

GOA INFORMATION COMMISSION

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

Complaint No. 29/2007-08/Police

Adv. S. S. Saudagar,
F-6, St. Peter Bldg.,
Opp. Mapusa Clinic,
Mapusa – Goa.

..... Complainant.

V/s.

1. Public Information Officer,
The Suptd. of Police (South),
Town Police Station,
Margao – Goa.
2. Police Inspector,
Vasco Police Station,
Vasco da Gama – Goa.

..... Opponents.

CORAM :

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

(Per A. Venkataratnam)

Dated: 04/12/2007.

Complainant in person.

Adv. Mrs. Harsha Naik for both the Opponents.

ORDER

This arises out of an order passed by this Commission on 16/08/2007 directing the Public Information Officer, Respondent No. 1 "to provide to the Appellant an extract of the station diary of Vasco Police Station for period from 17/01/2005 to 28/02/2005 pertaining to the criminal case No. 9/05 within 10 days from the date of the order". The contention of the Complainant is that the order is not obeyed till now. Notices were issued and the Complainant argued in person. Adv. Harsha Naik argued for both the Opponents. Besides, a written statement was filed by the Opponent No. 2, Police Inspector, Vasco Police Station. No written statement was filed by the Public Information Officer, Respondent No. 1 herein against whom the complaint is now filed.

2. The Public Information Officer who is responsible for giving information under the Right to Information Act, 2005 and who was directed

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by this Commission to provide the information within a specified time has neither given the information nor has submitted his inability to do so within the time allowed. What is more surprising that even after the notice is issued, he has not thought it fit even to file a reply. We regret this attitude of the Public Information Officer which we hope the Government will take note of. The Opponent No. 2 i.e. Police Inspector of Vasco Police Station contented in his written statement and also argued by Adv. Harsha Naik, the main inability by the Opponents for not giving the document as directed by this Commission is their apprehension that they might “commit the contempt of court of District and Sessions Judge, Margao”. According to the para No. 2(f) of the reply, a legal advice was given to the Police that providing information as directed by this Commission will be in gross contempt of the order passed by another constitutional body i.e. Sessions Court. No such advice was brought on record. The written statement goes on saying that a “constitutional crisis” has been created and the Opponents have sought further legal advice. The contention is that the learned Session Judge dismissed a request by the Complainant earlier in the case No. 15/2005 in the Sessions Court (who was a defence Advocate in that case) for production of the same document namely station diary of the Vasco Police Station and that the request was turned down by the learned Session Judge. The refusal to summon a record requested by the defence lawyer in that case No. 15/2005 cannot be termed as an order of a Court prohibiting the disclosure of information to a citizen and also this is not a case where the Opponents have taken exemption under section 8(1)(b) of the RTI Act. No specific order from the Session Court has been produced by the Opponents prohibiting the Opponents from the disclosure of the document in question. We have already discussed this matter in our earlier order and we do not see any reason or apprehension of the Opponents of the contempt of Court or that a grave constitutional crisis has arisen because of our order dated 16/8/2007 directing the document to be given. We have already discussed on merits why this station diary has to be issued and it is not necessary for us to go into merits of the request once again. The fact remains that an order was already issued by this Commission for disclosure of information, a time limit was prescribed, and no orders of the High Court were brought before us staying our order. There is, therefore, no justification for withholding this information.

3. We, therefore, reiterate the earlier stand that document has to be given as requested by the Complainant and as ordered by us by order dated 16/8/2007 in the Appeal No. 16/2007-08/Police. In fact, the Public Information Officer i.e. Superintendent of Police, South Goa, Margao should show cause why the Commission should not proceed to initiate the penalty proceedings under section 20 of the RTI Act for not only not complying with our specific order dated 16th August, 2007 but also for not even filing a written statement explaining his position before us in this complaint of non-execution of our earlier order. The complaint, therefore, is allowed and reply to the show cause notice is posted for further hearing on 20th December, 2007 at 11.00 a.m. The information requested should be immediately furnished to the Complainant.

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.