

**GOA STATE INFORMATION COMMISSION**

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

**Appeal No. 13/SCIC/2014**

Mr. Ulhasrao Naik Dessai,  
B-25,La Campal Colony,  
Miramar Panaji Goa.

..... Appellant

**V/s.**

1.Mr. M.R.K. Prasad,  
The Public Information Officer,  
V.M. Salgaonkar College,  
Miramar, Panaji Goa.

2. Mr. K.S. Rao,  
First Appellate Authority,  
Principal V.M.Salgaonkar College,  
Miramar.  
Goa.

..... Respondents

**CORAM:**

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

**Filed on: 05/02/2014**  
**Decided on:09/02/2017**

**ORDER**

1. By an application dated 23/9/2013 the appellant Shri Ulhas Naik Dessai sought from Respondent No. 1 Public Information Officer of Office of Salgaonkar Law college, Miramar, Panaji, Goa certain information at serial No. 1 to 5 as stated therein in the said application .
2. By reply dated 18/10/2013, PIO furnished appellant the said information pertaining to point no. 1 to 5.
3. The appellant since not satisfied with the information, filed the first appeal before the Principal, V.M. Salgaonkar law College being first appellate authority on 25/10/2013 who is an Respondent No. 2 herein. By an order dated 07/01/2014, the Respondent No. 2 first

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appellate authority dismissed the appeal on the ground that there is no refusal to give information nor any wrong information was provided to the appellant.

4. Being not satisfied with the order of the Respondent No. 2 first appellate authority dated 07/01/14 and being aggrieved by the action of both the respondent, the present appeal came to be filed before this commission on 05/02/14, on the ground that the Respondent No. 1 PIO vide his reply dated 18/10/13 denied to provide full and correct information. As per by the appellant the Respondent No. 1 PIO has provided him false information with malafide intention. In the appeal before this commission the appellant has prayed for the direction for Respondent No. 1 PIO to furnish the correct and complete information, and for penalty and action against both the Respondents.
5. The application was also filed by the appellant on 20/10/14 contending that he has appeared in a said exam after the term of six years and that there were also more student who had appeared which records are suppressed by the college. The Xerox copy of the admission card/Identity issued by the college which was valid from 20/6/2011 to 19/6/2012 was also relied by appellant in support of his contentions.
6. A reply was also filed by the Respondent No. 1 PIO on 24/12/2014.

After appointment of this commission, a fresh notices were issued to the parties. In pursuant to the notice appellant was present only during initial hearing i.e. on 04/05/2016 and opted to remain absent. Respondent no. 1 was represented by Advocate S. Sarmalkar.

7. Written argument of the Respondent was filed on 16/01/2017 bearing the acknowledgment of the appellant of having received the copy of written argument of the Respondents on 16/01/2015. The

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opportunities were given to the appellant to substantiate his case. Since he was continuously absent this commission proceeded with the matter based on the records available in the file.

8. I have gone to the application u/s 6 (1) of the Right to information Act dated 23/9/13 visi-a-vis the information furnished to him by the PIO on 18/10/13. It has been seen that the information has been provided point wise by the PIO . The answer at point No. 5 was partly furnished and PIO sought clarification regarding year of previous batches. There is nothing on records to show that the appellant have clarified further on such issues. As such this commission holds that whatever information was available with PIO have been provided to him and that no intervention is required as far as the information is concerned.
9. The second relief sought by the appellant are in nature of penal actions The appellant has prayed that the both the respondents should be severally punished by invoking section 20(1) and 20(2) of RTI Act for providing incomplete, misleading and false information. However nothing has been placed on record by the appellant to show that the information which was provided to him on 18/10/13 was misleading and false.
10. The grant of penalty is akin to conviction in criminal proceedings and hence the element of the criminal trial should be available for grant of penalty. These observation are based on ratio laid on by Hon'ble High Court of Bombay at Goa in writ petition No. 205/2007, Shri A.A. Parulekar V/s Goa State information Commissioner and others .

*"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 intential or deliberate".*

11. The roznama of this commission dated 16/01/2015 reveals that the appellant had shown his desire to produce the copy of the mark

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sheet issued by the university of Goa on 01/08/2013 for the examination held in April 2013 however till date no such documentary evidence is placed on record by the appellant. Mere statement that information incomplete, misleading and false does not suffice and cannot be held as gasper truth. In such situations the onus lies on the appellant to prove the same. By remaining continuously absent, appellant have failed to discharge his burden.

In the above circumstances following order is passed.

#### ORDER

Appeal is dismissed, 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