Goa, Panaji. Since the Registrar of District and Sessions Court, North Goa is appointed as Public Information Officer by notification of the High Court, the application dated 07.02.2009 seeking the information under the RTI Act addressed to the Principal District and Sessions Judge to be decided by the Registrar in accordance to section 6(1) of the RTI Act, 2005.

6. Though the Petitioner in his application dated 07.02.2009 has stated that court fee of Rs. 10/- has been affixed on the application, the Principal District and Sessions Judge in the

letter dated 13.02.2009 has stated that the Petitioner has not affixed the court fee of Rs. 10/-. The Petitioner to affix the court fee of Rs. 10/- in the application dated 07.02.2009.

With the above observations, the Complaint No. 67/2008 and Misc. Application No. 05/2008 are disposed off.

Pronounced on this 2nd day of February, 2010.

Sd/-
(Afonso Araujo)
State Information Commissioner