

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.325 OF 2009

Mr. Kashinath Shetye
Major, Indian National
Resident of Bambino Building,
Alto Fondvem,
Ribander, Tiswadi, Goa. Petitioner

V/s

1. The Public Information Officer,
The Superintendent of Police,
Having his office at the Police
Head Quarters, Panaji, Goa.
2. The First Appellate Authority,
The Inspector General of Police,
Having his office at the Police
Head Quarters, Panaji, Goa.
3. The Goa State Information
Commission, Shrama Shakti Bhawan,
Patto Plaza, Patto, Panaji, Goa. Respondents

Shri R. Menezes, Advocate for the Petitioner.
Shri E. Afonso, Additional Government Advocate for the
Respondents.

CORAM : F.M. REIS, J.

DATE : 14th DECEMBER, 2012

ORAL JUDGMENT :

Leave to amend forthwith.

2. Heard Shri R. Menezes, learned Counsel appearing for the

petitioner and Shri E. Afonso, learned Additional Government Advocate appearing for the respondents.

3. The above petition challenges the order dated 11/09/2008 passed by respondent no.2 and the order dated 28/04/2009 passed by respondent no.3 whereby the information sought by the petitioner at Serial No.3 in the application dated 7/07/2008 came to be rejected.

4. Shri R. Menezes, learned Counsel appearing for the petitioner has assailed the impugned orders on the ground that respondent no.3 whilst passing the impugned order has misread the provisions of Section 6 subsection 2 of the Right to Information Act in holding that the petitioner has to give reasons as to why such information was required from the Authorities. The learned Counsel has taken me through the impugned judgment passed by the second Appellate Authority and pointed out that the respondent no.3 has erroneously found that the nexus has to be established by the petitioner as to why such information is required by him. The learned Counsel has also pointed out that the respondent no.3 whilst passing the impugned orders has on one hand come to the conclusion that reasons given by the respondent no.2 to refuse information to the petitioner were not

correct whilst on the other hand has refused the information on the erroneous consideration that reasons for such information would have to be disclosed by the petitioner. The learned Counsel has further pointed out that the respondent no.3 has given liberty to the petitioner to file a fresh application which is not at all required in view of the fact that no reasons are to be given for seeking such information in terms of Section 6(2) of the Right to Information Act. The learned Counsel has thereafter taken me through the order passed by the respondent no.2 and pointed out that the respondents no.2 has disposed of the appeal preferred by the petitioner only on the ground that the information sought is exempted under the provisions of Section 8(1)(j) of the Right to Information Act. The learned Counsel has taken me through the said provisions of the Act and pointed out that there are three specific situations wherein such exemption can be sought. The learned Counsel has thereafter taken me through the proviso to the said provisions and pointed out that any information which can be furnished to the Parliament and/or to the State Legislature can always be furnished to the citizen. The learned Counsel further pointed out that the information which has been sought by the petitioner according to him can be supplied to the Parliament and/or to the State Legislature and consequently the

question of invoking the exemption under Section 8(1)(j) of the Right to Information Act cannot be accepted. The learned Counsel, as such, submits that the impugned orders passed by the respondents no.2 & 3 deserve to be quashed and set aside.

5. On the other hand, Shri E. Afonso, learned Additional Government Advocate appearing for the respondents has supported the impugned orders. The learned Counsel has pointed out that the information which has been sought comes within the exception as contemplated under Section 8(1)(j) of the Right to Information Act. The learned Counsel has further pointed out that the petitioner has sought voluminous information and such request is not at all reasonable within the provisions of the said Act. The learned Counsel further pointed out that there is no case made out for any interference in the impugned orders.

6. I have considered the submissions of the learned Counsel appearing for the respective parties. I have also gone through the records and the relevant material with the assistance of the learned Counsel. Section 6(2) of the Right to Information Act provides thus:

- 6(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

7. On plain reading of the said provisions the question of giving any reasons or showing any nexus as to why such information is sought by a citizen is not at all sustainable. Hence the finding of the respondent no.3 to the effect that the petitioner has to show the nexus as to why such information is required is erroneous and deserves to be quashed and set aside.

8. With regard to the next contention of Shri R. Menezes, learned Counsel appearing for the petitioner to the effect that information which has been sought by the petitioner at serial no.3 in the application dated 7/07/2008 does not come within the exception of Section 8(1)(j) of the Right to Information Act, I find that in the appeal preferred before the second Appellate Authority the contention to the effect that such information could have been given to the Parliament and/or to the State Legislature is not at all raised by the petitioner. Hence, as no finding on that count has been rendered by the Authorities below after examining the nature of the information

sought by the petitioner, I find it appropriate and in the interest of justice that the first Appellate Authority i.e. respondent no.2 be directed to decide the appeal preferred by the petitioner afresh after hearing the parties in accordance with law. In such circumstances, the impugned orders passed by the respondents no.2 & 3 dated 11/09/2008 and 28/04/2009 would have to be quashed and set aside and the First Appeal preferred by the petitioner be restored to the file of the respondent no.2 and the same be decided in accordance with law.

9. In view of the above, I pass the following order:

O R D E R

(i) Rule is made absolute in terms of prayer clause a.

(ii) Respondent no.2 is directed to decide First Appeal No.56/2008 and First Appeal No.57/2008 afresh in the light of the observations made herein above, in accordance with law.

(iii) All contentions of both the parties on merits are left open.

(iv) The petition stands disposed of accordingly.

F.M. REIS, J.

NH/-