

GOA STATE INFORMATION COMMISSION

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

Appeal No. 52/2006/Police/P

Shri Agostinho Proenca
Aged 52 years,
Bella Vista Colony,
Sangolda, Bardez - Goa.

..... Appellant.

V/s.

1. Public Information Officer
Superintendent of Police (North Goa),
Alto - Porvorim, Bardez - Goa.
2. First Appellate Authority
Dy. Inspector General of Police,
Police Headquarters, Panaji - Goa.

..... Respondents.

CORAM:

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

(Per G. G. Kambli)

Dated: 15/02/2007.

ORDER

The Commission in its order dated 25/01/2007 has directed the Respondent No. 1 to show cause as to why the penalty of Rs.250/- per day should not be imposed on the Respondent No. 1 for the period from 28/10/2006 till the information is provided to the Appellant.

2. The Respondent No. 1 filed the detailed reply. In the reply, the Respondent No. 1 submitted that the Respondent No. 1 rejected the request of the Appellant under Section 8 (1) (j) of the Right to Information Act, 2005 (for short the RTI Act) since the disclosure of the information would amount to invasion of the privacy of the individual. The Respondent No. 1 also submitted that he comes to this conclusion because the Appellant was neither the Complainant nor the accused in the said criminal case No. 44/2003. He submitted that he took the decision bonafidely.

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3. The first Appellate Authority before whom the Appellant preferred the appeal passed an order directing the Respondent No. 1 to provide the information with a rider that the views of third party be obtained before furnishing information. Accordingly, the Respondent No. 1 obtained the views of the third party and communicated the same to the Respondent No. 2. It is the Respondent No. 2 i.e. first Appellate Authority has rejected the request of the Appellant under Section 11 of the RTI Act and not by the Respondent No. 1.

4. It is to be noted that the Respondent No. 1 has rejected the application of the Appellant under Section 8 (1) (j) of the RTI Act whereas the Respondent No. 2 rejected the request of the Appellant under Section 11 of the RTI Act. In fact, the Respondent No. 2 ought to have examined as to whether the order passed by the Respondent No. 1 is in accordance with the provision of the RTI Act and the reasons given by the Respondent No. 1 for rejecting the request falls within the exempted clause (j) of sub-section (1) of Section 8 of the RTI Act. If at all the first Appellate Authority was of the view that the information pertains to the third party, the first Appellate Authority i.e. Respondent No. 2 could have heard the views of the third party and then passed an appropriate order. In the present case, the first Appellate Authority already comes to the conclusion that the information has to be provided on obtaining the views of the third party. We, therefore, feel that the course adopted by the Respondent No. 2 was not proper.

5. We have also observed that the Respondent No. 1 has rejected the request of the Appellant merely under Section 8 (1) (j) without giving the reasons. Mere quoting of sections is not sufficient. The Public Information Officer is deciding the applications under the RTI Act in a quasi-judicial capacity and since his decisions are expellable, the Public Information Officer should give the reasoned decision. Therefore, we direct the Respondent No. 1 to give the reasons as and when the request for providing information is rejected in future cases because the burden lies on the Public Information Officer to justify his decision. Apart from that, the reasoning of the Public Information Officer now submitted for rejection is wrong. Under the RTI Act, 2005 neither laws standi nor reasons for seeking the information need be mentioned in the request for rejection. With these observations, we drop the further proceedings under Section 20 against the Respondent No. 1., as this case of wrong understanding of law.

6. The action of the first Appellate Authority in rejecting the request himself and again for wrong reasons is also unfortunate. A copy of this order should also be served on him for taking note of the legal position in future.

(G.G. Kambli)
State Information Commissioner, GOA.

(A. Venkataratnam)
State Chief Information Commissioner, GOA.