

# GOA STATE INFORMATION COMMISSION

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

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**Appeal No. 29/SIC/2015**

Hubert Estibeiro,  
 Raymond H. No. 1606 Marlem Hill,  
 Margao Goa

..... Appellant

**V/s**

1. First Appellate Authority,  
 Addl./Deputy Director of Education,  
 Public Authority Directorate of Education,  
 Porvorim Goa.
  2. Public Information Officer,  
 Asst. Director of Education,  
 Directorate of Education,  
 Porvorim Goa.
  3. The Secretary Diocesan Society of Education,  
 Institute of Nossa Senhora de Piedade,  
 D B Marg, Panaji Goa.
- ..... Respondents

**CORAM:**

**Smt. Pratima K. Vernekar**, State Information Commissioner

**Filed on:23 /02/2015**

**Decided on:11/09/2017**

## **ORDER**

1. Brief facts of the case are that by an application, dated 2/9/14 , filed u/s 6 of the Right to information Act ,2005 , the appellant Shri Hubert Estibeiro sought certain information on eight points as stated there in the said application from the Public Information Officer of Education department , the respondent no.2 herein.
2. By letter dated 27/10/14 , the said application was transferred by respondent no.2 to the respondent no.3 ,secretary of Diocesan society of education , Panaji under section 6(3)(i)(ii) of the Act , with a request to provide information to the appellant directly after collecting Rs 2/- per page .and subsequently by letter dated

18/11/14 informed appellant the information requested by him does not fall within the ambit of RTI Act , 2005.

3. The respondent no.3 vide letter dated 17/11/14 requested appellant to collect the information from their office between 24<sup>th</sup> to 29<sup>th</sup> November 2014 .however by subsequent letter date 18/11/14 informed the appellant that there is no PIO at the DSE office in order to provide the information .
4. Being aggrieved by the response of respondent no.2 and respondent no.3 , first appeal was filed by appellant on 17/12/14 before the Director of education being the first appellate authority who is the respondent no.1 herein and the First appellate authority was pleased to allow the appeal and by its order dated 19/1/15 directed the respondent no.2 to collect the information at point no.3,4,5,and 6 from respondent no.3 and to provide the same to the appellant .
5. Since respondent no.2 and 3 failed to provide the complete information to the appellant as ordered and also being aggrieved by the order of respondent no.1 FAA , the appellant has approached this commission by Way of second appeal on 23/2/15 with a prayer for respondent 2 and 3 for issuance of information to him free of cost and also to penalize the respondents .
6. Notices were duly served on both the parties Though the appellant was initially present , he remained absent on subsequent dates of hearings .Initially respondent 1 was represented by Dayanand chavdikar and respondent no.2 PIO Shri Ishwar patil was present but did not attend the hearing later , respondent no.3 opted to remain absent . None of the Respondents filed their reply.
7. The matter was thereafter called out on a number of occasions but non of the parties turned up or showed any further interest in the matter thereafter, Nevertheless , as substantial time has since

lapsed , the commission felt it appropriate to now dispose of this appeal , on the basis of the material available on record .

8. I have perused the application u/s 6 (1). As per the records the information at point 3 & 4 has been furnished. Hence I find no necessity to deal with said points.

- a. Regarding information at point 1 and 2 it is answer of the PIO that same is held by some other authority. In doing so the PIO has lost the site of the provisions of section 6(3) which requires him to transfer the applications or part of the application to such authority which is holding the information, hence I find that the PIO, with respect to said information at point 1 & 2 ought to have invoked the provisions of section 6(3) and referred the application to such authority, which according to him is holding the information.

With reference 5 it is seen that PIO has transferred the same to Joint Director of Account of the same authority. This again I find an irresponsible attitude on the part of PIO. The act envisages that information has to be furnished by the PIO himself and cannot shift the responsibility to any other officer though he is entitled to assistance from some other officer. While dealing with the point has shifted the burden on the Joint Director to furnish the information which thus is beyond the law and the responsibility of PIO.

With reference to information at point 6 to 8 of the application, the appellant has informed by the PIO that the said information is **not known**. The appellant has sought the number of child care leave application received from education institutes run by DSE and the related information. It appears that PIO has irresponsible and answered the same as "**not known**". The appellant wanted the details pertaining to child care leave, which details are existing with the said authority, hence it was expected from the PIO to know the

number of such application received by it and the details thereof as sought. In case according to PIO if no such applications are available or filed with said authority, he ought to have clarified that no applications are filed. The reply given as "not known" thus does not carry any sense.

9. Considering the above discussion and my observations I find that appellant is entitled to the information at point 5 to 8 of application dated 2/09/2014 to be furnished by PIO .
10. With reference to information at point 1 & 2 the PIO shall transfer the said application to other directorate/authority which according to him are holding the said information.
11. The request at prayer 2 of memo of appeal cannot be granted as the original application was never filed to respondent No. 3 and that it was filed to Respondent No. 2 from which this appeal has arisen, no contention regarding the status of respondent No. 3 vis-a-vis the act was an issue.
12. Before I part with the order, I express my displeasure over the conduct of PIO in dealing with the application of the appellant on receipt of the said application u/s 6(1), the PIO has transferred the same to the concerned society i.e. respondent No. 3 U/s 6(3) of the Act. but strangely by letter dated 18/11/14 the PIO has informed that the said information sought is not falling under the act.

I am also surprised to note that PIO is ignorant of the provisions that transfer of application u/s 6(3) is only to another authority and not to an officer from the same authority and also the casual and irresponsible reply of PIO dated 27/1/15 as discussed above.

I therefore direct the PIO to be vigilant while dealing with the applications under the act and any such casual & irresponsible

attitude towards the matter under the Act shall be viewed serious even by recommending disciplinary proceedings .

With above directions the appeal stands disposed accordingly.

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 under the Right to Information Act 2005.

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