

GOA INFORMATION COMMISSION

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

Appeal / 34 / 2008

Shri Jude L. Vaz,
Hno: 254, Tariche Gallu, Colvalem,
Bardez - Goa.

..... Appellant

V/s

1. The First Appellate Authority,
The Inspector General of Police (Goa),
Police Head Quarters,
Panaji - Goa.

..... Respondent No.1..

2. The Public Information Officer,
The Superintendent of Police,
Police Head Quarters,
Panaji - Goa.

..... Respondent No.2..

CORAM:

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

(Per G. G. Kambli)

Dated: 23/07/2008.

Adv. R. S. Sardesai for the Appellant.

Adv. K. L. Bhagat, Government Counsel for both the Respondents.

O R D E R

The Present Appeal under section 19 and 20 of the Right to Information Act 2005 (for short the Act) is directed against the order dated 13/02/2008 passed by the Respondent No. 1, herein, on the various grounds as set out in the memo of Appeal.

2. The case of the Appellant is that the Appellant vide his application dated 04/12/2007 requested the Respondent No. 2 to provide him information on 2 points under the Act, on the representation dated 12/02/2008 addressed by him to the Director General of Police regarding the frequent harassment by the various Police Station. The Respondent No. 2 vide reply dated 08/12/2007 informed the Appellant on point No. 1 that his petition dated 12/02/2007 was sent for inquiry to SP Crime, Dona Paula vide letter dated 14/02/2007 and the report in the matter is not yet received.

...2/-

Regarding the point No. 2, the Appellant was informed that his request has been transferred to the Public Information Officer i.e. Medical Superintendent, IPHB under section 6(3) of the Act. Subsequently, by another letter dated 8/12/2007, the Respondent No. 2 forwarded a copy of the application dated 4/12/2007 to the Medical Superintendent, Public Information Officer of Institute of Psychiatry and Human Behaviour under section 6 (3) of the Act. In the said letter the Respondent No. 2 made it clear that the application was not accompanied by the application fees of Rs. 10/-. A copy of the said letter was also endorsed to the Appellant. Feeling aggrieved by these 2 letters of the Respondent No. 2, the Appellant preferred an Appeal before the Respondent No. 1 who dismissed the same by order dated 13/02/2008. Hence, the present 2nd appeal.

3. Shri R. S. Sardesai, the learned Adv. For the Appellant contended that the Respondents have not provided the information to the Appellant as yet. He pointed out that the Respondent No. 1 has wrongly dismissed his Appeal as the Respondent no. 2 failed to provide the information sought by the Appellant. On the other hand, Shri K. L. Bhagat, Government Counsel submitted that the Respondent No. 1 has provided the information on both the points.

4. Coming now to the merit of the case. It is seen that the Appellant by his application dated 4/12/2007 sought the following information

“ (a) Why was my letter dated 12/02/2007 not replied/responded to?

(b) On 22/02/2007 we met the DGP in his chamber and briefed him of the facts. When we braced the topic of ECT (Electro Convulsive Therapy –or in crude form-shock treatment), He became hysterical and said that ECT was banned. I consulted some prominent, upright Medical Patricians and they disagreed that ECT was banned. What does the law say about ECT? Is it banned?”

5. In the Appeal memo the Appellant stated that he sought the status report on its representation dated 12/02/2007 addressed to the Director

General of Police whereas it is seen from his application seeking information, the Appellant has sought the reasons as to why his letter dated 12/02/2007 was not replied/responded to. The Appellant sought the reasons from the Respondent No. 1 which is not permissible under the Act. Hon. High Court of Mumbai by its order-dated 3/04/2008 in Writ Petition No. 419/2007 (Celsa Pinto V/s Goa Information Commission and others) has held that no reasons can be sought from the Public Information Officer under the Act. Since the Appellant had sought the reasons from the Public Information Officer, the request of the Appellant at (a) does not fall within the purview of the Act and hence the same is liable to be rejected. The Respondent No. 1 had given the factual position stating that his application dated 12/02/2007 was sent for inquiry to the SP Crime Dona Paula and the report is awaited. Therefore, according to us the Respondent No. 2 has provided the complete information on point (a).

6. Coming to the information sought at (b) here again the Appellant sought to know the legal position about ECT (Electro Convulsive Therapy) the Respondent No. 2 has rightly transferred that part of the application to the Public Information Officer of Institute of Psychiatry and Human Behaviour as the Respondent No. 2 is not competent to comment on the same. Nonetheless, the Public Information Officer is not expected to provide any legal opinion or advice to the citizen and therefore the information sought by the Appellant does not fall within the term "Information" as defined in section 2 (f) of the Act. The Public Information Officer's duty under the Act is to provide the Information, which is available in the records of the Public Authority.

7. This being the position, we do not see any merit in the present Appeal and the same deserves to be dismissed. Accordingly, the Appeal is hereby dismissed.

Pronounced in the open Court on this 23rd day of July 2008.

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

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

