

GOA INFORMATION COMMISSION

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

Appeal No. 44/2007-08/Police

Shri. Rabindra A. L. Dias,
Dr. Pires Colony, Block "B",
Cujira, Santa Cruz - Goa.

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Appellant.

V/s.

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

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Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 04/12/2007.

Appellant alongwith his Advocate present.

Adv. Mrs. Harsha Naik for both the Respondents.

ORDER

The Appellant has filed a request under the Right to Information Act, 2005 (hereinafter referred to as the RTI Act) on 14/08/2006 to the Police Inspector, Colva Police Station asking him to inform him what action has been taken by his office on earlier complaint dated 4/10/2004. Thereafter, it appears that he filed another application before the Public Information Officer on 8/3/2007 under the RTI Act. This application is not on record. However, a reply was given by the Public Information Officer, Respondent No. 2 herein, that the matter was inquired into and that as it is sub-judice in Civil Suit No.239/98/I, no further action can be taken by the Police. Based on the first appeal by the Appellant on 25/6/2007, the first Appellate Authority, Respondent No. 1 herein has dismissed the appeal and upheld the Public Information Officer's order. Hence, this second appeal now before this Commission.

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2. Notices were issued to all the parties. Adv. Harsha Naik on behalf of both the Respondents argued the matter. The Public Information Officer has submitted his say that the information was given to the Appellant and that the Police cannot interfere as it is purely a Civil matter. The arguments on behalf of the Appellant are that the orders of both the Public Information Officer and the Appellate Authority are arbitrary and illegal. The only ground taken by him is that the Respondent No. 1 as first Appellate Authority while upholding the Public Information Officer's order, has given further directions to him to initiate action under section 107 Cr.P.C. against the Appellant and hence, he prayed that the information as per his application dated 3rd November, 2004 be supplied to him and compensation be also awarded to him. He further prayed for penalizing the Respondent No. 2 for not furnishing the information within specified period.

3. The point briefly here is whether his request for furnishing the action taken by the Public Information Officer and the public authority would be "information" within the meaning of the RTI Act and whether the first Appellate Authority exceeded his jurisdiction in giving administrative directions to the Public Information Officer in the RTI Act appeal before him.

4. The original application/complaint is dated 3rd November, 2004 prior to the enforcement of the RTI Act, 2005. The question of giving information pursuant to this application does not arise. However, after the RTI Act has come into force, the Appellant wanted to know what action was taken by the Police Inspector, Colva Police Station on his complaint dated 4th October, 2004. Though this is not addressed to the Public Information Officer, the Public Information Officer chose to reply in detail by his letter dated 26/04/2007 that due inquiries were held and that the Police are not able to proceed further in view of the matter being agitated in Civil Court in Margao. We find that this is a proper reply. However, the first Appellate Authority while confirming the order by the Public Information Officer has unnecessarily mentioned about the direction to the Public Information Officer in his administrative and supervisory control regarding taking action against "both the parties under 107 Cr.P.C." This is outside the scope of the first Appellate Authority under the RTI Act. Hence, the said portion of the order of the first Appellate Authority deserves to be quashed and set aside. Accordingly, we set aside and quashed the said portion

of the order of the first Appellate Authority. We hope he will take due notice of it for future guidance. However, such as direction will not vitiate the Appellate order upholding the Public Information Officer's letter of reply. The second appeal asking for the specific action by the Police Station already replied by the Public Information Officer and we uphold the Public Information Officer's letter. Hence, the question of imposing penalty on the Public Information Officer also does not arise. Appeal is partly allowed.

Announced in the open court on this 4th day of December, 2007.

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

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

/sf.