

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

Appeal No.284/2018/CIC

Mr. Goona Shankar Naik,
Plot No.100, P. Box No.25,
Goa Housing Board Colony,
Farmagudi, Ponda –Goa 403401. Appellant

V/s

1) The Managing Director,
Goa Education Development Corporation,
First Appellate Authority,
(Under RTI Act, 2005),
SCERT Bldg., Alto Porvorim,
Bardez –Goa.

2) The Public Information Officer,
Goa Education Development Corporation,
SCERT Bldg., Alto Porvorim,
Bardez –Goa. Respondents

Filed On: 26/11/2018

Disposed On: 02/05/2019

1) FACTS IN BRIEF:

a) The appellant herein by his application, dated 01/07/2018 filed u/s 6(1) of The Right to Information Act 2005 (Act for short) sought certain information from the respondent No.1, PIO, i.e. page (2) of four pages of the applications of 100 students, who had applied education loan alongwith for enclosures to such applications. By said application the appellant has also applied for page (2) out of 4 pages of the educational loan application of Mr. Agraj Satish Painguinkar for year 2015-2016 alongwith copy of his parents income certificate or affidavit from unemployed parents. Accordingly to appellant this information was granted in part. By subsequent application the appellant has also sought the list of defaulters of such educational

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loans for the period 2011 to 2014-15. According to appellant the PIO has informed that such details for year 2013-14 and 2014-15 are not available.

b) The appellant being aggrieved by response, filed first appeal to First Appellate Authority (FAA), who by order, dated 12/10/2018 dismissed the said appeal.

c) The appellant has therefore landed before this commission in this second appeal u/s 19(3) of the act.

d) Notices were issued to the parties, pursuant to which they appeared. The present PIO Smt Annetta R.PO on 25/03/2019 filed reply to the appeal along with enclosures. On same date the then PIO Shri Vishal Signapurkar also filed his reply. Vide both the said replies the then PIO, as also present PIO are accompanied by several correspondence entered between the respondent authority i.e. Goa Education Electronics Ltd. Regarding creation of the website. The said replies nowhere refers to the issue involved in present appeal justifying the act of PIO in rejecting of part of the request of appellant.

Subsequently on 08/04/19 the then PIO filed the enclosures submitted to the appellant in reply to appellants application u/s 6(1) of the act.

e) The submissions of the parties were heard. It is the contention of appellant that the information sought pertains to the loans granted to student from public funds. Accordingly to him the funds are misutilized and in some cases the loans are obtained on the bases of false representations and hence the details are sought. In support of his contention that a public interest is involved

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in the issue, he relied upon the judgment in the case of *Subhash Chandra Agarwal v/s Secretary General, Supreme Court* and submitted that when a public interest is involved information is to be furnished under the act.

f) While seeking exemption from disclosure PIO submitted that the information sought viz. the pages of the applicants application may contain certain details like Adhar card, Mobile numbers, Pan numbers etc and if disclosed would infringe the privacy of such applicants. In support of the said contentions the PIO relied upon the judgment of the Hon'ble Supreme Court in the case of *Girish Deshapnde v/s central information commission and others*.

FINDINGS

a) Perused the records and considered the pleadings as also submission of parties. In the present case it is not in dispute that the respondent Public Authority is granting loans to students for persuing education. Such funds being public in nature are subject to public scrutiny under the act.

b) In the present case the appellant has sought second page of the applications filed by several borrowers, which application contains four pages each. Appellant has also sought the copies of certificates and affidavit as are attached to such application. Thus the information sought is part of the records held by the respondent Authority.

According to the PIO, as per his reply dated 16/08/2018 he has attached page (2) of (4) of the 100 applications of 2016-17. On perusal of the said copies it is seen that said pages contains only part viz fee structure of the entire course.

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On perusal of the said page, as prescribed, contains several further columns required to be filled. Thus it cannot be held that the information as was furnished was the copy of the one as it exists.

The PIO has not filed any version on the averments of appellant as contained in the appeal memo. The PIO has also not filed on record all the copies of page 2 of all the forms as were applied by the appellant, except of two applicants. Similarly though it is stated in the reply dated 16/08/2018 that the copy of form of Shri Agraj Satish Painguinkar is kept ready as per Section (10) of the act to sever information, no such copy is filed on record for consideration of this Commission.

The reply filed by PIO, both the then and the present, on 25/03/2019 pertains only to the preparation/ development of the website which has no relation to the dissemination of information under the application of the appellant.

c) In the course of arguments, it was the contention of PIO that the information sought is personal in nature and hence cannot be furnished under the act being exempted u/s 8(1)(j) of the act. Though such contentions on the face appears to be correct the same is not a blanket exemption under the act. The said section 8(1)(j) exempts only the personal information, which has no relation with public activity. In other words section 8(1)(j) clarifies that in the cases where the PIO or the appellant Authority is satisfied that disclosure is required in larger public interest, the information would lose its immunity, though personal.

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d) The extent of privacy of information is laid down by Hon'ble High Court of Bombay in the case of *Kashinath Shetye V/s Public Information Officer & and others (Writ Petition No. 1 of 2009)* where in it is observed:

7. The first thing that needs to be taken into consideration is that the petitioner is a public servant. When one becomes a public servant, he in strict sense becomes a public servant and as such, every member of public, gets a right to know about his working, his honesty, integrity and devotion to duty. In fact, nothing remains personal while as far as the discharging of duty. A public servant continues to be a public servant for all 24 hours. Therefore, any conduct/ misconduct of a public servant even in private, ceases to be private. When, therefore, a member of a public, demands an information as to how many leaves were availed by the public servant, such information though personal, has to be supplied and there is no question of privacy at all. Such supply of information, at the most, may disclose how sincere or insincere the public servant is in discharge of his duty and the public has a right to know.

e) In the present case undisputedly the information sought pertains to the persons who have availed loans from government funds. Such monies are to be repaid to government. Government has fixed certain criteria for grant of such funds. Hence the process involved in grant of such funds is required to be transparent and available for public scrutiny. Such a gesture certainly involves public interest

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and accountability of the disbursing authority. Though the information pertains to private individuals, the same is generated by a public authority for discharging its public function. It is out of this requirement that the information is held by a public authority. Hence a larger public interest being involved requires that the information though pertaining to private individuals should be in public domain. In the process of such disclosure if certain private details which might have been obtained for convenience like Mobile number, Pan number etc. Such parts can be severed to avoid invasion on privacy by applying section (10) of the act.

f) Considering the above position, I am satisfied that the disclosure of information sought by the appellant, which is held by the respondent Authority, is justified in larger public interest and hence cannot enjoy the immunity u/s 8(1) (j) of the Act. I am therefore not able to subscribe to the view of the PIO and the FAA.

g) Regarding the prayer of the appellant seeking direction to the respondent Authority to comply with the requirements of section 4(1)(a), PIO has filed on records various correspondence entered between them for updating the website and uploading of the information. Such a gesture is required to be expedited by proper follow-up.

h) In the facts and circumstances of the present case and considering the nature of information, I find merits in the appeal. I therefore proceed to dispose the same with the following:

O R D E R

a) Appeal is allowed. The order of the FAA is set aside. PIO is hereby directed to furnish to the appellant the page no.

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(2) out of 4 pages of the applications of the applicants at serial no.1 to 100 by severing therefrom the Adhar card number, Pan, Mobile number and Telephone number of the applicant, if contained in the said page.

b) PIO is further directed to furnish copies of Residence certificate, Income certificate, Pension certificate, Caste certificate, Affidavits which are enclosed alongwith such applications.

c) PIO is also directed to furnish to the appellant page no.2 out of 4 pages of interest free loan application at serial no.422 of the year 2015-16 of Mr. Agraj Satish Paiguinkar alongwith the income certificate, affidavit of unemployment as are attached/enclosed with the application. All the above information at (a), (b) and (c) shall be furnished free of cost within ten day of the receipt of this order by the PIO.

d) Respondent authority viz. Goa Education Development Corporation is hereby directed to comply with the requirements of section 4(1) (a) and (b) of the The Right to Information Act 2005.

Order be notified to parties. A copy of this order be also sent to Managing Director, Goa Education Development Corporation, for information and necessary action.

Proceedings closed.

Pronounced in open hearing.

Sd/-

(Shri. P. S.P. Tendolkar)

Chief Information Commissioner
Goa State Information Commission
Panaji -Goa

