

GOA STATE INFORMATION COMMISSION AT PANAJI

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

Shri. Prashant S. P. Tendolkar,

State Chief Information Commissioner.

Appeal No.61/SCIC/2016

Mrs. Nalini P. Naik,
Asst. Teacher,
Madkaikar Navchaitany High School,
Corlim, Tiswadi-Goa. ... Appellant
v/s

- 1) The Headmaster/PIO,
Madkaikar Navchaitany High School,
Corlim, Tiswadi-Goa.
- 2) The Dy. Director,
First Appellate Authority,
Central Education Zone,
Panaji –Goa. ... Respondent(s)/ Opponents

Date of filing : 12/04/2016
Decided on:25/08/2016

1) FACTS:-

- a) The appellant herein filed an application on 24/01/2015 under section 6(1) of the Right to Information Act 2005 (Act) seeking information pertaining to her three queries in the form of certified copies.
- b) According to appellant the PIO on 30/11/2015 by orally calling the appellant furnished the information on point No. 3 without issuing a letter and subsequently also furnished correct information on point No.2. According to appellant as the information to her query No.1 was not furnished, she filed first appeal to the Respondent No.2 who by an oral direction disposed the same directing PIO to furnish the information.

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- c) The appellant has filed this second appeal on 12/04/2016 on the grounds that inspite of the order of First Appellate Authority (FAA) the PIO has rejected the request at point one under section 8(j) of the Act. The appellant has prayed for a direction to the PIO to furnish the information free of cost.
- d) Notices were issued, pursuant to which parties appeared. PIO filed reply on 19/07/2016.
- e) The matter was heard on 11/08/2016. In her argument the appellant submitted that the information sought by her under point/queries Nos. 2 and 3 have been furnished and her grievance in this appeal is only in respect of non furnishing of information to query No.1.

The PIO on the other hand submitted that query No.1 is by way of seeking a copy of confidential report of the appellant and being the information to be kept in confidentiality, the same cannot be furnished.

- f) Considering the rival contentions of the parties, the short point that requires to be decided is whether the confidential report is out of purview of information in terms of section 8(1)(j) of the act.

2) FINDINGS:

a) In the present case the said information was denied as not covered under the information under the Act being confidential in nature. I have perused the records. A confidential report is a report prepared by one person in respect of another for the use of public authority. This is required for the purpose of considering the person in respect of whom such report is

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prepared for a appropriate post or promotion. In case of a confidential report two person are involved namely the person who prepared in the same and the person in respect of whom it is prepared. Both the parties owe confidentiality to the other. A person preparing such report has to maintain it as a secret from the public and cannot be made accessible to the other except the authority for whom it is prepared.

b) While preparing such reports the contents therein at times may be prejudicial to the subject in respect of whom it is prepared. Any disclosure to such contents may lead to unhealthy situation vis a vis the parties. Thus, as the author of the report is not supposed to disclose the same, so also the person of whom it is prepared is not entitled to view the remarks of the author. The information being personal in nature and having no relation to public activity thus stands exempted. Any disclosure of such report may cause invasion of the privacy and secrecy of the individual. When such report is prepared it is with an implied understanding that the views, remarks and expressions therein of the person preparing it shall also be kept in confidence. Being so, I find that disclosure of confidential report to the appellant herein may lead to breach of understanding . The appellant has not made out any case of involvement of any public purpose.

c) The Government of India by considering that Number of applications are received under the Act requesting for copies of annual confidential report of employees, through Ministry of Personnel Public Grievances and Pensions, Department of personnel and Training, vide office memorandum

No.10/20/2006-IR dated 21/09/2007, has issued guide lines that the Public Authority is not under obligation to disclose annual confidential report of any employee to the employee himself or to any other person as such disclosure is protected by clause (j) of sub-section 1 of section 8 of the Act

d) In the circumstances I hold that the information at query No.1 for furnishing of confidential report cannot be furnished. I therefore find that though the appellant is entitled for information under query No.2 and 3 which are admittedly furnished the information at query no.1 is exempted from disclosure under section 8(1)(j) of the Act and hence I find no merits in the appeal. I therefore dispose the same with the order as under:

O R D E R

The appeal is dismissed.

Order to be communicated free of cost.

Proceeding closed.

Sd/-
(Prashant S. Prabhu Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa