

**GOA STATE INFORMATION COMMISSION**  
Seventh Floor, Kamat Towers, Patto, Panaji –Goa.

**Shri Prashant S. P. Tendolkar**  
**Chief Information Commissioner**

**Appeal No. 45/SCIC/2016**

Smt. Urmila Ulhas Mainikar,  
B-14/1, Police Quarters,  
Alto Porvorim-Goa. .... Appellant

V/s

- 1) First Appellate Authority,  
The Directorate of Health Service,  
Panaji –Goa.
- 2) The Public Information Officer,  
Medical Suptd. Cum Dy. Director,  
Asilo Hospital Mapusa-Goa. .... Respondents

**Filed on:10/03/2016**

**Decided on: 20/09/2016**

**1. FACTS IN BRIEF**

a) By application, dated 30/11/2015 filed under section 6(1) of the Right to Information of seven queries, Act 2005(Act) appellant sought information pertaining to the records of the Asilo Hospital Mapusa. By said application he has sought the certified copies of casualty register, dated 07/06/2015, C.T. Scan and X-ray report of one Mr. Rupesh Mainikar, certified copies of name and designation of Doctor on duty at casualty, certified copies of case papers of Shri Rupesh Mainikar, X-ray report and medical certificate of shri Sukhanand Mainikar, certified copies of letter issued to GMC Bambolim of referring said Rupesh to GMC Hospital.

...2/-

b) It is the contention of the appellant that no reply was given to her said application and hence she filed first appeal to First Appellate Authority (FAA) Respondent No. 1 on 15/01/2016 which was decided on 01/02/2016.

c) According to appellant, in the mean time, on 12/01/2016 a reply was received by her from the PIO that the information sought by her vide query No.1 to 7 cannot be given being fiduciary in nature.

d) The Respondent No.1, the F.A.A., while disposing the appeal on 1/02/2016 directed the Respondent No.2, PIO to furnish the information as per the Act.

e) It is the grievance of the appellant that inspite of the said order of F.A.A. no information is furnished and hence the appellant has approached this Commission in a second appeal under section 19(3) of the Act..

f) Parties were notified pursuant to which Dr. Geeta Kakodkar, PIO appeared and filed reply. The respondent NO.1 was represented by its Head Clerk but no reply has been filed on his behalf.

g) In her reply the PIO, by reproducing the sequence of events, stated that as the information sought was pertaining to third party notices were issued to them but no reply was received. The PIO further stated that, as the information was pertaining to third party and was held by said public office in fiduciary capacity, is exempted from disclosure under section 8(1)(e) of the Act. PIO further submitted that under regulation 7.14 of the Indian

Medical Council (Professional conduct, Etiquette and Ethic) Regulation, 2002 (Regulation), the appellant is not entitled to get the disclosure of the medical records of the third party.

h) I have heard the party and the PIO. According to the appellant as there was no reply from the said third party objecting disclosure of his information, it should have been considered as a consent and the information should have been furnished.

The PIO in her submission referred to her statements filed in reply and produced a copy of the said regulation.

## **2. FINDINGS:**

a) Before I deal with the issue whether the information as sought should be furnished or not, it will be appropriate to analyse the nature of the information sought.

On going through the application, dated 30/01/2015 filed by the appellant under section 6(1) of the Act, under query No.1 and 3 she has sought for copy of the casualty register, dated 07/06/2015 and copy of the name and designation of doctor on duty at casualty Azilo Hospital on said date between 8.00 am to 8.00pm. On seeking clarification from the PIO in the course of submissions, it is submitted that the casualty register is a register maintained by the hospital and the name and designation of the Doctor on duty is contained in duty Roster.

...4/-

b) These details/information thus are maintained by the hospital in physical form as books/roster. Hence the seeker can have an access to the same, if otherwise not exempted.

c) Regarding the information sought at query No.2 , 4 and 5 they are the C.T. Scan and X-ray report of Patients as also case paper and report of patients. These papers are admittedly maintained by the said hospital. Similarly, the information at query No.6 and 7 are the referral letter by which the patient is referred from Azilo Hospital to GMC Bambolim. They are also in the material form, and hence can be accessed unless exempted from disclosure.

d) The PIO in her reply has raised the exception for furnishing the information on two grounds, firstly that it is a third party information and secondly that the same is held in fiduciary capacity, disclosure of which are barred under said Regulations. The PIO has filed a copy of relevant regulations. According to her the said information cannot be furnished in terms of section 8 (1) (e) of the Act read with regulation 7.14 of the Regulation. It is according to the PIO that no larger public interest is involved and hence the same was not furnished.

e)It is the contention of the appellant that though the said information pertain to third party, furnishing of the same was not objected by the said third party and hence should be deemed to have been consented for.

f) As stated above the information at query (1) and (3) are in the form of abstracts records of the patients which contain the summary of the details of the patients the

nature of injury or ailments etc. The duty Roster contains the name and designation of the doctor who is supposed to treat the patient at that time, being on duty. The said two register does not contain any detail of the diseases, ailments or other details of the patients medical issues. Hence I find such records maintained at time of admission, cannot be said to be held in fiduciary capacity and consequently cannot come under the exception of section 8(1) (e) of the act. Such records, being summary in nature, does not disclose any secret of the patients illness and hence to my mind cannot constitute a bar from disclosure under section 7.14 of Indian Medical Council (Professional conduct etiquette and Ethics) Regulation, 2002. In view of the above position I find no reason to withhold the said information at query (1) and (3) of the application.

g)The other queries at No.2 , 4 and 5 pertains to the detail of ailments and the reports. Such records if disclosed may reveal the secret of the patients.

Similarly the referral letters send by Asilo Hospital to GMC, Bambolim are also professional communication from on medical expert to the other for taking appropriate further action for providing appropriate treatment. Such letters may also contain the fine details and intricacies involved in the ailment of patients. Such communication may also contain the secrete of the ailments of the patients. In view of the above, I am in agreement with the submission of the PIO that such secret are forbidden from disclosure .

...6/-

h) While dealing with the similar issue the Hon'ble High Court of Bombay at Goa **Writ Petition No.1/2009(Kashinath J. Shetye V/s Public information officer and other)** has observed at para 8.

*"8. The next question is whether the applicant should be supplied the copies of the application at all. It was contended that the copies of the application should not be supplied for, they may contain the nature of the ailment and the applicant has no right to know about the ailment of the petitioner or his family. To my mind, what cannot be supplied, is a medical record maintained by the family physician or a private hospital. To that extent, it is his right of privacy, it certainly, cannot be invaded....."*

i) Considering the above provisions of law and the limitations under the Act and by further considering the nature of information sought, though I am in agreement with PIO that the information sought at query No.2 , 4 ,5, 6 and 7 will come under the exception under section 8(1) (e) of the Act, the information to other queries cannot be denied to the appellant.

j) In the circumstances, I hold that the appellant is entitled to the information at said queries Nos. 1 and 3. Therefore, I dispose the present appeal with the following:

...7/-

**O R D E R**

The appeal is partly allowed. The PIO shall furnish to the appellant the information at query Nos. 1 and 3 viz the copy of the casualty Register of 7/06/2015 and copy of the duty roaster of Doctor on duty at casualty between 08.00 am to 8.00 pm on 7/06/2015, within 15 days from the date of receipt of this order. The PIO is not bound to furnish information at remaining queries, as it is exempted from disclosure.

Notify the parties. Proceeding closed.

Pronounced in the open proceedings.

Sd/-

**(Prashant S. P. Tendolkar)**

State Chief Information Commissioner  
Goa State Information Commission,  
Panaji-Goa