

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

Appeal No. 63/SIC/2014

Shri Surendra M. Volvoikar,
R/o. House No. 398/1-A,
Tariwada, Marcela
Goa.

..... Appellant

V/s.

1.The Public Information Officer,(PIO)
Asst. Director of Education,
Directorate of Education
Government of Goa,
Porvorim Bardez-Goa.

2.The First Appellate Authority,
Royal High School, based at plot No. "O",
H.No. 17/4/2,Sailem Bhat,
Aradi Band, Taleigao,
Tiswadi Goa.

..... Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner.

Filed on: 25/06/2014

Decided on:23/12/2016

1. The appellant Surendra M. Volvoikar by an application dated 19/2/14 filed u/s 6(1) under RTI Act 2005 sought certain information at point No. 1 to 10, in respect of Royal High School by Taleigao Tiswadi Goa which was runs and managed by Little Lamp Primary School Society from the Respondent No. 1 PIO of Education Department. The said application was transferred to the head master, Royal High School Taleigao Tiswadi Goa, the Respondent No. 2 herein u/s 6 with a request to furnish the requisite information at point No.1 to 10 of the

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application. It is a contention of the appellant that the Respondent s failed to furnish the information.

2. The appellant filed the first appeal to first appellate authority on 25/3/14. The first appellate authority by order, dated 26/5/2016, allowed the said appeal and directed the respondent NO. 1 PIO to provide the information from point No. 1 and 2 and directed to collect the information relating to remaining point from the school authority and supply the appellant, free of cost within 15 days.
3. The appellant has landed to this commission in the second appeal u/s 19(3) of the RTI Act on ground that no information has been furnished to him in compliance with a order of first appellate authority .
4. The appellant by this appeal has prayed for furnishing the information as for penalty and compensation.
5. Notice were issued to the parties pursuant to which appellant appeared only on twice occasion and then opted to remain absent . The respondent No. 1 PIO Shri Ishwar Patil was present and on behalf of Respondent No. 2 Maria Affanso was present.
6. Both the Respondent showed their willingness to furnish the required information by registered A.D. Accordingly respondent No. 1 PIO Shri Ishwar Patil on subsequent date of hearing submitted that they have dispatched their information by registered A.D. on 14/10/16 to the appellant . And accordingly he filed compliance report on 1/12/16 alongwith the acknowledgment. The PIO submitted that by letter dated 2/9/16 has furnished the information pertaining to point 1 to 5. Further he submitted that vide his letter dated 26/9/16 informed the PIO of Royal High School to submit the copies of the information and that PIO of Royal High School vide their letter dated 5/10/16 had duly submitted the information to him which inturn he forwarded to the appellant on 14/10/16. He

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made the submission vis-à-vis pointing out the above letters which he had annexed to the compliance report . He also produce on record the Xerox copy of the acknowledgement cards .

7. In the interest of fair pray and justice the opportunity was given to the appellant to submit whether the information furnished to him by Registered A.D. if whether is in accordance with the information sought u/s6 (1) of the Act. The appellant had not replied nor submitted that the information which is furnished to him is not in accordance with his requirement, it would be presumed that the said information shall be held true and correct information furnished to him as per his requirement .
8. Since the appellant did not attend the hearing this commission proceeds to dispose the appeal based on record.
9. Both the respondent submitted that the reply may be treated with argument.

The present Respondent PIO have submitted that then PIO, Smt. Vijaya Borkar has retired on superannuation as such the question that arises for my consideration whether the penalty under section 20(1) and compensation in terms of section 19(8)(b) can be imposed on the retired PIO and whether the same can be imposed.

10. The PIO appointed by the public Authorities are its employees. In case of default on the part of PIOs, u/s 18 read with section 20 of Right to Information Act, (Act) provides for imposition of penalties on erring PIO and not authorities. Thus the liability for payment of penalty is personal. Such penalty, which is levied in terms of monies, being personal in nature is recoverable from the salaries payable to such employee's payable during their services. Similarly recommendation of disciplinary action can also be issued during the period of service. After the retirement, what is payable to the employee are the pensionary benefits only.

11. In the present case undisputedly the then PIO has retired and is entitled for pension. Pension Act 1871, which governs such pension, at section (11) grants immunity to the pension holder against its attachment in following words.

“ **Exemption of pension from attachment:** *No Pension granted or continued by Government or Political consideration, or on account of past service or present infirmities or as a compassionate allowance and no money due or to become due on account of any such pension or allowance shall be liable to seizure, attachment or sequestration by process of any court at the instance of a creditor, for any demand against the pensioner or in satisfaction of a decree or order of any such court”*

12. Section 60 (1) (g) of civil procedure code which is reproduced here under also bars attachment of pensioner following words:

1) The following particulars shall not be liable to such attachments or sale namely:

- (a)
- (b)
- (C)
- (d)
- (e)
- (f)

g) *Stipends and gratuities allowed to pensioners of the Government or of a local authority or any other employer, or payable out of any service family pension fund notified in the gazette, by the central government or the state Government in this behalf and political pension.*

From the reading of above provisions there leaves no doubt on the point of non –attachability of pension , gratuity etc.

13. Hon’ble Apex Court in Gorakhpur University and others V/s Dr. Shilpa Prasad Nagendra in Appeal (Civil) 1874 of 1999 have held

“This Court has been repeatedly emphasizing the position that pension and gratuity are no longer matters of any bounty to be distributed by Government but are valuable rights acquired and property in their hands.....”

14. Under the above circumstances this commission is neither empowered to order any deduction from his pension or from gratuity amount for the purpose of imposing penalty or compensation. Thus the proceedings for penalty has become in fructuous. Hence the proceedings stands closed.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Pronounced in the open court.

Sd/-

(Ms.Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa