

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

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

Appellant No.108/SCIC/2017

Mr. Jose Maria de J. G. Godinho,
R/o 4C/S-4, Models Millenium Vistas,
Caranzalem,
Ilhas –Goa.

Appellant

V/s

- 1) The Public Information officer &
Headmaster,
Our Lady of Health High School,
Cuncoim –goa 403703.
- 2) The First Appellate Authority &
Director of Education,
Govt. of Goa,
Provorim-Goa 403521.

Respondents.

Filed on :19/7/2017

Disposed on:18/1/2018

1) FACTS:

- a) The appellant herein by his application, dated 14/3/2017 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 points (a) to (d) therein.
- b) The said application was replied on 12/4/2017 calling upon the appellant to collect the information on any working day. However according to appellant only the information at point (b) was furnished and the rest of the information was not furnished and hence on 28/4/2017, the appellant filed first appeal to the respondent No.2 being the First Appellate Authority (FAA).

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c) The FAA did not pass any order on the said appeal within the stipulated time and hence the appellant has filed this second appeal u/s 19(3) of the act.

d) After filing of the present appeal and on notifying the parties the FAA vide letter, dated 6/10/2017 filed on record a copy of the order purportedly passed on 5th October 2017. Order on the said application was passed by this commission holding that the said order is redundant being passed after time.

e) Notices were issued to the parties, pursuant to which they appeared. The PIO on 17/11/2017 filed a reply to the appeal . Arguments were heard.

f) Adv. Avinash Nasnodkar filed his Vakalatnama on behalf of the appellant. Adv. V. Korgaonkar appeared on behalf of the PIO. Arguments on behalf of the appellant and PIO were advanced by their advocates. Adv. Nasnodkar also filed written arguments on behalf of the appellant.

g) In his arguments Adv. Nasnodkar submitted that the information at point (b) has been furnished by PIO. According to him the information at points (a) (c) and (d) is not furnished on grounds which are not satisfactory. According to him the Authority being an aided school the information is public and has to be furnished and nothing can be personal.

By referring to the contention of PIO that the information was not furnished as objected by third party Adv Nasnodkar

submitted that the notice of application was given to third party after 10 days, which is beyond the prescribed time limit and that it is a got up document as not inwards in the records of authority. He further submitted that there is no reason to join said third party Ms. Amey Bhat as party herein as the records are available with public authority itself.

h) While opposing the appeal, Adv. V. Korgaokar submitted that firstly the third party in respect of whom information is sought is necessary party required to be summoned. He submitted that the information sought at point, (a) and (c) is personal as the said Bio data and character certificate may contain certain personal details which if disclosed may invade privacy.

Regarding the muster roll also Advocate submitted that the said records are personal in nature and cannot be given.

2) FINDINGS:

a) I have perused the records and considered the submissions of advocates. Admittedly the information at point (b) is furnished and hence discussion and decision on said information is unwarranted.

b) Information at point (a) is the certified copy of the application submitted for seeking appointment. The information at point (d) is the muster roll pertaining to certain dates maintained by the authority. Said information sought though pertains to a third party, she admittedly is an employee of a public Authority being an aided school.

It is to be noted that the application filed by the party for seeking employment may be a private document till the employment is granted but once the party gains employment with a public Authority, his/her activities become public in nature and involves public interest as he/she receives salaries from Public exchequer. The information thus furnished by such third party has a direct relation to her public activity.

Similarly the muster role of the party is the record maintained during in the course of the public activity. Such records cannot be treated as private as public interest is involved. Citizen is entitled to view the attendance of such employee.

c) There is another aspect also to be considered. The information sought at points (a) and (d) as above is the one as existing in the custody of the authority which is generated in the course of public activity and dispensable by public authority. Such information does not qualify for exception u/s 8 and/or 9 of the act.

d) Coming to the information sought at point (c) of the appellants application dated 14/03/2017, the same appears to be a personal information. Character certificate may contain same adverse remarks against the subject pertaining to whom it is issued. Such remarks may be within the author of the certificate and the subject pertaining to whom it is issued. Such records are not accessible to the public. Thus such certificate being personal information cannot be dispensed.

e) I have also considered the contention of Adv. Korgaonkar that the third party is necessary for this appeal. I am unable to

accept the same. As held above the information sought is from the custody of the Authority and held in the course of public activity of the party. Thus her presence is not required for the present appeal.

f) Considering the above facts and circumstances I find that the information at point (a) and (d) is accessible in addition to information at point (b) which is already dispensed. However the information at point (c) being private and personal cannot be furnished.

g) The PIO in his reply u/s 7(1) dated 12/04/2017 has contended that the information at point (a) is not available in its records. Said information infact is the originating records of the public activity and the same has to be with the authority. The reply to this point thus appears casual and non existence thereof requires proof. However before passing any order it would be appropriate that the PIO is granted an opportunity to trace the same and still if not available, to affirm the same on oath so that further necessary orders are passed.

In the background of the above facts, I proceed to dispose the present appeal with the following:

ORDER

Appeal is partly allowed. PIO to furnish to appellant within 10 days from date of receipt of this order, (i) copy of application submitted by Mrs. Ameya S. Bhat LDC at the time of her appointment and (ii) certified copy of muster roll from date of

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attending duties for first two months and for January to March 2017. The information to be furnished shall be free of cost.

In case the information at point (i) i.e. application submitted is still not available, then PIO is directed to file affidavit in support of such fact for further orders.

Matter posted for compliance on 07/02/2018 at 10.30 am.

Sd/-

(Mr. Prashant S. P. Tendolkar)

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Respondents.

The below order is passed in the above matter on
07/02/2018.

ORDER

“Taken up before CIC:

Appellant present in person. PIO represented by Adv. V. Korgaonkar, files on record copy of the muster roll which is information at point 2 and also files affidavit as directed by the order dated 18/01/2018. Copy of the same furnished to the appellant. In view of the same the order stands complied and the proceeding stands closed.

Sd/-

(Mr. Prashant S. P. Tendolkar)
State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa