

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

Appeal No. 256/2018/SIC-I

Shri Shambhu Madhukar Parab,
H.No. 306/2-B, Mirzalwada ,
Palye, Pernem, North Goa,
Goa-403524

....Appellant

V/s

1) The Principal,
Public Information Officer,
St. Xavier's Higher Secondary School & College,
Mapusa ,Bardez-Goa.

2) The Secretary,
DIOSESAN SOCIETY OF EDUCATION,
Instito de Nossa Senhora De Piedade,
Panaji Goa.

.....Respondents

CORAM:

Smt. Pratima K. Vernekar, State Information Commissioner.

Filed on: 26/10/2018

Decided on: 17/12/2018

ORDER

1. The brief facts leading to present appeal are that, by an application dated 6/6/2018 the appellant Shri Shambo Parab sought from Respondent no. 1 PIO the information as listed at serial No. 1to 4 pertaining to admission given in standard 11th , Science Stream for the academic year 2018-2019. The said information was sought from the PIO of St. Xavier Higher Secondary School at Mapusa in exercise of appellant right under sub section (1) of section 6 of RTI Act,2005.
2. It is the contention of the appellant that his application was responded by the PIO on 2/7/2018 thereby requesting the appellant to collect the said information from their office during working hours and vide letter dated 5/7/2018 pointwise information was provided to the appellant by the Respondent no. 1PIO .

3. It is the contention of the appellant in pursuant to the said letter he went to the office of St. Xavier Higher Secondary School and collected the information.
4. It is the contention of the appellant that the information at point no. 2 ,3 and 4 was denied to him and as such he being aggrieved by non furnishing of the said information filed first appeal on 3/8/2018 before the Respondent no. 2 the Secretary of the DIOCESAN SOCIETY OF EDUCATION, Panaji.
5. It is the contention of the appellant that he did not received any communication /intimation from the office of Respondent No.2 DIOCESAN SOCIETY OF EDUCATION and as such after waiting for 75 days since the respondent no. 2 did not show any interest in entertaining his first appeal he had no choice other than to approach this commission by way of second appeal .
6. In this back ground the present appeal came to be filed by the appellant seeking several reliefs, Viz for initiating disciplinary action as against Respondent, direction to furnish information as sought, imposition of penalty and fine.
7. After notifying the parties the matter was listed on the board and was taken up for hearing . During the hearing appellant was present in person. Respondent PIO Dr. Elvis Gonsalves appeared and filed his reply on 17/12/2018.
8. Vide reply the Respondent No. 1 PIO contended that information at point 1,2,3 was provided to the appellant and information at point No. 4 could not be provided on account of objection from those student.
9. I have scrutinise the records and also considered the submissions of the parties .
10. It is well established judicial principle that a person seeking relief must exhaust the remedy open to him, before approaching a higher second appellate authority.

11. Section 19(1) provides for first appeal and the role of commission as prescribed u/s 19(3) is by way of second appeal and that too only against the decision of First appellate authority.
12. The Department of Information and Publicity had published and notified the list of APIOs /PIOs and First appellate authorities under the RTI Act 2005 and the Principal of the Higher Secondary School (Government and Government Aided schools) has been designated as PIO and the Director of Education, of the Department of Directorate of Education have been designated as first appellate authority .
13. In the present case the appellant has filed an appeal before Secretary of DIOCESAN SOCIETY OF EDUCATION, Panaji and not before the Director of Education who is a competent authority to deal with first appeal as contemplated under section 19(1) of RTI Act, being so to my mind since first appeal is preferred with wrong authority, present appeal proceedings filed by appellant stands vitiated and liable to be dismissed. However considering the intent of the RTI act and also in the interest of justice I find that the interest of the appellant is required to be protected and as such I find the ends of justice would meet with a appropriate directions I therefore proceed to dispose the present appeal with the following:

ORDER

14. The liberty is granted to the appellant to file appeal before appropriate competent first appellate authority in accordance with law, if he so desires within a period of 30 days from the date of order. If such the appeal is filed the first appellate authority can decide the same on merits in accordance with law, without insisting on the period of limitation. The right of the appellant herein to file appeal in case the appellant is aggrieved by order of first appellate authority in such appeal is kept open.

With the above direction the Appeal stands disposed, 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