

GOA INFORMATION COMMISSION

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

Appeal No. 69/2007-08/JS

Dr. U. A. Vinay Kumar,
Reader in Philosophy,
Goa University,
Taleigao Plateau - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Jt. Secretary to Governor,
Governor's Secretariat, Cabo Raj Bhawan,
Dona Paula - Goa.
2. First Appellate Authority,
The Secretary to Governor,
Governor's Secretariat, Cabo Raj Bhawan,
Dona Paula - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 29/11/2007.

Adv. Vishnu Naik for the Appellant.

Respondent No. 1 in person.

Authorized representative for the Respondent No. 2.

ORDER

This disposes off the second appeal dated 18th September, 2007 filed by the Appellant against the order dated 31st August, 2007 of the Respondent No. 2, who is the first Appellate Authority, hereinafter referred to as the "impugned order" under the Right to Information Act, 2005 (RTI Act for short). Notices were issued. Shri Vishnu Naik, learned Advocated appeared and argued the matter on behalf of the Appellant and the Public Information Officer argued the matter himself. The brief history is that the Appellant by his request dated 14/8/2007 requested the Chancellor of Goa University i.e. His Excellency Governor of Goa (A) to give him copies of letter/complaint dated 9/5/2006 addressed to the Vice-Chancellor and copy endorsed to the Chancellor; (B) Copy

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of the Inward Register entry office of the Chancellor; (C) to allow personal inspection of above two documents. He also requested compliance on the same date of his application i.e. 14th August, 2007 in view of threat to his "life and liberty". The Respondent No. 1, Public Information Officer, rejected the request under section 8(1)(h) of the RTI Act as an inquiry is in progress and it might impede the process of investigation/inquiry. The first appeal filed by the Appellant on 18th August, 2007 was dismissed by the Respondent No. 2 by the impugned order. Hence, this second appeal.

2. The brief point taken in this appeal against the impugned order is that the exception provided under section 8(1)(h) is regarding only the investigation or apprehension or prosecution of "offenders". As his request is for a letter/complaint and there is no criminal case under investigation as also he is not an offender, this provision does not apply in his case. As to the provision regarding "life and liberty", he has admitted that he invoked this clause only to get the benefit of urgency of the reply by the Public Information Officer "due to the reverse discrimination against me as proceedings being taken based on Xeroxes without any originals". The first Appellate Authority, therefore, rightly held that this provision does not apply in this case. The second ground is regarding the exemption provision i.e. whether it relates to the investigation and prosecution of only offenders of criminal cases or disciplinary inquiries. A simple reading of the provision shows that it relates to the criminal investigations only. The inquiry conducted by the administrative authority is generally not considered as investigation but a departmental inquiry either under the disciplinary rules or a preliminary inquiry. Similarly, the Government servant who had allegedly committed violation of Conduct Rules is also not called an offender. We uphold, therefore, the contention of the Appellant that his request is not exempted under section 8(1)(h) of the RTI Act.

3. We will now come to the prayers of the Appellant. The Appellant has requested to set aside the rejection order of the Public Information Officer and the Appellate order of the first Appellate Authority. We have already mentioned above that the Appellant requested for the issuance and the inspection of a copy of letter/complaint dated 9/5/2006 by Smt. Milan Desai addressed to the Vice-Chancellor and the copy endorsed to the Chancellor of the University. This is not a record of the Chancellor's office as the original is not addressed to him.

We, therefore, hold that it can neither be given nor inspected by the Appellant as it does not form the records of the Chancellor's office. Hence, this prayer is rejected. He has prayed for issuance of copy of inward register entry with the date of receipt of the said letter in the office of the Chancellor. We are inclined to grant this prayer as the inward register forms the part of the records of the Chancellor's office. Therefore, the Public Information Officer is directed to provide a true copy of the inward register of the relevant entry and also allow the personal inspection by the Appellant. Consequently, the second appeal is allowed partly. The Public Information Officer to comply with the directions within 10 days from the date of this order.

Announced in the open court on this 29th day of November, 2007.

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

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

/sf.