

# **GOA STATE INFORMATION COMMISSION**

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

Appeal No. 59/2006/Police

Shri Samiro Pereira  
R/o H. No. 50,  
Orlim Gontonaik Vaddo,  
Salcete - Goa.

..... Appellant.

V/s.

1. Public Information Officer  
The Superintendent of Police,  
South Goa, Margao .

2. First Appellate Authority,  
The 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 A. Venkataratnam)

Dated: 23/02/2007.

Appellant in person.

Adv. K. L. Bhagat represented both the Respondents.

## **ORDER**

This order disposes off the second appeal filed on 22/12/2006 by the Appellant. By his request dated 17/8/2006, the Appellant approached the Superintendent of Police, Margao, Public Information Officer and the Respondent No. 1 herein, with a request for some information regarding the cases filed by himself with the Police. Interestingly, the complaints are against some Police officials themselves in addition to some other persons. The request was forwarded by the Public Information Officer to the SDPO, Margao, who is the Asst. Public Information Officer and also his subordinate on 20/8/2006 for a report. What follows is a tale of insubordination and consequent helplessness pleaded by the Respondent No. 1 which makes a pathetic reading. The Respondent No. 1 sent in all 4 reminders on 25/9/2006, 10/10/2006, 23/10/2006 and 3/11/2006. Finally, a report was received by him on 21/11/2006 after a lapse of 3 months. As the report did not mention all the information requested

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by the Appellant, the Public Information Officer was forced to send further letters and reminders to the SDPO. In addition, he also gathered the information from SDPO, Vasco who was also his subordinate and from Dy. S.P., ANC followed by reminder to all the officers. Because of insufficient, incomplete information, the S.P., Margao could not reply to the Appellant in time. He had sent an interim reply on 18/12/2006 and some incomplete information on 23/01/2007, which were not satisfactory to the Appellant. The Appellant, thereafter, approached the first Appellate Authority, Respondent No.2, herein by his first appeal dated 20/10/2006 on which the Respondent No. 2 has passed an order on 24/11/2006 allowing the appeal and directing the Public Information Officer to submit the information and also to reply to him of the action taken within 10 days of the receipt of the order. This order is also not complied with by the Respondent No. 1 obviously because he was not getting cooperation from his own officials who were directly subordinate to him. The Appellant, thereafter, filed the present second appeal on 22/12/2006.

2. Notices were issued and the written statements were filed by both the Respondents. They were also represented by Adv. K. L. Bhagat. On the day of hearing, the Appellant was not present. However, the matter was taken up for final hearing in view of Rule No. 7(3) of the Goa State Information Commission (Appeal Procedure) Rules, 2006.

3. The main thrust of the arguments before the Commission by both the Public Information Officer and first Appellate Authority is that the delay is caused because the information was not forthcoming from the subordinate officials to the Public Information Officer. During the course of hearing, the information is received by the Appellant and he amended the appeal on 22/01/2007 saying that incomplete, half hearted, false and unnecessary information was received by the him after the issue of the notices by the Commission and that he amends the appeal to incorporate the following prayers: (i) to order the Public Information Officer to file an affidavit in respect of information furnished; (ii) to direct the Public Information Officer to furnish pending information on immediate basis; (iii) to punish the Public Information Officer for not furnishing the information in stipulated time; and (iv) to award him compensation.

4. Though he has amended the appeal saying that the information furnished is incomplete and inaccurate, the Appellant did not specify what is received by

him and how it is incomplete and false. We are, therefore, not able to take up this prayer as he was not even present during the hearing of the appeal. On the other prayers regarding the starting of penalty proceedings for not furnishing information in time, it has been explained by both the Respondents by filing two different written statements. The Respondent No. 1 has justified his action of not furnishing information in time because of the delay in receiving information by himself. He has, therefore, submitted that there was no deliberate attempt to deny the information nor malafide intention to delay the information. The Respondent No. 2 has also submitted that he has already directed the Respondent No. 1 to provide the information within 10 days of his order and that the delay in furnishing information is neither willful nor negligent.

5. Section 7(1) of Right to Information Act, 2005, hereinafter referred to as the RTI Act, lays down the time limit of 30 days within which either the information should be provided or rejected with reasons. Infact, 30 days time limit is the maximum prescribed under the Act. There is no provision for extension of this time limit. The law is that the information should be provided as expeditiously as possible. The common belief that the time limit of 30 days is allowed to the Public Information Officer to furnish the information is, therefore, not correct. Further, the delay in furnishing information automatically presumes that the Public Information Officer has deliberately withheld the information. The burden of proof that he acted reasonably and diligently is on the Public Information Officer as per second proviso to Section 20 of the RTI Act. If the information is not in the personal possession of the Public Information Officer and he has to obtain the information from others in his Department though not directly subordinate to him, he can seek the assistance of another person to furnish the information. The person who has not submitted the information to the Public Information Officer even after being requested to do so shall be treated as a Public Information Officer under Section 5(5) of the RTI Act for the purposes of any contravention of the provisions of the RTI Act. If the information pertains to some other public authority, the Public Information Officer should transfer the request within 5 days of receipt of the request by him to the public authority concerned. In this case, it is very clear that though the assistance was sought from the Dy. S.P., Margao and Vasco under sub-section (4) of Section 5, both the officers failed to submit the information to the Public Information Officer in time, which has resulted in furnishing the information late. We also have noticed that the information sought is regarding the action taken against Police officials

themselves in the various complaints filed by the Appellant earlier. There is, therefore, reasonable grounds to presume that the delay in furnishing the information is deliberate. We are not in a position to comment right now whether the information furnished is complete and correct in the absence of any details submitted by the Appellant. However, we are convinced that there is inordinate delay in providing the information. We, therefore, treat that the SDPO of Margao and Vasco-da-Gama as "deemed" Public Information Officers under Section 5(5) of the RTI Act and direct both of them to appear in person to the next date of hearing namely 20/03/2007 at 11.00 a.m. and show cause why the penalty of Rs.250/- per day should not be imposed on both of them for failing to submit the information to the Public Information Officer in time. All the parties may be informed. The Public Information Officer shall serve 2 copies of this order on both the SDPOs at the relevant time and inform the Commission their names well in time, returning the copies of this order so served.

6. We will now take up the last prayer of the Appellant to award compensation to him for the mental agony he was put to. From the proceedings in this case, we find that the Appellant was put to hardship and suffered detriment. We, therefore, order payment of a compensation of Rs.2000/- to the Appellant by the Police Department.

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

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