

GOA STATE INFORMATION COMMISSION

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

Appeal No. 79/2018/SIC-I

Mr. Jesus Victoria,
28, Khairikatem,
Sanguem, Goa,
Pin Code:- 403704
V/s

.....Appellant

1. Public Information Officer (PIO),
Our Lady of Fatima High School,
Rivona, Goa, Pin Code:- 403705
2. First Appellate Authority (FAA),
The Central Education Zone,
Directorate of Education,
Panaji-Goa, 403001

....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 09/04/2018

Decided on:04/06/2018

ORDER

1. The brief facts leading to the present appeal are that the appellant Shri Jesus Victoria vide his application dated 13/11/2017 sought certain information pertaining to Our Lady of Fatima High School, Rivona for the academic years 2015 to 2018 from the Public Information Officer (PIO) of ADEI Office Director of Education, Sanguem, Goa on 10 points as stated therein the said application. The said application was filed under section 6(1) of the Right to Information Act, 2005 (RTI Act, 2005).
2. According to the appellant the Public Information Officer (PIO) of ADEI Office Sanguem vide letter dated 16/11/2017 transferred his application to the PIO of Our Lady of Fatima High School, Rivona-Goa who is Respondent No. 1 herein interms of section 6(3) of RTI

Act, 2005 with request to supply the information directly to the appellant.

3. According to the appellant that he did not receive any response to his said application from Respondent no. 1 PIO within stipulated time as contemplated u/s 7(1) of RTI Act as such he preferred first appeal before the Deputy Director of Education, Panjim-Goa, being first appellate authority on 18/12/2017, who is Respondent No. 2 herein. According to the appellant the Respondent no. 2 passed an order dated 12/01/2018 there by directing the respondent no. 1 PIO to immediately within a week to furnish the required information to the appellant as sought by him in his application dated 13/11/2017 free of cost.
4. According to the appellant the order of Respondent No. 2 First Appellate Authority was not complied by Respondent No. 1 PIO and till date no information has been furnished to him by Respondent No. 1 PIO as such he has approached this Commission by way of second appeal on 9/04/2018 in terms of section 19 (3) of RTI Act, 2005 seeking for direction to PIO for furnishing him correct and complete information, free of cost and for invoking penal provisions as against Respondent No. 1 PIO.
5. The matter was taken up on board and was listed for hearing. In pursuant to notices of this Commission the appellant was represented by his brother Shri Savio Victoria only during first hearing and then he opted to remain absent. On behalf of Public Information Officer Shri Peter Sequira appeared alongwith Advocate Atish Mandrekar.
6. During the hearing on 20/05/18, the representative of PIO submitted that the information has been kept ready and as the appellant neither his representative was present on the said date he undertook to provide the said information to appellant by speed post.

7. The PIO was directed by this Commission to intimate the next date of hearing to appellant on their forwarding letter by which the information would be forwarded to appellant and appellant was directed /required to verify the information furnished to him and report grievances if any.
8. The Advocate for Respondent PIO, filed his reply alongwith enclosures on 04/06/2018 thereby contending that the information has been furnished to appellant by forwarding letter dated 29/05/2018 by speed post. He also contended that the relevant time father Anthony Melwin Fernandes was officiating as PIO who has resigned from services from the post of Headmaster on 23/04/2018. Vide said reply it is contended that then PIO vide letter dated 9/12/2017 had intimated applicant to collect information after depositing fees, which was sent by ordinary post. As such according to PIO there was no any delay on their part and the delay if any would be on account of applicant himself. The copy of the reply and its enclosures could not be furnished to the appellant on account of his absence.
9. On scrutiny of the records it is seen that the pointwise information as sought by appellant, vide his application, dated 13/11/2017 have been provided by the present PIO and since the appellant have not come out/or not approached this Commission with any grievances with respect to information furnished to him, I find no intervention of this Commission is required for the purpose of furnishing information.
10. In the present case undisputedly the then Respondent No. 1 Father Anthony M. Fernandes has retired as such as per today he is entitle for pension. Section 11 of pension act 1871, and section 60 (1) (g) of Civil Procedure Court grant immunity to the pension holder against its attachment. The Apex court in case of Gorakhpur University and others V/s Dr. Shilpa Prasad Nagendra in Appeal (Civil) 1874 of 1999 and also in civil appeal No. 6440-41 of 2008, Radhe Shyam Gupta v/s Punjab National Bank has also given finding that retired

benefits such pension and gratuity etc doesnot loose their character and continued to recognized by the proviso (g) of section 60(1) of the code of civil procedure. Under this circumstances the Commission is neither empowered to order a deduction from his pension or from gratuity amount for the purpose of recovering penalty or compensation if awarded.

11. In the above given circumstances nothing survives to be decided in the facts of the present case. Hence the 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