

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

Appeal No. 218/2019/SIC-I

Mr. Munawar Khan,
Flat No. 01 Behind,
Chawhan Milk Dairy,
Gogol Margao-Goa.

....Appellant

V/s

1) The SPIO/Principal,
AIM English Medium School,
Rumdamol, Davorlim, Salcete-Goa.

2) The Dy. Director of Education,
First appellate authority,
South Education Zone,
Margao Goa.

.....Respondents

CORAM: Ms. Pratima K. Vernekar, State Information Commissioner

Filed on: 15/07/2019

Decided on: 23/10/2019

ORDER

Brief facts to present appeal as put forth by the appellant Shri Munawar Khan are as under:-

1. In exercise of the right u/s 6(1) of RTI Act, 2005, the appellant filed his application on 10/1/2019 before the PIO of Director of Education, Porvorim, Bardez-Goa seeking following information.

(i) Certified true copies of all the education qualification certificates from Xth, XIIth, B.Com, B ED and also additional qualification certificates furnished/produced by Mr. Sajjed Abdul Gafur Pirani as under graduate teacher on regular basis in AIM English Medium School, Rumdamol, Housing Board Davorlim, Margao-Goa.

and

(ii) Certified True copy of the letter No.AIM/Appr tr/2/2013-14 dated 4/10/2013 alongwith all its annexure's

2. It is the contention of the appellant that his above application was responded by PIO of Director of Education, Porvorim-

Goa vide letter dated 6/2/2019 in terms of section 7(1) of RTI Act, intimating him to collect the information after depositing an amount of Rs. 30/- towards the paper charges .

3. It is the contention of the appellant that the PIO of Director of Education Porvorim-Goa vide letter dated 12/2/2019 provided him information at point no. 2 and the information at point no. 1 was transferred to respondent No. 1 PIO of the AIM English Medium School, Rumdamol, Davelim Salcete-Goa in terms of section 6(3) of RTI Act.
4. It is the contention of the appellant that his said application which was transferred to Respondent No. 1 PIO, in terms of section 6(3) of RTI Act, was not responded u/s 7(1) of RTI Act, 2005 by Respondent no. 1 within a period of 30 days, as such considering the same as rejection, he filed first appeal on 13/3/2019 before Respondent no.2 the Director of Education (South Education Zone), Margao-Goa, being First Appellate Authority (FAA) in terms of section 19(1) of RTI Act, 2005.
5. It is a contention of the appellant that Respondent no. 2 FAA after hearing both the parties, finally disposed his first appeal by order dated 17/5/2019 wherein the first appellate authority directed Respondent No.1 PIO to provide him the documents/information sought in respect of point No. 1 as sought by the appellant vide his application dated 10/1/2019, free of cost within seven days from the receipt of the order.
6. It is the contention of the appellant that despite of the order of Respondent No. 2 first appellate authority, no information came to be provided to him, as such he being aggrieved by the action of respondent No. 1 PIO is forced to prefer the present appeal in terms of section 19(3) of RTI Act, 2005.
7. In this background the second appeal came to be filed on 15/7/2019 by the appellant with a contention that the

information is still not furnished and seeking directions from this commission to PIO to furnish him the information free of cost and for invoking penal provisions as against Respondent .

8. The matter was taken up on board and was listed for hearing. In pursuant to the notice of their Commission, appellant was represented by Advocate Avinash Nasnodkar. Respondent no.1 PIO was represented by Advocate S. Shaikh. Respondent no. 2 FAA opted to remain absent.
9. Reply filed by respondent No.1 PIO on 3/10/2019. The copy of the same was furnished to the Advocate for the appellant .
10. Argument were canvassed by both the parties .
11. Advocate for the appellant submitted that his grievance is in respect to non furnishing the information in respect of point no.1. He further contended that teacher working in Government aided institutions are paid from ex-chequer fund and as such there should be transferacy as far as the educational qualification of teachers are concerned. It was further submitted that the appellant has sought the said information in a larger public interest as teachers are imparting education to students based on the fake certificate, there by playing with the future of children who are future hope of India, hence at least in field of education the teacher with fake certificate should not be allowed to teach the student He further contended that the respondent No. 1 PIO acted perverse and showed scant regards to the order of Respondent no. 2 First appellate authority . It was further submitted that Judgment in writ petition No. 797 of 2018 passed by the Hon'ble High Court Bombay at Goa is not applicable to facts of the present case as Hon'ble court in said case has not discussed any thing on the issue of larger public interest.
12. On the other hand, the Advocate for Respondent PIO submitted that the appellant herein had not shown from the tenor of his

application, what was the larger interest which was involved to seek the personal information of the said teacher/ employee Mr. Sajjed Abdul Gafur Pirani working for the said institutions nor any findings are recorded by the first appellate authority to the involvement of any larger public interest in supplying such information to the appellant. It was further submitted that unless and until larger public interest is involved, the disclosure of such personal information should not be allowed. It was further submitted that appellant is a third party and as such has no right to seek the information about the teacher of the said school. It was further submitted that the order of the first appellate authority being not a reasoned order has to be quashed and set aside, and in support their contention the reliance was placed on the judgment passed by the Hon'ble High Court of Bombay at Goa in writ petition no. 797/2018

13. I have scrutinized the records available in the file also considered the submissions of both the parties .
14. On scrutiny of the application filed by the appellant in terms of section 6(1) of RTI Act, it could be gathered that the appellant is trying to seek the information/ documents of education qualification certificates, of Mr. Sajjed Abdul Gafur Pirani working in AIM English Midium School ,Rumdamol, Housing Board, Davarlim, Margao-Goa
15. It would thus be seen that the information sought by the appellant is the information relating to third party and if the disclosure of the personal information is found justified in public interest, the exemption u/s 8(1)(j) would be lifted otherwise not .
16. The Hon'ble High Court of Delhi at new Delhi (i) in writ petition (C) No. 677 of 2013 and CM No. 1293 of 2013, Union of India

V/s Anita Singh and (ii) in W.P.(C)1243/2011 and CM No. 2618 of 2011 UPSC V/s R.K. Jain has held as under

“whenever the queries applicant wishes to seek information the disclosure of which can be made only upon existence of certain special circumstances, for example- the existence of public interest the queries should in the application, (Moved u/s 6 of the Act)disclose/plead the special circumstances, so that he PIO concerned can apply his mind to it , and ,in case he decide to issue notice to the concerned third party u/s 11 of the act, the third party able to effectively deal with the same. Only then the PIO/appellate authority/CIC would be able to come to an informed decision whether or not, the special circumstance exist in a given case.”

17. The Hon'ble High Court of Delhi in Union of India(Supra) has also held that information such as date of birth, Residential address , **documents of education** would constitute personal information within a meaning of section 8(1)(j) of the act which cannot be disclosed to the information seeker, particularly when no special circumstances warranting such disclosures have been placed on record.
18. On the perusal of the application filed by the appellant in terms of section 6(1) of RTI Act dated 10/1/2019, no special circumstances warranting such disclosures were indicated in the said application by the appellant. The appellant have come out for the first time during argument that he had sought the information in the larger public interest. such an averment and pleadings were not made by him in the memo of appeal filed before this Commission. So also on perusal of the memo of first appeal filed before the Respondent No. 2 first appellate

authority which is relied by the appellant himself, no where it reflect that the said information is sought in larger public interest. Hence the stand taken by the appellant during the argument before this commission appears to be after thought.

19. It is also not the case of the appellant that the institution concerned herein, has employed teaching and non teaching staff based on the fake certificate. The appellant has also failed to established and or to substantiate or to show what was the public interest which was involved to furnish the personal information of the third party to him by way of any convincing and cogent evidence.
20. In the recent judgment, the Hon'ble High Court of Bombay at Goa, in writ petition No. 797/2018, Deepak Vaingankar V/s Suryakant Naik has held that;

"Educational Qualification, details of Higher Education etc. are qualified to be personal information and the information seeker had categorily failed to show what was the public interest or larger public interest which was involved to furnish the personal information of the petitioner to him".
21. By subscribing to the above ratios laid down by the above Hon'ble Courts and in the light of the above discussion I am of the opinion that information sought constitute the personal information within a meaning of section 8 (1) (j) of the act and since the appellant failed to plead the special circumstances by way of convincing and cogent evidence and having failed to established that it was sought in larger public interest, I am declined to grant the relief sought by the appellant at prayer (b).
22. Before parting, it needs to mentioned that there is a contravention of section 7(1) of RTI Act. From the order of the first appellate authority one could gathered that Respondent

PIO did not bothered to appear before first appellate authority neither any say was filed neither complied the order of first appellate authority. The conduct and the gesture on the part of Respondent PIO herein is not in conformity with the provisions of the RTI Act. Since there is nothing on record that such lapse on part of PIO is persistence, considering this is a first lapse a lenient view is taken and the Respondent PIO is hereby directed to be vigilant henceforth while dealing with the RTI matter and any lapses found in future shall be viewed seriously.

23. In view of discussion above I do not find merits in the appeal proceedings and hence liable to be dismissed, which I hereby do.

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