

# GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

**CORAM: Shri Juino De Souza: State Information Commissioner**

**Complaint No.38/2018/SIC-II**

Shri Vaman Malik,  
H. No.449, Gurav Wada,  
Cudnem, Sakhalim-Goa.  
403 505.

**...Complainant**

v/s

Public Information Officer,  
Shri. Nilesh Gunaji,  
Headmaster,  
Mahalaxmi High School,  
Cudnem, Sakhalim-Goa. 403505

**.... Opponent**

## **Relevant emerging dates:**

Date of Hearing :25-06-2019

Date of Decision :25-06-2019

## **O R D E R**

1. **BRIEF FACTS OF THE CASE** are that the Complainant vide an RTI application dated 25/09/2017, addressed to the Respondent PIO, Headmaster, Mahalaxmi High School, Cudnem, Sankhalim-Goa sought information at four points viz. (1) Certified copy of the appointment ordered issued to Mrs. Aditi Ameya Barve for the post of under graduate teacher on temporary basis for the academic year 2016-2017. (2) Certified copy of all the correspondence received from the Directorate of Education Porvorim pertaining to the appointment of Mrs.Aditi Ameya Barve for the post of under graduate teacher on temporary basis for the academic year 2016-2017. (3) Certified copy of letter No. MHS/KUD/DE/2015-16/2716 dated 01/03/2016 from Mahalaxmi High School to Director of Education Porvorim. (4) Certified copy of Approval scheme school managing committee from 01/04/2017 to 31/03/2020.
2. It is the case of the Complainant that PIO in his reply dated 20/10/2017 has furnished information with regard to point 1, 3, & 4 while in point No.2, the PIO has stated that there is no correspondence from the Director of Education, Porvorim-Goa pertaining to the appointment of Mrs. Aditi Ameya Barve for the post under graduate teacher on temporary basis for the academic year 2016-17. ..2

3. It is further the case of the Complainant that he is not satisfied with the reply of the PIO furnished in point No.2 and that he had also agitated a similar matter before the Lokayukta and there the same PIO has furnished information of correspondence exchanged between the Director of Education and the PIO regarding the appointment of Mrs. Aditi Ameya Barve for the post under graduate teacher on temporary basis for the academic year 2016-17.
4. The Complainant thereafter approached the Commission by way of direct Complaint case registered on 09/07/2018 and has prayed for imposing of penalty and other reliefs on the ground that the PIO has furnished misleading and false information at point no 2 with malafide intention. The said Complaint case was initially heard by the Commissioner Presiding in Chamber No.1 and has been subsequently transferred to Commissioner presiding in chamber II vide Order passed by the CIC dated 25/04/2019.
5. **HEARING:** During the hearing the Complainant Vaman N. Malik is present along with his Advocate Ravi Gawas whose Vakalatnama is on record. The Respondent PIO, Nilesh G. Gunaji, Headmaster Mahalaxmi High School, Cudnem is present along with Adv. Atish Mandrekar.
6. **SUBMISSION:** The Advocate for the Appellant submits that the PIO has deliberately furnished wrong information in his reply dated 20/10/2017 with regard to information sought at point No.2 by falsely stating that there is no correspondence from the Directorate of Education, Porvorim pertaining to the appointment of Mrs. Aditi Ameya Barve for the academic year 2016-17 when in reality before the Lokayukta in a similar matter, the same PIO filed a reply by stating in para in 15 that the appointment of Mrs. Aditi Ameya Barve was kept pending by Directorate of Education and the approval was granted on 04/07/2017. The Advocate for the Complainant therefore insists that penalty should be imposed on the PIO for furnishing wrong information in his reply with respect to point no 2 of the RTI application of the Complainant.

7. **FINDINGS:** The Commission without going into merits of the Complaint at the outset finds that the Complainant has filed a direct Complaint case without exhausting the remedy of First Appeal. If the Complainant was aggrieved with the fact that wrong information was furnished by the PIO, he should have within 30 days of the reply of the PIO filed a First Appeal under 19(1) with the First Appellate authority and which is not done.
8. **DECISION:** As the Complainant has not filed a First Appeal, the Commission directs the Complainant to file a fresh proper First Appeal as per section 19(1) with the First Appellate Authority within 30 days of the receipt of the Order, i.e latest by 5<sup>th</sup> August 2019, if he so desires. In such an event the First Appellate Authority (FAA) after receipt of the First Appeal memo, shall issue notices to both the Respondent PIO and the Complainant herein and after hearing the parties proceed to dispose off of the First Appeal purely on merits by passing a speaking Order within 30 days on the date on which the parties attend on the date of the first hearing. In exceptional cases, the FAA may take 45 days, however where disposal of appeal takes more than 30 days, the FAA should record in writing the reasons for such delay.
9. If the FAA comes to a conclusion that the appellant should be supplied information by the PIO, Headmaster Mahalaxmi High School, Cudnem, then he may pass an order directing the said PIO to give such information. The FAA may decide if the information is to be furnished free of cost as per law. It is open to the Complainant thereafter if aggrieved by the order of the FAA to approach this commission either by way of a Second Appeal u/s 19(3) or a Complaint u/s 18 as the case may be.

**With these directions the Complaint case stand disposed.**

All proceedings in the Complaint case are closed. Pronounced before the parties who are present at the conclusion of the hearing. Notify the parties concerned. Copies of the Order be given free of cost.

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

