

# **GOA STATE INFORMATION COMMISSION**

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

Appeal No. 101/2006/Police

Shri Luel Fernandes,  
136, Cotta Chandor,  
Salcete - Goa.

..... Appellant.

V/s.

1. Public Information Officer  
Superintendent of Police, North,  
Porvorim - Goa.
2. First Appellate Authority  
Deputy Inspector General of Police,  
Police Headquarter, Panaji - Goa.

..... Respondents.

## **CORAM:**

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

(Per A. Venkataratnam)

**Under Section 19 (3) of the RTI Act, 2005 (Central Act 22 of 2005)**

Dated: 23/04/2007.

Appellant in person.

Shri Raju V. Rautdessai, P.I., authorized representative of the Respondent  
No. 1 and 2 present.

## **ORDER**

This disposes off the second appeal made by the Appellant on 18/3/2007 against the letter dated 18/12/2006 of the first Appellate Authority, the Respondent No. 2, herein. The Appellant approached the Respondent No. 1, the Public Information Officer, by his request dated 17/10/2006, for certain information. A reply was given by the Public Information Officer on 27/11/2006 and not satisfied with this, the Appellant approached the Respondent No. 2 by way of first appeal on 4/1/2006. The first Appellate Authority upheld the letter by the impugned letter dated 18/12/2006. As the grievance remained, this second appeal is filed. We take that the impugned letter has rejected the first appeal though it is not said so in as many words, because the Public Information Officer's letter is upheld. We would also like to place on record that the first Appellate Authority, (Respondent No. 2), sometimes, gives his order in the shape of a letter or note and never as an order. Yet other times, he himself gives the information directly to the citizen as has happened in this case, instead of

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pronouncing the order either upholding the appeal or rejecting it.

2. Notices were issued and the Appellant appeared in person. The Respondents were represented by their authorized representative Shri Raju V. Rautdessai. The Respondents have submitted their own written statements.

3. The questions posed by the Appellant are as follows: -

- 1) Whether the police can charge sheet as case without investigating the case?
- 2) If you can't then, what was the nature of evidence submitted to the Public Prosecutors office, and the persecutor found that there was sufficient evidence to go forward to charge sheet the case and leaving other charges of conspiracy, fraud, falsification of accounts, criminal breach of trust aside?
- 3) Kindly forward me a copy of the High court order wherein the police claims that the High court has ordered to investigate only into the siphoning of monies, inspite of our protest.

The replies given by the Public Information Officer are as follows: -

- 1) No comments as always case is charge sheeted after a thorough investigation.
- 2) No comments.
- 3) The Hon'ble Court had not ordered to investigate only into the symphony of monies.

4. The grievance of the Appellant is that the Public Information Officer has merely repeated what was told to him by the Police Inspector, Raju V. Rautdessai. We do not see anything wrong with this because the Public Information Officer has to simply give the facts and he need not give any opinion unless he wants to withhold some information in which case he has to apply his mind and give reasons for non-disclosure of information. In this case, the reply is not vague as suggested by the Appellant. The Public Information Officer has given a definite reply for the first question that always a case is chargesheeted after the thorough investigation. The suspicion of non-application of mind arises because of use of words "no comments" in the beginning of the sentence. We also do not know what the Public Information Officer means by saying "No comments" and at the same time giving answer to the first question.

5. The second question is about submitting a chargesheet to the Court through the Public Prosecutor office only on some charges after investigation and leaving some other charges against accused. For this, the answer given by the Public Information Officer is definitely vague because he did not offer any comments on the penal sections of IPC left out at the time of charge sheeting. Nevertheless, we are of the opinion that the nature of question is such that the answer is quite obvious. If the Police, after the investigation into a number of offences committed by the accused finds that there is no evidence against some of them to be charged under the relevant penal sections of the IPC or of Special Criminal Acts and does not press for those charges in the Criminal Court while submitting the chargesheet, we do not find anything wrong with this. However, in this particular case, the Public Information Officer should have given a specific reply to the Appellant what are the specific charges for which the Police have not chargesheeted the accused for want of evidence, though initially mentioned in the FIR. The question is not only answered by the Public Information Officer but also the D.I.G. i.e. first Appellate Authority who did not touch on this in his letter disposing the first appeal.

6. The third question is regarding the interpretation of the order of High Court. The reply is specific and answers the third question posed by the Appellant.

7. There are certain points raised by the Appellant regarding the application to the Court by the investigating officer regarding the cancellation of bail of the accused and the role of a Chartered Accountant appointed to assist the Police to investigate the complaint thoroughly. There is no need for us to go into these because they do not form the part of the information asked by the Appellant. With these observations, the appeal is partly allowed. The Public Information Officer is directed to give the specific information to the question No. 2 of the application dated 17/10/2006 by the Appellant in next one week. Parties to be informed.

(A. Venkataratnam)  
State Chief Information Commissioner

(G. G. Kambli)  
State Information Commissioner