

GOA INFORMATION COMMISSION

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

2nd Appeal No.14/2008

Shri Shankar Raghunath Jog,
Margawadi, Sancordem,
Via Tiska – Goa.

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Appellant

V/s.

1. The First Appellate Authority,
The Deputy Inspector General of Police,
Police Headquarters, Panaji - Goa.
2. The Public Information Officer,
The Superintendent of Police (North),
Office of the Superintendent of Police (North),
Porvorim – Goa
3. The Assistant Public Information Officer,
SDPO, Ponda – Goa.

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Respondents.

CORAM:

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

(Per G. G. Kambli)

Dated: 13/08/2008.

Appellant in person.

Adv. Mrs. Neelima Narvekar, Government Counsel for the Respondents.

J U D G M E N T

This is a 2nd appeal filed by the Appellant under section 19 (3) of the Right to Information Act 2005 (hereinafter referred to as an "Act") against the Respondents.

2. In brief, the facts of the case are that the Appellant filed a complaint to the Incharge/Inspector Ponda Police Station regarding environment destruction in the property bearing Sy. No. 36/1 of Village Dharbandora and requested for an action under section 15 and 16 of the Environment (Protection) Act, 1986. Subsequently, by an application dated 20/12/2007 addressed to the Public Information Officer Ponda Police Station, the Appellant requested for certain information under the Right to Information Act in connection with his complaint dated 30/11/2007. In response thereto, the Police Sub-Inspector of Ponda Police Station informed the Appellant that on a Complaint of Shri Dinar Tarcar

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resident of Campal, Panaji a case has been registered vide Ponda Police station Crime No. 289/2007 under section 15 of the Environment (Protection) Act, 1986 and further investigation of the case is in progress.

3. Thereafter, the Appellant addressed another application dated 10/01/2008 to the Public Information Officer, Office of Ponda Police Station requesting to provide the following Information: -

“1. Kindly provide me the concerned file of Ponda Police station Crime No. 289/07 for inspection and perusal”.

2. Kindly give me certified copies of all the papers including notes in this file”.

4. The Police Sub-Inspector, Ponda Police Station asked the Appellant vide letter dated 14/01/2008 to approach the Superintendent of Police North at Porvorim to get the information. Having not satisfied with the said reply of the PSI, Ponda Police Station, the Appellant preferred the first appeal before the DIG of Police on 06/02/2008. The said appeal along with its enclosures was forwarded to the Superintendent of Police, North by the Superintendent of Police (HQ) as per the direction of the IGP Goa with a direction to reply the same directly to the Appellant. The Suptd. of Police North who is the Public Information Officer rejected the request of the Appellant stating that the disclosure of the information at this stage would impede the process of investigation. The Respondents stated that he did not receive any decision from the First Appellate Authority within the time limit provided in the Act and therefore, he has filed the present second Appeal.

5. The Respondents filed their replies. Among others, the Respondents have stated that the Appellant has not disclosed the cause of action for filing this present appeal and that the Appellant did not mention as to which order of the First Appellate Authority has been challenged before this Commission. The Respondents have also stated that the Appellant has not filed the application dated 10/01/2008 before the appropriate authority i.e. Superintendent of Police North who is the PIO but has wrongly addressed to the PIO of Ponda Police station. Besides the Appellant was informed to approach the Suptd. of Police North for information. The Appeal filed before the First Appellate Authority was not maintainable and therefore, the same was transferred to the Suptd. of Police North. The Respondents in their reply further stated that the Suptd.

of Police North has rightly rejected the request of the Appellant under clause (h) of sub-section (1) of section 8 of the Act as the disclosure of information would impede the process of investigation.

6. The arguments of both the parties were heard. The Appellant contended that he has submitted his application dated 10/01/2008 in the office of the Dy. Superintendent of Police, Ponda who has been designated as Assistant PIO and therefore it was his duty to forward the said application to the concerned Public Information Officer forthwith in terms of sub-section (2) of section 5 of the Act. He also pointed out that as per the definition contained in section 2 (m) of the Act, Public Information Officer includes the Assistant PIO. He submitted that the First Appellate Authority ought to have disposed off appeal within the time limit specified in sub-section (6) of section 19 of the Act. He further stated that he has rightly preferred the second Appeal under section 19 (3) of the Act which gives right to the person for filing second Appeal even though the First Appellate Authority failed to pass an order on the First Appeal filed under sub- section (1) of section 19 of the Act within the time limit laid down in section 19 (6) of the Act.

7. So far as the merits of the case is concerned, he submitted that the Police have not registered an offence on his complaint but registered the crime on the complaint of Shri Dinar Tarcar, Campal Panaji who according to the Appellant is the suspect in the said case and therefore, the Appellant apprehended and suspected foul play by the Police.

8. In this case, it is to be noted that neither the PSI, Ponda Police Station has forwarded the application of the Appellant to the concerned Public Information Officer nor the Appellant has approached the Public Information Officer seeking information. The Appellant directly approached the first Appellate Authority who in turn forwarded the appeal alongwith his application to the concerned Public Information Officer who rejected the request of the Appellant. The Appellant has filed a second appeal directly before this Commission without approaching the first Appellate Authority under section 19(1) of the Act. The first appeal which was filed by the Appellant before the first Appellate Authority was premature as there was no order passed by the Public Information Officer since there was no application before the Public Information Officer to enable him to pass any order. Now that the Public Information Officer i.e.

Respondent No. 2 has passed an order, it would be appropriate for the Appellant to approach the Respondent No. 1 by way of appeal under section 19(1) of the Act. Hence, we have no option but to dismiss the present appeal. Accordingly, we pass the following order: -

ORDER

The appeal is dismissed.

Pronounced in the open Court, on this 13th day of August, 2008.

Sd/-
(G. G. Kamblı)
State Information Commissioner

Sd/-
(A. Venkataratnam)
State Chief Information Commissioner