

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

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**Appeal No. 242/2019/SIC-I**

Mr. A.Gafur Khan,  
Gafur Watch Repair, Near Radio Mandal,  
Margao-403601 ,

....Appellant

V/s

1)The Public Information Officer,  
Head Master,  
Husn Sahara English Medium School,  
Gogal Housing Board,  
Margao 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: 5/8/2019**

**Decided on: 23/10/2019**

**ORDER**

1. In exercise of the right u/s 6 (1) of RTI Act, 2005 the appellant Shri A. Gafur khan filed his application on 25/3/2019 seeking certain information from the Public Information Office (PIO) (Academic ) of Directorate of Education Alto Provorim-Goa at points (A) to (C) as stated there in his said application pertaining to teaching and non teaching staff on regular basis at Husn Sahara English Mediaum School, Goghal, Margao- Goa.
2. It is the contention of the appellant that his said application which was transferred to Respondent No. 1 PIO, of Husn Sahara English Medium School at Margao 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 24/5/2019 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.

3. 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 12/7/2019 wherein the first appellate authority directed Respondent No.1 PIO to provide him the documents/information sought in respect of point (A) and (B) and in respect of Point No.(C) i.e the medical fitness certificate was held to be exempted from disclosure being personal information.
4. 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 is forced to prefer the present appeal in terms of section 19(3) of RTI Act, 2005.
5. In this background the second appeal came to be filed on 5/8/2019 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 .
6. The matter was taken up on board and was listed for hearing. In pursuant to the notice of their Commission, appellant was present along with Advocate Avinash Nasnodkar. Respondent no.1 PIO was represented by Advocate S. Shaikh. Respondent no. 2 FAA opted to remain absent.
7. Reply filed by respondent No.1 PIO on 17/9/2019. The copy of the same was furnished to the appellant .
8. Argument were canvassed by both the parties .
9. Advocate for the appellant submitted 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. 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.

10. On the other hand, Respondent PIO submitted that information sought by the appellant is a personal information and the disclosure would endanger the life or the physical safety of any person. 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 appellant has not pointed out as to whose certificate are fake. 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
11. I have scrutinized the records available in the file also considered the submissions of both the parties .
12. 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 certificate, approval orders so also the minutes

criteria Performa forms, employment card, residential certificate, joining report, medical certificate of teaching and non teaching staff working at Husan Sahara English Medium School, and also advertisement copy of news paper .

13. 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 .
14. 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.”

15. 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.

16. On the perusal of the application filed by the appellant in terms of section 6(1) of RTI Act dated 25/3/2019 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 R NO. 2 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.
17. It is also seen from the past records that similar information was sought by the appellant pertaining to the teachers and the staff working in Jamia E. Maqbuliya Urdu High School, Betoda, Ponda-Goa and the appellant had landed before this Commission in second appeal bearing No. 52/2019. In the said proceedings since the appellant had taken a stand that the information sought by him is larger public interest and since he had contended that one teacher possessing fake certificate in the said institution had to resigned since the management came to know about it as such this commission came into opinion that in the larger public interest the appellant is entitled for the said information. However during the present proceedings during arguments the appellant has not established and or substantiated how when and where the said information was used by him in the larger public interest. 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.

18. 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”.

19. 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).

20. No cogent and convincing evidence produced on record by the appellant attributing malafide on the part of the Respondent PIO. On the contrary the records reveals that the respondent vide appeal No.235/2019 filed on 31/7/2019 before this Commission has challenged the order passed by the respondent No. 2 first appellate authority. The facts of the present case also doesn't warrant the levy of penalty on Respondent PIO. Hence I am declined to grant relief (C) as sought by the appellant .

21. 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