

BEFORE THE GOA STATE INFORMATION COMMISSION

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

Complainant No. 37/SIC/2014

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

.....**Complainant**

V/s.

1. Assistant Director of Education (Academic),
Assistant Director of Education,
Education Department Porvorim,
Bardez Goa.

2. The Head Master,
Royal High School , Plot No."O",
H.No. 17/4/2, Sailem Bhat, Aradi Band,
Taleigao, Tiswadi Goa.

.....**Opponent**

Smt. Pratima K. Vernekar, State Information Commissioner,

Filed on:13/11/2014
Decided on:23/12/2016

O R D E R

1. Vide application dated 19/6/2014 the complainant sought from Respondent No. 1 PIO of Education Department the certified copies of the information from point No. 1 to 10 in respect of the Royal Secondary School, Taleigao, Tiswadi Goa.
2. The respondent No. 1 PIO via their letter dated 30/6/14 transferred the same u/s 6(3) of the Right to Information Act 2005 to the Respondent No. 2 Head Master of Royal High School . and the Royal High School furnished the information to the complainant by their letter dated 29/7/14.

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3. Being not satisfied with the information provided to him by the Respondent No. 2 Head Master, he preferred appeal before additional Director / Dy. Director of Education, Porvorim, Goa being first appellate authority under section 19(1) of RTI Act and by an order dated 12/9/14 the First Appellate Authority disposed the Appeal.
4. In the said order the observation have been made by First Appellate Authority that Advocate Mandrekar representing Respondent NO. 2 Head Mistress had submitted that the respondent NO. 2 had posted information by Registered A.D. and he had produced the copy of letter dated 30/7/14 and a Xerox copy of a postal receipt. It is also further observed by First Appellate Authority in his order that the complainant since have stated that he have not received the letter of PIO , the Advocate Mandrekar Showed his willingness to again refurnish the information to the complainant to which the present complainant to agreed to collect the information on 17/9/14 at 10.30 A.m. from the Head Mistress /incharge of Royal High School Taleigao.

It is the case of the complainant despite of the order of the First Appellate authority no information was furnished to him as such the complainant approach this commission by way of present complaint seeking information and also other prayers.

5. Notice of the complaint was issued to the parties after appointment of this commission complaint appeared only during one hearing an then opted to remain absent .
6. The Respondent No. 1 was represented by Shri Ishwar Patil and Respondent No. 2 was represented by Advocate A. Mandrekar. The Respondent No.1 filed initial reply on 25/8/16 and then on 24/10/16 relying upon the order dated 29/12/2014 showing that then PIO Mrs. Vijaya Borkar Asst. Director of Education have retired on

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superannuation with effect from 30/11/14. Reply also came to be filed on behalf of Respondent No. 2 Principal of Royal High School on 30/8/16

7. In view of continuous absent of the complainant this commission decided to disposed the complaint based on the records.
8. On going to the records it is seen that both the Respondent have acted very diligently. The respondent NO. 2 also furnished the information vide their letter dated 29/7/14 . The order of the first appellate authority shows the appellant had agreed to collect the information on 17/9/14. There is nothing placed on record by the complainant that he visited the respondent No. 2 on 17/9/14 or thereafter till the complaint was filed and that the Respondents have malafidely refused to provide him information.
9. It is the case of Respondent No. 1 that then PIO Smt Vijaya Borkar was diligent in duties and it could been seen from the transfer application made by her to Respondent No. 2 and that now she since has retired on superannuation, as such her only sustenance is pension Advocate for Respondent No. 2 submitted that the complainant to do that he is entitled for information and the entire information was denied to him. He further submitted that the information was duly furnished to the complainant by Respondent No. 2 and as such no further intervention of this commission is required. He further submitted that the sole intention of the complainant is to cause of harassmet to the respondents and that his complaint is very vague and absurd.
10. The prayers of the Complainant are in the nature of penal action either by granting of penalty of by compensation. The strength of evidence required in such proceedings is laid down by the Hon'ble High Court of Bombay at Goa in **writ petition No. 205/2007, Shri A. A. Parulekar, V/s Goa State Information Commission and others** wherein it is held;

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“11. The order of penalty for failure is akin to action under criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate

Providing certain facts raised / alleged by complainant always rests on him under no circumstances burden shifts on the opposite party. In other words the onus is on the complainant to provide that information furnished to him was incomplete and incorrect and information was malafidely denied to him.

12. By continuous absent of the complainant and an failure to produce any evidence, the complainant has miserably failed to discharge his burden. It appears that he is not interested in the present proceedings as such not made himself available before this commission to substantiate his case. On the contrary the respondent No.2 Head Mistress have showed her bonafides by furnished in the information at first point of time and then again before the First Appellate Authority .
13. In the present case undisputedly the then PIO Smt. Vijaya Borkar 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. Under the above circumstances this commission is neither empowered to order any deduction from pension of retired person or from gratuity amount for the purpose of imposing penalty or compensation

In the circumstance I find no merits in the present complain and hence I disposed off the present complaint with a following;

Order

Complaint stand dismissed, parties to be intimated. Proceedings closed. Proceeding announce in open court.

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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

Sd/-

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