

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 599 OF 2007

Shekhar Prabhudessai,
Superintendent of Police (South),
Public Information Officer,
Margao, Goa.

..... Petitioner

V e r s u s

1. Goa State Information Commission,
at Panaji constituted with two members

1(a) Shri A. Venkataratnam

1(b) Shri G. G. Kambli
having their office at gnd floor,
Shrama Shakti Bhavan, Patto
Plaza, Panaji, Goa.

2. Adv. S. S. Saudagar,
F6, St. Peter Bldg.,
Opp. Mapusa Clinic,
Mapusa, Bardez, Goa.

..... Respondents

Mr. Kaif Noorani, Addl. Government Advocate for the Petitioner.

Coram :- F. M. REIS, J

Date : 28th September, 2012.

ORAL JUDGMENT

Heard Shri Noorani, learned Addl. Government Advocate, appearing for the Petitioner. None for the Respondent no.2 though served.

2. The above Petitioner challenged the Order dated 16.08.2008, whereby an Appeal preferred by the Respondent no. 2 was partly allowed and the Petitioner was directed to furnish information with regard to the entries in the

Station Diary in connection with Criminal case no. 19/2005.

3. Briefly, the facts of the case are that, the Respondent no.2 sought information from the Petitioner under the Right to Information Act 2005,(herein after referred to as the 'said Act'), seeking further entries in the station diary in connection with the complaint no. 9/2005. The Petitioner sought exemption from providing such information under Section 8 (1)(h) of the said Act. The Petitioner refused the said information and dismissed the application filed by the Respondent no.2. Being aggrieved by the said Order, the Respondent no.2 preferred an Appeal before the First Appellate Authority. The said Appeal by Order dated 03.05.2007, came to be rejected.

4. Being aggrieved by the said Order, the Respondent no.2 preferred an Appeal before the Respondent no.1 which came to be disposed of by the impugned Order dated 16.08.2007.

5. By the impugned Order, the Respondent no.1 directed that the information with regard o Criminal Case no. 9/2005 as disclosed in the station diary, be furnished to the Respondent no.2. Being aggrieved by the said Order, the Petitioner has preferred the present Appeal.

6. Shri Noorani, learned Addl. Government Advocate, appearing for the Petitioner, pointed out that the information which has been sought and directed to be given to the Respondent no.2, comes within the exception as provided under

Section 8 (1)(h) of the said Act. Learned Addl. Government Advocate further pointed out that Respondent no.1 has erroneously come to the conclusion that the objections raised by the Petitioner were not tenable essentially with regard to the entries in respect of other offences as disclosed in the station diary. Learned Addl. Government Advocate further pointed out that the very information which Respondent no.1 failed to furnish could not be provided in view of Section 8(1)(h) of the said Act. Learned Addl. Government Advocate pointed out that even in view of the provisions of Section 8(1)(g) of the said Act, such information cannot be provided to the Respondents. Learned Addl. Government Advocate as such submits that the impugned Order deserves to be quashed and set aside.

7. The Respondents though served, failed to remain present.

8. I have carefully considered the submissions of the learned Addl. Government Advocate. The Respondent no.1 whilst passing the impugned Order has gone on an assumption that the objections raised by the Petitioner was essentially the information which is found on the station diary and not with regard to the information pertaining to Criminal Case no. 9/2005. On perusal of the reply filed by the Petitioner, it is clearly stated that the exception raised by the Petitioner was to furnish the very information which is directed to be provided by the Respondent no.1 in the impugned Order. The Petitioner has clearly stated that information in that regard is exempted under Section 8(1)(h) of the said Act. Hence, the said assumption of the Respondent no.1, is not justified. The said assumption of the Respondent no.1 that objection raised by the Petitioner was to

the remaining entries on the station diary is not correct. In fact, the object was to furnish the very information which was directed to be given by the impugned Order.

9. Section 8(1)(h) of the said Act of 2005, reads thus :

8. Exemption from disclosure of information. (1) ...
(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

10. On plain reading of the said provisions, it is clearly stipulated therein that information which would impede the process of investigation or apprehension or prosecution of the offenders is clearly exempted from being furnished under the said Act. In the present case, it is not disputed that at the relevant time, the matter was already under trial before the learned Sessions Judge. In fact, the very direction to produce the station diary was rejected by the learned Sessions Judge by Order dated 19.01.2007, inter alia, on the ground that it would unduly prejudice and jeopardise the prosecution.

11. Considering that furnishing of such information would impede the progress of the prosecution of the offenders, the Respondent no.1 was not justified to pass the impugned Order. The Respondent no.1 has gone on a wrong premise that the Petitioner was not raising an objection to furnish the information with regard to Criminal Case no. 9/2005 but only with regard to the other entries as recorded in the station diary.

12. For the reasons stated herein above, I find that the Respondent no.1 was not justified to pass the impugned Order and, as such, the same deserves to be quashed and set aside.

13. In view of the above, Rule is made absolute in terms of prayer clause (a).

F .M. REIS, J.

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