

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

Appeal No. 201 /2018/SIC-I

Shri. Joao C. Pereira,
H.No.40, Ascona Utorda,
Majorda, Salcete,
Goa-403 713

....Appellant

V/s

1) Dr. Edwin gomes, PIO,
Professor in Medicine,
Goa medical College & Hospital,
Bambolim Goa 403 602.

2) First Appellate Authority,
The Dean,
Goa Medical College & Hospital
Bambolim Goa 403 602.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner.

Filed on: 03/10/2018
Decided on: 01/11/2018

ORDER

1. The second appeal came to be filed by the appellant Shri Joao C. Pereira on 24/08/2018 against the Respondent no. 1 Public Information Officer of Department of Medicines of Goa Medical College and against respondent No. 2 FAA under sub section (3) of section 19 of RTI Act 2005.
2. The brief facts leading to the second appeal are that the appellant vide his application dated 03/05/2018 had sought for certain information on 25 points pertaining to the accused Alexio Arnolfo Pereira who was admitted in GMC on 13/04/2018 under Medico legal case. The appellant has sought information of the above name

accused /patient for the period 13/04/2018 to 25/14/2018 in exercise of his right u/s 6(1) of RTI Act, 2005.

3. The said information was initially sought from the PIO of the office of Superintendent of Goa medical College, Bambolim who intern transferred the same to the PIO of Department of Medicine of Goa medical College vide letter dated 12/05/2018 in terms of sub-section (3) of section 6 of RTI Act, 2005.
4. The said application was responded by Respondent No. 1 PIO on 17/05/2018 in terms of section 7(1) thereby denying the information u/s 8(1)(e), and 8(1)(j) of RTI Act, 2005.
5. Being aggrieved by said response of respondent no. 1 PIO the appellant approached to respondent no. 2 first appellate authority on 07/06/2018 by way of first appeal u/s 19(1) of RTI Act, 2005.
6. The respondent no. 2 first appellate authority (FAA) by an judgment dated 16/7/2018 dismissed the said appeal by upholding the say of respondent no. 1 PIO.
7. Being aggrieved by the action of both the respondents and as the appellant did not receive any information, he approached this commission by way of second appeal with the prayer for direction for furnishing him the information as sought by him , for setting aside a order passed by respondent No. 2 FAA and for invoking penal provisions .
8. Matter was listed on board and was taken up for hearing. In pursuant to the notices of this commission appellant appeared in person Respondent No. 1 Dr. Edwin. Gomes and Respondent no. 2. Dr. Pradeep Naik appeared.
9. Respondent No. 1 PIO filed his reply on 19/01/2018 and Respondent No. 2 filed his reply on 26/10/2018. The copy of both the replies was furnished to the appellant.

10. I have scrutinised the records available in the file and also considered the submission made on behalf of both the parties.
11. On going to the application filed by the appellant u/s 6(1) of the act it is seen that information sought by the appellant at point No. 4,5,7,18 and 23 pertain to the details of medical examinations and treatment given to the accused Shri Alexio Pereira from the date of admission till his discharge. The possibility of doctors treating the above name accused person/patients and recording the details of ailments cannot be ruled out. Besides that the entire full file/said documents may also contained the fine details and intricate involved in the patients. Such records if disclose may reveal the secret/ confidential details of a third party. The regulation 7.14 and regulation 2.2 of Indian medical council (professional conduct, Etiquette and Ethics) regulations 2002 also prohibits disclosures of such information.
12. The Apex court in case of x V/s Hospital Z in civil appeal no 4641 of 1998 [1998 (9) Supreme 220] has held at para 1;

“It is true that the doctor-patient relationship, the most important aspect is the doctors duty to maintaining secrecy. Doctor cannot disclose to a person any information regarding the patient which he has gathered in the course of treatment nor can the doctor disclosed to anyone else the mode of treatment or the advice given to the patients”.

At para 17 the Apex court has held:-

“Thus the code of medical ethics also carves out an exception to the rule of confidentiality and permits the disclosure in the circumstances enumerated above under which the public interest will override the duty of confidentiality, particularly where there is an immediate or future risk to others.

- 13 The injuries alleged in the present case is not the one which can effect community at large. The appellant also was not able to satisfy that the disclosure of the said information was required in the larger public interest.
- 14 Considering the provision of the law, and the limitation under the Act and by further considering the nature of the information sought, I am in agreement with the PIO that the information sought will come under exception under section 8(1)(e) of the Act as I find that the Medical records and medical case paper of the 3rd party are not in the course of the public activities nor disclosure of the said information has any relationship to any public activity or interest as such the basic protection afforded by virtue of exemptions enacted under section 8(1)(e) cannot be lifted or disturbed. Hence the information sought at point no. 4,5,7,18,23 vide application dated 3/5/2018 cannot be ordered to be furnished. However the appellant is entitled for the rest of the information.
- 15 The appellant during the hearing on 26/10/2018 considering the above provisions of law, did not fairly press for the information sought by him at point No. 4,5,7,18 and 23 .
- 16 The respondent PIO volunteer to furnish the appellant the information at point No. 1, 2, 6, 8, 9, 10, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 24 and 25 and submitted that information at point No. 11 does not pertain to their Department and it pertains to the medical superintendent office and as such he showed his willingness and undertook to transfer point no. 11 to the PIO of office of Medical superintendent of Goa medical College, such an agreement was agreed by the appellant .
- 17 Accordingly the respondent no. 1 furnished appellant the point wise information on the above points as sought on 1/11/2018 by appellant vide his application dated 03/05/2018 and also placed on record the transfer application dated 31/10/2018 addressed to the

PIO of the office of the office of medical superintendent of Goa Medical College.

- 18 Since the information is now furnished and as the appellant has no further grievance with respect to information furnished to him , I find that no intervention of this commission is required for the purpose of furnishing information and as such relief sought at prayer (C) becomes infructuas.
- 19 The records also shows that the application was transferred to the respondent NO. 1 PIO by medical superintendent of Goa Medical college on 12/05/2018 which was promptly responded by PIO on 17/05/2018. The facts of the present case doesn't warrant levy of penalty on the PIO. The appellant also graciously waived the penal provisions as sought by him in the memo of appeal and accordingly endorsed his say on the memo of appeal.
- 20 In the above given circumstances I find nothing survives to be decided in the present appeal proceedings. Hence the appeal proceedings stands closed.

Notify the parties.

Pronounced in the open court.

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.

Sd/-
(Ms.Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa