

GOA STATE INFORMATION COMMISSION

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

Penalty No. 13/2014
In
Appeal No. 58/SCIC/2013

Shri Vishal Naik,
R/o H. No 128/1, Rua de Maria,
Sancoale, Cortalim.

.....Appellant

V/s

1. Dr. K. K. Nadkarni,
Dy. Director of Education,
Central Education Zone, Panaji-Goa
 2. Shri D. P. Dwivedi, IAS,
Director of Education/First Appellate Authority (FAA),
Porvorim, Bardez Goa
-Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Decided on: 28/09/2017

ORDER

1. This Commission while disposing the above appeal, vide interim order dated 5/5/2014 had directed to issue notice u/s 20(2) of the Right to information Act ,2005 to the then Respondent No.2 First Appellate Authority (FAA) In view of the said order passed by this commission , on 5/5/2014 , the proceedings stood converted into penalty proceedings .
2. In pursuant to showcause notice dated 20/10/2014 the Respondent No.2 FAA was represented by Advocate Sapeco who filed reply on 9/12/14 .
3. After the appointment of this Commission , a fresh notice was once again issued to the Respondent No. 2 FAA on 12/9/17 . In pursuant to the said notice , Shri Dayanand chavdikar appeared on behalf of FAA and filed his reply on 25/09/17, thereby contending that Shri D. P. Dwivedi was officiating then as First appellate

Authority who has retired from the services on attaining the age of superannuation and that he has settled at Delhi and his address is not available. It was further contended that as per section 20(1) and (2) of the Right To Information Act penalty can be imposed only on PIO and not on FAA. It was also contended that Then PIO Shri K.K. Nadkarni is also retired on superannuation .

4. The Respondent FAA vide reply dated 9/12/2014 have contended that various 1st appeals were disposed by him on merits. His contention is that, time to time training in RTI matter have been imparted to them by Directorate of Education with the help is GIRDA and other experts pertaining to matters under the RTI Act and it was further contended the seeking the penalty against the FAA is against the principal of Law and procedure .
5. In the present case undisputedly the then PIO and the First Appellate Authority has retired. He has received his salaries during his service. As of today he is entitled for pension. Section (11) of pension Act 1871, grants immunity to the pension holder against its attachment so also Section 60 (1) (g) of civil procedure code also bars attachment of pension .
6. From the reading of above provisions and from the ratio laid down by the Hon'ble Supreme court in various decisions , leaves no doubt that the benefits received under pension, gratuity by a retired person are immune to attachment. Under the circumstances this commission is neither empowered to order any deduction from his pension or from gratuity amount for the purpose of recovering penalty or compensation if awarded.
7. Be that as it may be,. Section 18 read with section 20 of Right to Information Act, 2005 provides for imposition of Penalties and disciplinary proceedings on erring PIO and not on Public Authority or on FAA authorities .

8. In the above back ground and considering the fact that then FAA and PIO has retired I find that the proceedings for imposition of penalty and disciplinary proceedings as sought by the appellant herein are not maintainable consequently the showcause notice issued to FAA stands withdrawn .

Proceedings 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

Ak/-

