

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji Goa

Shri Prashant S.P. Tendolkar,
State Chief Information Commissioner

Appeal No.14/2018/CIC

Shri. Jesus Victoria,
Add: 28, Khairikatem,
Sanguem Goa,
403704

....Appellant

V/s

- 1) Public Information Officer,
Miracles High School,
Sanguem - Goa,
403704.
 - 2) First Appellate Authority,
The Central Education Zone,
Directorate of Education,
Panaji – Goa.
-Respondent(s)/Opponent(s)

Filed on: 12/01/2018
Disposed on: 06/08/2018

1) FACTS IN BRIEF:

- a) The Appellant herein by his application, dated 28/08/2017 filed u/s 6(1) of the Right to Information Act 2005 (Act for short) sought certain information from PIO ADEI office, Directorate of Education, Govt of Goa. The same was transferred u/s 6(3) to the PIO who is the respondent No.1 herein.
- b) The said application was replied on 23/09/2017. However according to appellant the information as sought was not furnished and hence the appellant filed first appeal to the respondent No.2, being the First Appellant Authority (FAA). According to appellant no order is passed by FAA.
- c) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.

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- d) Notice was issued to the parties, pursuant to which PIO appeared. The PIO was represented by Adv. P. Velip but no reply was filed and subsequently from 02/07/18 neither PIO nor his advocate appeared. FAA, respondent No.2 failed to appear inspite of notice.
- e) In view of the absence of the respondents and as no reply was filed by PIO inspite of opportunity, this Commission proceeds to decide the appeal based on records.

FINDINGS:

- a) Perused the records and considered the submission of the appellant. The grievance of appellant is in respect of non furnishing of information to points 1, 2 and 3.
- b) The information at points 1 and 2 of the application are the copies of contract of service of teachers and headmasters of the respondent school. It is not the case of the PIO that such documents does not exist. The same are rejected on the ground that it is exempted u/s 8 (1) (j) of the act.
- c) The respondent authority is undisputedly a public authority and hence the terms of service of its employees cannot be a secret affair. The terms of such contract of service has to be in the public domain. This Commission is fortified in adopting such a view in view of the observations of the Hon'ble High Court of Bombay at Goa in **writ petition No. 1 of 2009, Kashinath J. Shetye v/s Public Information Officer and others.**

This commission therefore finds the grounds for rejection of information at said points Nos. 1 and 2 as unsustainable.

- d) The information at no.3 is stated to be enclosed alongwith the reply u/s 7(1) of the act. Accordingly to appellant in the copies submitted to said point the copy of time table is not furnished. In view of the absence of PIO, no clarification could be sought and hence this commission is required to uphold the said contention of appellant.
- e) Regarding information at point (4) the same is not furnished as not available. In his submissions the appellant contends that such a direction is required to be issued under Rule 20 of the Goa Secondary School Education Rules. A perusal of said provision reveals that the same is not a mandate but it is optional which is denoted by the word “may” used in rule 20. Hence it cannot be held that such information surely exist and hence the same cannot be ordered to be furnished unless it exist.
- f) In the light of above discussion the appellant would be entitled to have information at points 1 to 3. The appeal in thus disposed with following:

O R D E R

Appeal is partly allowed. The PIO is hereby directed to furnish to the appellant information at points 1, 2 and 3 of the appellant's application, dated 28/08/2017, free of cost. Proceedings closed. Order be notified.

Pronounced in open hearing.

Sd/-

(P. S. P. Tendolkar)

State Chief Information Commissioner
Goa State Information Commission
Panaji -Goa

