

## **GOA STATE INFORMATION COMMISSION**

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

Complaint No. 58/2006/Police.

Joao C. Pereira  
H. No. 40, Acsona, Utorda,  
Majorda, Salcete - Goa.

..... Complainant.

V/s.

1. The Public Information Officer,  
Suptd. of Police (South),  
Margao - Goa.
2. First Appellate Authority  
Dy. Inspector General of Police,  
Police Headquarters, Panaji - Goa.
3. The Police Inspector,  
Shri Nolasco Raposo,  
Verna Police Station,  
Verna - Goa.

..... Opponents.

### **CORAM :**

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

(Per A. Venkataratnam)

Dated: 20/04/2007.

1. Complainant in person.
2. Shri Nolasco Raposo, Authorized Representative of Opponent No. 1 and  
Smt. Ezilda D'Souza, Authorized Representative of Opponent No. 2 are  
present.

### **ORDER**

This is in respect of a complaint filed by the Complainant on 5/3/2007 stating that the orders of first Appellate Authority are not implemented by the Public Information Officer. The brief facts are that on 30<sup>th</sup> August, 2006, the Complainant filed a request with the Public Information Officer for inspection of files of Verna Police Station. The said application was partly allowed by the Public Information Officer by his order dated 25/9/2006. The original letter/order of the Public Information Officer is not on record so we are not aware what is allowed and what is disallowed. The Complainant has filed his first appeal before Opponent No. 2 on 14/11/2006 which is also not on record. There is an

...2/-

order by the first Appellate Authority dated 13/12/2006 which is on record. By his order, the first Appellate Authority allowed the inspection of all the records requested by the Complainant. Even then, he was not allowed the inspection of all files and he filed a complaint to the first Appellate Authority on 6/1/2007. We do not have the orders of the first Appellate Authority on this complaint. However, a letter dated 9/1/2007 of the Public Information Officer addressed to the Complainant is on record allowing him to inspect all the records after informing the dates of inspection to the Verna Police Inspector. It appears that the Complainant has gone to the Verna Police Station on 20<sup>th</sup>, 22<sup>nd</sup> and 23<sup>rd</sup> January, 2007 alongwith as many as 4 witnesses, for inspection of files. On 23/1/2007 i.e. last day of the inspection, he wrote to the first Appellate Authority that he was shown only 3 files and one important file called the "Enquiry file of Surjit Borkar" was not shown to him by the Police Inspector, Verna. It should be noted here that Verna P.I. is neither the Public Information Officer nor the Asst. Public Information Officer. He comes in the picture as the original records are at the Police Station of Verna of which he is incharge and because he was directed by the Public Information Officer to allow the access to the files. The contention of the Complainant is that the "Enquiry file of Surjit Borkar" was tampered with by the Verna P.I. by transferring some papers into another file and retaining some papers in the original file. The Complainant's grievance before the Commission is that he is being shown the newly constructed enquiry file of Surjit Borkar and not the original file.

2. Notices were issued and Shri Nolasco Raposo represented the Public Information Officer and Smt. Ezilda D'Souza represented the first Appellate Authority. Written statement was filed by the first Appellate Authority and no statement is filed by the Public Information Officer.

3. The limited point for our determination is whether the P.I. Verna Police Station can reconstruct one file by removing some papers from original file and produce the reconstructed file for the inspection by the Complainant in the face of the appellate authority's order to provide access to the Complainant to all files. Another point arises for our determination is whether he can do so, presuming that it is permissible to do so, after both the Public Information Officer and first Appellate Authority have directed the full disclosure and access to whatever was requested by the Complainant originally. From the order dated

13/12/2006 of the first Appellate Authority, we have noted that whatever was disallowed by the Public Information Officer was allowed by the first Appellate Authority to be disclosed to the Complainant. The order, no doubt, does not state that the original letter/order of the Public Information Officer is set aside. The exact words of the Appellate order which is in the shape of a "Note" are to the effect "This request which was made vide letter dated 30/08/2006 under RTI Act was partly allowed by the Respondent (PIO) vide his letter dated 25/09/2006. After perusing the appeal, the Respondent (PIO) S.P. South is hereby directed to grant request of the Appellant made vide his letter dated 30/08/2006. Compliance may be reported within 20 days on receipt of this note".

4. We understand the order/note of the Appellate Authority to mean that whatever was disallowed by the Public Information Officer was allowed by the Appellate Authority. This can be obviously done only by setting aside the order of the Public Information Officer.

5. What followed thereafter is not only interesting but is amusing. The Complainant went on knocking on the doors of the D.I.G, S.P. and the P.I. Verna Police Station for showing him the "Enquiry file of Surjit Borkar". Not only did the P.I. obstinately refuse to show the enquiry file of Surjit Borkar to the Complainant thereby disobeying the order of both the first Appellate Authority and Public Information Officer who are his own superiors in the Department but had the audacity to write a letter to the Complainant vide No. PI/VRN/1991/2007 dated 3/3/2007 inventing another reason for non providing access to the file. He has stated in that letter that the original case papers are forwarded to the A.P.P., J.M.F.C. Court, Margao for conducting prosecution and that he was already shown office copy of the chargesheet filed against Complainant. In the same letter and in the same breath he has also stated that the Complainant is "not entitled for inspection of case diaries in the above case under Section 8(h) of the Right to Information Act, 2005". Now this could only mean that what is disclosed is office copy of the chargesheet filed in the J.M.F.C. Court and what is withheld is the inspection of case diaries by separating them from the original "Enquiry file of Surjit Borkar". Apart from the fact that this was not brought to the notice of the both the Public Information Officer and first Appellate Authority at the time when the request/first appeal were being dealt

with by them, the P.I. has now invented the reason for denying the request of the Complainant which even if it is correct, was neither taken up by the Public Information Officer nor the first Appellate Authority. This being the case, we are not in position to accept the contention of the P.I. Verna, who as we observed, is not an authority under the RTI Act.

6. While there is no written statement by the Public Information Officer, the written statement of the first Appellate Authority mentions that the request of the Complainant to inspect the case diaries in respect of Verna Police Station Cr. No. 74/2005 may be rejected as allowing his request "will impede the prosecution of offenders as provided under Section 8(h) of the RTI Act, 2005". He thus admitted that there is a violation of his own order by the Verna P.I. and that a new file was reconstructed by the P.I. to defeat the implementation of his order. Nevertheless not only does he condone this, but he has also supported the contention of the Verna P.I., 3 months after passing his Appellate order. We are afraid that neither of the Respondents have made out any case to withhold the access by the Complainant to the case diaries of the criminal case which is withheld by the Verna P.I. while refusing the access to the "original file of enquiry of Surjit Borkar". We also condemn in severe terms the efforts made by the P.I. to remove some papers from the file and reconstruct a part file in order to show compliance with the Appellate Authority order of providing access to the file. If this is condoned, there won't be any sanctity of the orders of either the Public Information Officer/first Appellate Authority or this Commission.

7. With the above discussion, we uphold the order of the first Appellate Authority and reject his request for reconsideration of his own order. We direct the Public Information Officer to provide access to all papers to the Complainant in the enquiry file of Surjit Borkar. Parties to be informed.

(A. Venkataratnam)  
State Chief Information Commissioner

(G. G. Kambli)  
State Information Commissioner