

GOA INFORMATION COMMISSION

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

Appeal Nos. 86, 87 and 90/2007-08/Police

Shri. Jowett D'Souza,
H. No. 139, Ambeaxir, Sernabatim,
Colva, Salcete - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Superintendent of Police (South),
Town Police Station, Margao - Goa.
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: 17/01/2008.

Appellant in person.

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

ORDER

We are taking up all the three cases together because the parties are the same and the subject matter is also the same. However, three different cases were filed because three different requests for information were made by the Appellant to the Public Information Officer arising out of the investigation by the Police in the same criminal case registered as FIR 52 of Maina Curtorim Police Station. These are dated 30th of July, 2007 when the Appellant asked the Public Information Officer to reply and provide the documents for 28 questions; 11/08/2007 request for 7 documents and request dated 22nd August, 2007 posing 7 questions. The Public Information Officer rejected all the requests under section 8(1)(h) of the Right to Information Act, 2005 (for short the RTI Act) claiming that the criminal case is under investigation and furnishing any information/documents at this stage would "impede the process of investigation". The Appellants' first appeals in all the three cases were dismissed

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by the Respondent No. 2 by different orders but on the same grounds, namely, that the furnishing of information will impede the process of investigation. The Appellant, thereafter, filed these present second appeals requesting for setting aside orders of both the Respondents in all the three cases and to direct the Public Information Officer to furnish the information to him.

2. Notices were issued and the Appellant represented himself and also argued himself in all the cases. Shri. K. L. Bhagat, Government Counsel has appeared for both the Respondents in all the three cases. Replies were also filed in all the three cases separately by both the Respondents.

3. The main grievance of the Appellant is that he purchased a car with the financial assistance from ICICI Bank and while in the process of repayment, the Bank took possession of the car for default in repayment of some installments, and also sold it to a person outside Goa with the collusion of the RTO of Goa. It is his case that all documents were prepared by the Bank forging his signature and selling his car at a higher price than the balance of the loan payable by him and appropriating the surplus money recovered. The Appellant first complained to many Police authorities including the Public Information Officer on 21/7/2005 which were transferred to Maina Curtorim Police Station on 22/7/2005. An FIR was registered with No. 52 on 10/8/2005. It is his case that inspite of the criminal offence under various sections of IPC some of which are cognizable having been registered by the Police, they have not taken prompt action in completing the investigation or attaching the vehicle from Kerala and that in fact he received a call from the ICICI Bank that nothing will happen to his case as the Police officials have been paid in cash and kind. He, therefore, suspects inaction on the part of the Police. Denying all these allegations, the Public Information Officer submitted that the investigations are on course, the investigating officer has visited Kerala and that certain information collected during the investigation including the statements recorded, panchanama drawn cannot be given to the Appellant at this stage as this would impede the "process of the investigation". On the contrary, if the information is provided to the Appellant, the same may be useful for the completion of the investigation as the Appellant being the Complainant is interested in his complaint. Therefore, it is ridicule to say that the disclosure of information to the Complainant would impede the process of investigation.

4. Joining argument with the Respondents, the Appellant claimed that he is not the accused in the case, that it is his car which was attached by the ICICI Bank and as a Complainant he has prepared to cooperate with the Police and in any case he wants the various documents requested by him to produce in court of law, independently himself.

5. It is interesting to note that the Public Information Officer and the first Appellate Authority have taken shelter under section 8(1)(h) of the RTI Act without any application of mind. The very objective of the RTI Act is to ensure "transparency and accountability" in the functioning of the public authorities and as a result to "contain corruption". It is the direct allegation of the Appellant that the corruption is involved in the investigation of the criminal case No. 52 dated 10/8/2005 of Maina Curtorim Police Station and it is because of this, the investigation is not being completed and brought to its logical conclusion. We must state here that this is a mere allegation of the Appellant and this forum is not competent to get into these questions. However, the very fact that the investigation is dragging on for over more than two years casts a doubt in the minds of the Appellant that something is amiss. The Public Information Officer has added further fuel to this suspicions by denying the information requested by the Appellant. We also agree with him that the provision cited for refusing the information would be relevant only if such information is asked either by the accused or any citizen other than the Complainant himself at whose instance the FIR was registered in the first instance. It cannot be the case of anybody including the Public Information Officer that the Appellant will be colluding with the accused to hush up the matter because it is his car which was sold away by the ICICI Bank to a third party in Kerala. It is, therefore, very interesting to note the reply by the Public Information Officer in all the cases "There is also possibility of the Complainant also to fabricate, plant the evidence or influence the witnesses". We are at a loss to understand how the Appellant who is the Complainant in the FIR, will influence the witnesses in favour of the accused if all the while he is saying that the accused have cheated him. This is stretching the argument too far and it appears to us that this provision of law was cited only to deny the information alongwith the documents requested by the Appellant. We, therefore, reject the arguments of both the Public Information Officer and first Appellate Authority of application of this exemption clause in all the above three cases. Consequently, all the three appeals succeed and the

Public Information Officer is directed to give all the information within 10 days whatever is requested to be given. He can, however, collect the cost of the information. The letter informing the cost alongwith the calculation of the cost should be sent to him within 10 days from the date of this order under the registered post with an acknowledgement due. All the three appeals are allowed and the letters/orders dated 27/08/2007 of the Public Information Officer in case No. 86/2007-08 and 87/2007-08 and 08/09/2007 in case No. 90/2007-08; orders dated 22/9/2007 in case No. 86/2007-08 and 87/2007-08 and dated 28/09/2007 in case No. 90/2007-08 of the first Appellate Authority are set aside.

Pronounced in the open court on this 17th day of January, 2008.

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

Sd/-
(G. G. Kampli)
State Information Commissioner, GOA.