

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri M. S. Keny, State Chief Information Commissioner

Appeal No. 99/2009

Mr. Laurel Abranches,
R/o Indradanush Housing Society,
Borda, Margao – Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Superintendent of Police, PHQ,
Panaji - Goa.
2. First Appellate Authority,
The Inspector General of Police, Goa,
Police Headquarters, Panaji - Goa.

..... Respondents.

Adv. Sandra D'Souza for Appellant.

Adv. Smt. Nilima Narvekar for Respondent No. 1.

J U D G E M E N T **(05-05-2010)**

1. The Appellant, Shri Laurel Abranches, has preferred this Second Appeal praying that the Order dated 01/10/2009 passed by the Respondent No. 2 be set aside and quashed and that the Public Information Officer be directed to give the said information as sought by the Appellant under the Right to Information Act, 2005.

2. The brief facts leadings to this Complaint are as under: -

That the Appellant falsely implicated in a criminal case through a conspiracy by one Prakash Pandey. That the Appellant was assaulted and arrested by PSI Navlesh Dessai on 30/8/2007 for which the Appellant has filed a complaint with State Police Authority. That the Appellant desired to obtain the copy of the Station Diary of PSI Navlesh Dessai and accordingly application dated 2/07/2009 under the Right to Information Act, 2005 ('RTI' Act for short) was filed before the Public Information Officer i.e. Respondent No. 1. That the said

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information was denied by the Public Information Officer on the ground as recorded in Order dated 27/07/2009. That the Appellant filed First Appeal, however, the same was dismissed.

3. Being aggrieved by the said Order dated 01/10/2009, the Appellant has preferred this Appeal on the various grounds as set out in the Memo of Appeal.

4. The Respondent resist the Appeal and their say is on record. It is the case of the Respondent No. 1 that the Public Information Officer/Respondent No. 1 in terms of section 7(1) of RTI Act has disposed off the said application on 27/07/2009 and that the request was rejected for reasons specified in clause (g) of sub-section (1) of section 8 of the RTI Act. That the Appeal preferred before the First Appellate Authority was also dismissed. It is the case of the Respondent No. 1 that the case diary or station diary referred to in Section 172 of Cr.P.C. contains not only the statements of witnesses recorded under section 161 of Cr.P.C. but also reports or observations of the Investigating Officer or his Superiors and that these reports are of confidential nature and the privilege can be claimed thereof. In short it is the case of the Respondent No. 1 that the case diary should not be made available to the accused for it might endanger the safety of the informants and it might deter the informants from giving any information to assist the Investigating Agency. That the Public Information Officer acted bonafidely in rejecting the request of the applicant.

5. Heard the arguments of Learned Adv. Sandra D'Souza on behalf of the Appellant and the learned Adv. Smt. N. Narvekar on behalf of Respondent No. 1. Advocate for the Appellant also submitted written arguments which are on record. Advocate for the Appellant submitted that rejecting the application under the RTI Act is to harass and prejudice the Appellant and that the request is

rejected intentionally. According to her, copies of station diary have been furnished to other applicant and whereas in the case of Appellant request for station diary is rejected. She also produced the Xerox copy of station diary which is on record. According to her, there should not have been separate yardstick in respect of this Appellant.

6. During the course of her argument, Advocate for Respondent No. 1 submitted that no station diary can be given and whatever given might have been given by mistake and that is not the rule. According to her, reports are of confidential nature and there is every possibility of disclosing identity of the informants and only with a view to avoid the endangering the safety of the informant the exemption was rightly exercised by the Public Information Officer. According to her, Appeal is liable to be dismissed.

7. I have carefully gone through the records of the case and also considered the arguments advanced by the party. The short point that arises for my consideration is whether the Appellant is entitled for the relief prayed. It is seen that the Appellant by his application dated 2/7/2009 sought certain information. By letter dated 27/7/2009, the Appellant was informed that station diary contains confidential information and disclosure of which would endanger the life and physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purpose and hence the request was rejected under section 8(1)(g) of the RTI Act. This reply is in time. Being dissatisfied, the Appellant preferred the First Appeal on 28/8/2009. By Order dated 01/10/2009 the same was dismissed as the Order of the Public Information Officer was upheld. Again there is apparently no delay in disposing the appeal, considering the fact that the same is to be disposed within 30/45 days.

It is to be noted here that ordinarily all information should be given to the citizen but there are certain informations protected from disclosure. Section 8 is an exception to the general principles contained in the Act. This provision exempts disclosure of information or apprehension or prosecution of offenders.

8. The Appellant seeks information as under: -

".....please furnish me the copies of the following information mentioned below under the RTI Act, 2005.

Written details registered on station diary by PSI Navlesh Dessai in (serial No., date wise and time) from 1/5/2007 till 31/12/2008."

Section 8 reads as under: -

(i) 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 or any person or identity the source of information or assistance given in confidence for law enforcement or security purpose.

9. I do agree with the Advocates for the Respondents that disclosing the details of station diary will have a far reaching consequences in terms of confidentiality of the information received by the police and may even endanger the physical safety or those examined by the Police Authorities.

In view of section 8(1)(g) the details of station diary, case diary cannot be disclosed to a requester as it may have far reaching consequences in terms of

confidentiality of the information received by the police and may even endanger the physical safety of those examined by the police authorities. The Advocate for the Appellant contends that the same Public Information Officer in another request for information by some other party has provided the copies of the station diary. I have perused the copy of the station diary produced alongwith the arguments. Station diary is of Police Station Colva dated 24/6/2008. I have also perused in another case before this very Commission station diary have been furnished. According to the Advocate for the Appellant, a different yardstick is applied to the Appellant herein.

I have given a careful thought to the issue at hand. I do agree that such a request for station diary or Police case diary normally cannot be given. However, as mentioned above, copy of station diary has been provided to different information seekers. In such a situation some information without unduly compromising with the principle, especially when they pertain to the law enforcement authorities, can be given.

10. In the factual matrix of this case, the details registered on station diary by PSI Navlesh Dessai of the Appellant abovenamed only can be given as prayed for. It is to be noted that this Order is in the factual backdrop of this case and cannot be cited as precedent. Hence, I pass the following Order:-

ORDER

Appeal is partly allowed. Respondent No. 1/Public Information Officer to furnish the copies of written details registered on Station Diary by P.S.I. Navlesh Dessai in respect of the Appellant above named only in (Sr. No. date wise and time) from 01.05.2007 till 31.12.2008 to the Appellant within thirty days from the

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date of receipt of this Order. To that extent Order of First Appellate Authority is set aside.

Appeal is accordingly disposed off.

Pronounced in the Commission on this 6th day of May, 2010.

Sd/-
(M. S. Keny)
State Chief Information Commissioner

GSIC/Appeal No.99/2009
Goa State Information Commission
Shrama Shakti Bhavan, Gr. Floor,
Patto Plaza, Panaji-Goa

07.05.2010

To

- 1) Mr. Laurel Abranches,
R/o Indradanush Housing Society,
Borda, Margao – Goa.
2. Public Information Officer,
The Superintendent of Police, PHQ,
Panaji - Goa.
3. First Appellate Authority,
The Inspector General of Police, Goa,
Police Headquarters, Panaji - Goa.

Sub: Appeal No. 99/2009.

Sir,

I am directed to forward herewith copy of the Order dated 6th May, 2010 passed by the Commission in the above referred Appeal for your information.

Yours faithfully,

(Meena H. Naik Goltekar)
Under Secretary-cum-Registrar

Encl: As above.

