

GOA INFORMATION COMMISSION

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

Appeal No. 24/2007-08/Police

Shri Joao C. Pereira
H. No. 40, Acsona,
Utorda, Majorda,
Salcete - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Superintendent of Police (South),
Margao - Goa.
2. First Appellate Authority,
Dy. Inspector General of Police,
Police Head Quarters,
Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 03/09/2007.

Appellant in person.

Shri N. Raposo, P.I. Verna Police Station for both the Respondents.

ORDER

This disposes off the second appeal dated 25/6/2007 filed by the Appellant who is aggrieved by the order dated 14/5/2007 of the Respondent No. 2 (hereinafter referred to as the impugned order) under the Right to Information Act, 2005 (RTI Act for brief). The facts are that the Appellant, who is an accused in the Verna Police Station criminal complaint No. 74/05 under Section 341, 504, 506(ii) and Section 34 of I.P.C., sought certain information from the Respondent No. 1. The Respondent No. 1 who is the Public Information Officer, refused the information on the ground it would impede the process of prosecution of the case, which is already filed before the Judicial Magistrate Court. When he appealed against this order to the Respondent No. 2, the appeal was dismissed and the order of the Public Information Officer was upheld for the same reason.

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2. On notices having been issued, the Appellant was present in person and the authorized representative was also present in person. The Police representative sought adjournments on three occasions for the reason that a Government Counsel is likely to be appointed to defend the Respondents. Finally, on the last date, the authorized representative of the Respondents submitted that the Commission could pass order based on the reply filed by the Respondents and the case was heard. On merits, the representative stated that the case is sub-judice and revealing the information requested by the Appellant will impede the prosecution case.

3. The Appellant requested the following information: -

- “(a) Why PSI Edwin Colaco entered into my house and business premises on 15.9.2005, and what was searched?
- (b) Give me the names and addresses of the five staff of Verna Police Station who accompanied in the search with PSI Edwin Colaco as stated in Station Diary dated 15.9.2005 by PSI Edwin Colaco.
- (c) Give me the name and address of PC No. 5775 alongwith other police officers who entered my house alongwith PSI Edwin Colaco on 15.9.2005.
- (d) Give me the copy of the Order issued by PSI Edwin Colaco to subordinate police officers in writing to make search in my house and business premises, as laid down in Section 165 (sub-section 3) of Cr.P.C.
- (e) Give me copy of records sent to the Magistrate about the search on 15.9.2005 by PSI Edwin Colaco as per Section 165 Sub-Section 5 of the Cr.P.C.”

4. A perusal of the request shows that the information requested is in connection with the search on 15/9/2005 of the house of the Appellant and his business premises when the complaint was under investigation by the Verna Police. The grievance seems to be that the Police searched his house and business place without authority. The Police were searching for the Appellant and not for discovery or any object or evidence. However, they were unsuccessful in their attempt on that day. From the copy of the station diary for that day obtained by the Appellant, copy of which is produced before us by the Appellant, the Police entered the house after being allowed in by Jofrey Pereira,

the brother of the Appellant and searched the guest house "Casa Ligorio", with a permission of one Ms. Christy present at that time. It is true that the Police have recorded that they have searched the premises by a team of officials led by PSI Colaco and some five constables. It is possible that the names might not have been recorded by the raiding party and in any case this information is not recorded in the station diary. There is no evidence of anything seized from the house or the guesthouse and no evidence of a panchanama was prepared. In view of this, we do not feel any need for the Police to reveal the names and addresses of the five Police Constables. For similar reasons, there is no need for Police to give a written directive every time accompanying a search party much less give a copy of non-existing order to the Appellant. If the records are sent to the Magistrate regarding search dated 15/9/2005, it is for the Appellant to inspect the court records and or obtain the same from the court.

5. In view of the above, the appeal has no merit and is hereby dismissed. We, therefore, uphold the orders of both the Public Information Officer and first Appellate Authority.

Announced in the open court on this 3rd day of September, 2007.

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

Sd/-
(G. G. Kambli)
State Information Commissioner, GOA.

/sf.
sf./km.