

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

Appeal No. 140/2015

Shri Anil Govind Naik,
 2/G-3, Dukle Residency,
 Tambadi-Mati,
 Taleigao- Goa.

.....Appellant

V/s
 The Public Information Officer,
 Peoples Higher Secondary School,
 Mala, Panaji Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner

Filed on: 26/10/2015
Decided on: 28/02/2018

ORDER

1. Shri Anil G. Naik , herein refer to as appellant by his application, dated 4/5/2015 filed under section 6(1) of the Right To Information Act, 2005 sought certain information and inspection relating to DPC conducted for the post of Principal during the year 2014-15 from the Respondent No. 1 Public Information Officer (PIO) of Peoples Higher Secondary School, Panaji, Goa.
2. It is contention of the Appellant that he received the copy of the letter dated 20/5/2015 addressed to the chairman of the Peoples Higher Secondary School there by requesting the Chairman to furnish the requisite information to him.
3. It is contention of the Appellant that the PIO failed to furnish the information and no inspection of the files was allowed.

4. Being aggrieved by the action of Respondent PIO, the Appellant filed appeal to the First appellate authority i.e Respondent No. 2 on 18/6/2015. The Respondent No. 2 First Appellate Authority by Order, dated 27/7/2015, allowed the appeal and directed PIO to furnish the information within 6 days of the receipt of the order.
5. It is the contention of the appellant that he received the letter dated 4/8/2015 of the PIO by speed post to collect the certified copies of information. It is the contention of the appellant, that on verification of the said information which was furnished to him by post, he found that it was incomplete as such he vide letter dated 8/9/2015 brought to the notice to the PIO the said fact and requested him to provide the information and the inspection of the documents.
6. It is the contention of the appellant that the letter dated 8/9/2015 was not responded by the PIO nor furnished him information therefore he has approached this commission with this second appeal on 26/10/2015 u/s 19(3) of the Act thereby seeking relief of directions to PIO to furnish the information as also seeking penalty and compensation .
7. Notice were issued to both the parties. In pursuant to which appellant appeared in person. Respondent PIO was represented by Advocate Raunaq Rao.
8. On 19/10/2016 the appellant filed application contending that incomplete information was provided to him and sought for directions to respondent to provide inspection of the documents as requested by him in order to confirm and verify that all the documents requested by Respondent as serial No. 2,3,and 4 are correctly provided to him. The Advocate for the Respondent agreed to give him inspection.

The appellant was then directed by this Commission to provide the list of the document to PIO which are required by him after the inspection .

9. It is the contention of the appellant that complete inspection was not given to him as such he made a letter to Respondent PIO on 31/10/2016 there by specifying the documents of which inspection was not given to him.
10. Reply was filed by Respondent PIO dated 13/12/2016 thereby enclosing the extract of minutes book bearing the signature of appellant dated 21/10/2016, 22/10/2016 and 24/10/2016 of appellant having carried out the inspection. Application also filed by Respondent PIO on 4/4/2017.
11. Written synopsis filed by the appellant on 30/1/2017 and on 2/8/2017.
12. On 4/10/2017 appellant placed on record the information furnished to him by Respondent PIO and the additional information that was provided to the appellant on 1/11/2016. The appellant then submitted that he is satisfied with the information provided to him on 1/11/2017. However he pressed for the penal provision.
13. Written submission were also filed by respondent PIO on 16/2/2018.
14. I have scrutinize the records available on the file so also submission made on of both the parties .
15. It is the contention of the appellant that PIO wrongly transferred the said applications to the chairman and as such it amount to fooling the applicant in denying the information. It is further contended that in pursuant to the letter of PIO dated 4/8/2015, he visited the office of PIO

and only information pertaining to point No. 2 part information was provided and the enclosures were not given to him. It is his further contention that in pursuant to direction of this commission he had carried out the inspection however the PIO has given him the inspection of Xerox copies and not of the originals. It is further contended that PIO was a principal whose DPC has sought as such it is his contention that seniority list was intentionally & deliberately suppressed by PIO . It is further contention that the PIO has detached the documents which were going against her. It was further contended that the PIO also officiating as Manager of the School Managing Committee as such she is having control over the information . He further contended that inspection of the documents were not allowed and the documents at serial No. 2 and 3 were not provided to him fully. It is his further contention that vide letter dated 31/10/2016 he informed the Respondent PIO that he was not provided the documents that has been mentioned in the said letter. It is his further contention that the Respondent being Manager of the School Managing Committees she is the custodian of the records and therefore the act of the Respondent in transferring the application u/s 6(3) of the Act amount the refusal of information

16. It is the contention of Respondent that the appeal is bad for not joiner of the FAA. It is his second contention that the information requested was not in possession of Respondent PIO and Respondent PIO was not having control over such information and being so the said application was forwarded to Chairman of School Managing committee. It is his further contention that in compliance of the order of the FAA he informed the appellant on 4/8/15 to collect the

information at point No. 2, 3 and 4 and to do the inspection at the point 1,5,6 and 7 but the appellant neither collected documents nor took the inspection and chosed to prefer present appeal. It is further submitted that the respondent does not exercise any supervision or control over the School Managing Committee who is the custodian of the documents.

17. In the nutshell it is a contention of the Respondent that appellant himself failed to collect the information as offered vide letter dated 4/8/2015.
18. On perusal of the records it is seen that the appellant vide letter dated 8/9/2015 had brought notice of the Respondent PIO that certain documents and inspection were not provided to him. It appears that the respondent PIO has not responded to the said application neither furnished any information to him. The application can be forwarded to PUBLIC AUTHORITY who is holding the said information u/s 6(3) . The managing committee of the said school is not declared as public authority. The PIO instead of transferring the said application ought to have resorted to section 5(4) of RTI Act.
19. There is nothing placed on records by the PIO vis-a-vis the documentary evidence who was the custodian of the said information .
20. Contention of the appellant vide memo of appeal and written synopsis is that the respondent NO. 1 PIO has violated the act by not furnishing the information in time , as such he should be penalized u/s 20 of the Act. I find prima facie that the PIO has failed to furnish complete information even after the order of First appellate authority and even

despite of bring such fact to the notice by the appellant vide letter dated 8/9/2015.

21. However before imposing any penalty an opportunity has to be given to PIO to explain her version. In the circumstances I pass the following order.

ORDER

- a) Appeal partly allowed. No intervention of the commission is required for the purpose of furnishing information.
- b) Issue notice to respondent PIO to showcause as to why action as contemplated under section 20(1) and 20(2) of the RTI Act, 2005 should not be initiated against her for delaying in furnishing the information returnable on 22/3/2018 at 10.30am.

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/-