

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

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

**Appeal No.135/2018/CIC**

Mr. Sudan Fati Naik Gaonkar,  
Flat – C, Villa No.F- 7,  
Paradise on Earth, Near PDA Colony,  
Alto Porvorim, Bardez –Goa. .... Appellant.

V/s

Dr. Uday C. Gaunker,  
Public Information Officer,  
Damodar Higher Secondary School,  
Gudi Paroda, Quepem –Goa. .... Respondent.

Filed on: 29/05/2018

Disposed on: 16/08/2018

**1) FACTS IN BRIEF:**

- a) The appellant herein by his application, dated 16/03/2018 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the Respondent No.1, PIO under several points therein.
- b) The said application was replied on 16/04/2018 intimating the appellant that the information sought does not pertain to the respondent Authority. According to appellant the information as sought, was not furnished hence the appellant filed first appeal to the respondent No.2, being the First Appellate Authority (FAA).  
The FAA by order, dated 27/04/2018, allowed the said appeal and directed PIO to furnish the information.
- c) In spite of said order the PIO has failed to furnish the information. The appellant has therefore landed before this Commission in this second appeal u/s 19(3) of the act.

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- d) Notices were issued to the parties, pursuant to which they appeared. The PIO on 19/07/2018 filed reply to the appeal.
- e) Vide said reply the PIO contended that the information sought does not pertain to him. He further stated that the appellant be directed to approach the concerned authority.
- f) On the subsequent date the PIO filed on record a letter addressed by him to "Chairman, Shree Damodar Education society, Gudi Paroda" purportedly enclosing a copy of the application filed by appellant, transferring the appellant's application and requesting to furnish information directly to appellant. The arguments of the parties were heard.

2) **FINDINGS:**

- a) On perusal of the records it is seen that the information as sought is not claimed by the PIO as an exempted information under the provisions of the Act. Even otherwise admittedly the respondent authority is an aided institution and the information cannot be withheld unless it comes within the preview of the exemptions u/s (8) or (9) of the Act.
- b) In the written statement it is the contention of PIO that the information does not pertain to him and hence he wants the Commission to direct the appellant to approach the concerned authority. The PIO also has alleged malafide intention of the appellant to harass him. Commission is unable to subscribe to this view. If the information was held by another public Authority the PIO ought to have transferred the same u/s 6(3) and if the authority is private then the information could have been obtained by him for being furnished to appellant. Thus reply of PIO does not appear to be bonafide.

Be that as it may, on 28/07/2018 the PIO has sent a letter to Chairman of Shree Damodar Educational Society. Said letter states that the copy of the letter, dated 16/03/2018 which is the application filed u/s 6(1) by the appellant herein, is attached. However on perusal of the said enclosure it is seen that what is enclosed is a copy of a letter "dated 29/05/2018" of one "Shri Pratap Vithoba Sawant Desai". When the Commission wanted to have a clarification on this aspect, the PIO did not remain present on two occasions without any justification. Such a careless attitude of PIO does not appear to be bonafied.

- c) Considering the aforesaid attitude of the PIO, it appears that the PIO had adopted a casual approach to the application u/s 6(1), initially stating that the information does not pertain to him inspite of the fact that at least the copies of the information sought is required to be with the respondent authority. It is also to be noted that the information which was sought was pertaining to PIO himself and hence he was expected to be more proactive in disclosure of information. Thus the response of PIO to the appellant's application appears to be evasive and malafide.
- d) Be that as it may, from the conduct of the PIO it is seen that the PIO has tried to mislead this Commission by annexing copy of an application filed by one Shri Pratap Vithoba Sawant Desai, as the application filed by appellant herein. In spite of granting opportunity, the PIO has failed to clarify the same and has not bothered even to remain present before the Commission.
- e) Considering the above circumstances, Commission finds that the information as sought has to be furnished to the appellant. Commission also find that the PIO has malafidely denied the request of the appellant.

f) In the above background this Commission finds merits in the appeal and hence the same is disposed with the following:

**O R D E R**

The appeal is allowed. PIO is hereby directed to furnish to the appellant the entire information as sought by him vide his application, 16/03/2018, free of cost, within TEN DAYS from the date of receipt of this order by him.

Issue notice to Dr. Uday C. Gaunker, PIO, to show cause as to why he should not be directed to pay penalty as contemplated u/s 20(1) of The Right to Information Act 2005 and/or recommend for disciplinary action against him u/s 20(2) of the said act, through the Secretary Education, or any other officer as may be deemed fit.

Reply to the notice to be filed, in person, on 24/09/2018 at 03.30 p.m. alongwith documents in support, if any.

Appeal stands disposed accordingly.

Notify parties.

Pronounced in open hearing.

Sd/-

**( P. S. P. Tendolkar )**

State Chief Information Commissioner  
Goa State Information Commission  
Panaji - Goa