

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal No: 207/2018/SIC-II

Rajan Savlo Ghate,
D3, IInd Floor, Bhavani Apartments,
Behind Maruti Temple,
Mapusa Bardez Goa

..... Appellant

v/s

1. Public Information Officer,
Director of Administration,
Goa Medical College,
Bambolim - Goa.
2. State Public Information Officer,
The I/Charge of Academics,
Goa Medical College,
Bambolim - Goa.
3. First Appellate Authority,
The Dean,
Goa Medical College,
Bambolim - Goa.

..... Respondents

Relevant emerging dates:

Date of Hearing :11-09-2019

Date of Decision :11-09-2019

ORDER

1. **Brief facts of the case** are that the Appellant vide an RTI application dated 08/01/2018 sought certain information under section 6(1) of RTI Act, 2005 from the Respondent PIO, Medical Officer, Goa Medical College, Bambolim Goa.
2. The information sought is at two points 1 & 2. In point No.1 the information sought is regarding Dr. Guruprasad Naik from points 1(a) to 1(h) and at point No.2 regarding Super-Specialty Departments from 2(a) to 2(f). The information sought includes details of clinical practice done by Dr. Naik outside India after joining Department, details of the leave availed by Dr. Naik since his joining GMC in Cardiac Department, Passport details of Dr Guruprasad Naik, Details of Passport record of Dr. Naik when he has left the country and returned back to India after joining GMC in Cardiac Department, whether the said Dr. Guruprasad Naik is eligible to be a teacher as per MCI guidelines.....

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...Application made to MCI to start any super specialty courses at GMC in last one year, details of the same, permissions given by MCI to start any super- Specialty courses at GMC in the last one year, details of the documents submitted to MCI by GMC or of the doctors regarding the courses to be started and other such related information as mentioned in the RTI application therein.

3. It is seen that the PIO Vide letter No.GMC/9/221/E2/RTI/2016/12272 dated 23/01/2017 transferred RTI application under section 6(3) to the PIO, In-Charge of Academic, Department of Academics, Goa Medical College, Bambolim-Goa. It is further seen that vide a letter No.GMC/9/221/E2/RTI/2016/12523 dated February 2018, the PIO addressed a letter to the appellant to pay an amount of Rs. 52/- and collect the required information.
4. It is seen that the Appellant has paid the amount and collected the information which was furnish vide letter No.GMC/9/221/E2/RTI/2016/13282 dated 01/03/2018 in tabulation form. At Sr.No. 1(a) the PIO has stated that Dr. Naik is on contract basis. In 1(b) information has been furnished and documents annexed. In point 1(c) details of clinical practice done by Dr. Naik outside India after joining Department are stated as not available. In point 1(d) details of the leave availed by Dr. Naik since his joining GMC in Cardiac Department have been furnished and documents annexed. In point 1(e) The information regarding details of passport of Dr. Naik are not furnished as not being held. In point 1(f) (copy was annexed), details of passport record of Dr. Naik when he has left the country and returned back to India are not furnished as not being held. In 1(g) the PIO has furnished the MCI minimum qualifications for Teachers in Medical Institutions Regulations, 1988 amended upto 08th June 2017 as annexure A. In 1(h) the PIO has referred the matter to the Department of Cardiology, GMC.

5. It is also seen that vide another letter No.Acad/141/2018/G.M.C./RTI/52 dated 06/02/2018 the PIO has also furnished information at point 2 from a) to f) of the RTI application regarding super specialty Department. In point 2(a) the PIO has stated that starting of DM Cardiology course at Goa Medical College with annual intake of 2 seats from the academic year 2018-19. In point 2(b) it is stated that no permissions is given by MCI to start any Super-Specialty courses at GMC in last one year. In point 2(c) the information is furnished as per Annexure "B". In point 2(d) the PIO has stated that Declaration Forms (2018-19) submitted by the faculty of Department of Cardiology are not available in this section as the same are forwarded by MCI Assessor to Medical Council of India on the day of Inspection held on 11/12/2017. In point 2(e) Information is furnished as Annexure C and in point 2(f) the PIO has stated that Rs. 2,00,000/- are paid to Medical council of India, New Delhi. The PIO has enclosed a total of six pages of information documents with both replies dated 06/02/2018 and 01/03/2018.
6. Not satisfied with the reply of the PIO, the Appellant filed a First Appeal on 15/03/2018 and the First Appellate Authority (FAA) vide an Order dated 19/04/2018 disposed off the First Appeal by directing the PIO, Administration to furnish the documents mentioned in the application free of cost or to give reason for non availability of information within 15 days from receipt of the Order. The FAA in his Order has observed that the PIO, Goa Medical College has agreed to give information in regard to the application dated 08/01/2018.
7. The Appellant being aggrieved that pursuant to the Order of First Appellate Authority (FAA), the PIO has not furnished any further information, has thereafter approached the Commission by way of Second Appeal registered on 30/08/2018 and has prayed to direct the Respondent PIO to furnish the information free of cost and also for penalty, compensation and other such reliefs.

8. **HEARING:** This matter has come up before the Commission on nine previous occasions and hence is taken up for final disposal. During the hearing the Appellant Shri Rajan Ghate is present in person. The Respondent No. 1 & 2 are absent. The FAA is also absent.
9. **SUBMISSIONS:** At the outset the Appellant, Shri. Rajan Ghate submits that he is only interested in receiving information at point c, d, e and f of the information sought in point 1 of his RTI application dated 08/01/2018 and that all other information has been furnished by the PIO to his satisfaction.
10. Shri. Rajan Ghate further submits that in point 1 details of clinical practice done by Dr. Naik outside India after joining Department has not been furnished and details of clinical practice done by Dr. Naik outside India after joining Department in cardiac department as well as details of the leave availed by Dr. Naik since his joining the GMC in cardiac Department, Passport details of Dr Guruprasad Naik and the details of passport record of Dr. Naik when he has left the country and returned back to India after joining GMC in Cardiac Department have not been furnished and that incomplete information has been furnished by PIO.
11. The Appellant finally submits that he has filed the RTI application in public interest and therefore the information is all the more is required to be furnished at point 1 (c), (d) (e) and (f). The Appellant has filed a synopsis of the written submission point wise and has also enclosed a copy of the contract agreement dated 24/06/2019 signed between Dr Guruprasad Naik and Govt of Goa, Public Health Department which is already on record of the Commission
12. **FINDINGS:** The Commission has heard the submission of the Appellant and perused the following material on record including: Synopsis of written submission of Appellant dated 25/08/2019 and 24/06/2019 and also the Contract Agreement dated 24/06/2019 signed between Dr Guruprasad Naik and Govt of Goa, Public Health Department....

...Synopsis of written submission of the Respondent received by the Appellant on 25/04/2016, reply of the Respondent PIO dated 30/10/2018 and received by the Appellant on 25/01/2019, RTI application dated 08/01/2018 and appeal memo.

13. The Appellant is interested in receiving information at point c, d, e and f in point 1 of his RTI application dated 08/01/2018 and therefore the Commission will focus only on this part of the information. The point for determination is whether the PIO has furnished the said information and if not, the reasons for the same and what is the remedy ?
14. A bare perusal of the reply of the PIO dated 30/10/2018 indicates the Appellant was informed by a letter dated 21/06/2018 that information on the clinical practice of Dr Guruprasad Naik and information on passport and immigration endorsements on passport of Dr. Guruprasad Niak are not held by the public authority and therefore this office (meaning the PIO) is not under legal duty to provide information on clinical practice, passport and immigration endorsement on passport of Dr.Guruprasad Naik as sought at point No. 1(c) 1(e) and 1(f) by the appellant. The PIO has also stated that no information is concealed.
15. The PIO has further confirmed the facts by filing a synopsis of the written submission wherein it is stated that the Appellant was provided information which was available in the records of the Goa Medical College & Hospital and the Right to information, Act 2005 provides the Right to Information which exists in public records and does not confer any rights on any person to hold dialogue with public authorities and therefore follows that information which exists in public records subject to exceptions can be issued to a person. However the person cannot demand answers from public authorities. The PIO has further stated that Right to Information Act, 2005 does not cast duties on public authority to provide information which is not available in public records and the said Act does not provide for creating any information as per demand made in any application for information.

16. The Appellant in his synopsis of written submission has stated that he is an activist and National Awardee under RTI. Appellant after realizing and coming to know of the plight of the patients at the Cardiac Department of GMC due to non availability of the Head of the Department because of his frequent overseas assignments at the hospital in United States, sought information in terms of application, dated 08/01/2018 from the Respondent no.1 under RTI Act, 2005.
17. The Appellant has also stated that in letter dated 06/01/2018, the Respondent No.2 provided some information to the Appellant, however the information was not fully furnished by the Respondents Nos.1 and 2 and was misleading and ambiguous.
18. It is also submitted by the Appellant that a First Appeal was preferred before the First Appellate Authority namely the Dean of Goa Medical College and Hospital, Bambolim, Goa and in terms of the order dated 19/04/2018 the first appeal was disposed off directing the Respondent to furnish the documents mentioned in the application free of cost or to give reason for non availability of information within 15 days from receipt of the Order.
19. The Appellant has also stated that despite the directions, the Respondent No.1, PIO did not endeavor to provide any information to the Appellant. On the contrary, in terms of letter, dated 21/06/2018 the PIO informed the Appellant that "this office is not under legal duty to provide information on clinical practice, passport and immigration endorsement on passport of Dr. Guruprasad Naik" who is Professor and Head of the Department of Cardiology.
20. No doubt the Appellant has vehemently argued that certain information of Dr Guruprasad Naik regarding passport details and record is being deliberately withheld and not being furnished, however the facts and material on record show that the PIO has furnished all information as was available vide letter dated 01/03/2018 in tabulation form.

21. The PIO also informed the appellant that information at point No.1(c) which is details of clinical practice done by Dr. Naik, outside India was not available and that information at point 1(e) & 1(f) of Passport details and records of Dr.Guruprasad Niak when he has left the country and returned back to India, after joining GMC in Cardiac Department are also not held by the public authority. Regarding the information at point 1(d) regarding details of the leave availed by Dr. Naik since his joining GMC in Cardiac department, the PIO has furnished the information and which leave record was annexed with the reply.
22. **DECISION:** As stipulated in the RTI Act, the role of the PIO is to provide information as is available, how is available, what is available and if is available from the records of the Public Authority. The PIO is not called upon to do research or to analyze information or to create information merely to satisfy the whims and fancies of the Appellant.
23. The very fact that the PIO vide letter dated February 2018 informed the Appellant to pay Rs. 52/- and which amount was paid by the appellant who has collected the information that was furnished by the PIO vide letter dated 01/03/2018 in tabulation form is sufficient to prove the bonafide that there was no malafide intentions on the part of the PIO to either deliberately conceal or deny the information.

As the information as was available has been furnished to the Appellant nothing survives in the Appeal case which accordingly stands disposed.

Consequently, the order of the FAA dated 19/04/2018 is hereby quashed and set aside. The prayer of the appellant for penalty and compensation accordingly stand rejected.

Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Authenticated copies of the order be given free of cost.

**Sd/-
(Juino De Souza)
State Information Commissioner**