

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

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

**Appeal No.161/SCIC/ 2012**

Mr. Uday A.C. Chari,  
R/o. H. No. C-5/55,  
Mala, Panaji – Goa.

**..... Appellant**

**v/s**

1. Public Information Officer,  
V. M. Salgaonkar College of Law,  
Miramar, Panji – Goa.
- 2 Shri C Radhakrishnan.  
Asstt. Engineer, Div. III, S. D. II,  
Public Works Department,  
Tonca, Caranzalem – Goa.
3. First Appellate Authority,  
V. M. Salgaonkar College of Law,  
Miramar, Panaji-Goa.

**..... Respondents**

**Relevant emerging dates:**

**Date of Hearing: 17-10-2019**

**Date of Decision: 17-10-2019**

**ORDER**

1. **Brief facts of the case** are that this Second Appeal No.161/SCIC/2012 arises out of an earlier Complaint case being Complaint No. 471/2012 wherein the matter was remanded back to the First Appellate Authority (FAA) and the FAA vide an Order dated 11/08/2012 has dismissed the First Appeal for the reasons set out in the Order therein as the information sought pertains to 'Personal Information and there is no Public Interest involved'. The Appellant being aggrieved has assailed the said Order by way of a Second Appeal filed before the Commission and registered on 06/09/2012.
2. The Appellant in the Appeal memo has raised grounds that the said order is arbitrary, illegal, capricious, unreasonable and deserves to be quashed and set aside and has prayed to direct the PIO to furnish all information as sought in the RTI application dated 23/01/2010 and for cost, disciplinary action and other such reliefs. ...2

3. This matter has come up for hearing before the Commission on several previous occasions and hence taken up for final disposal. At a hearing held on 16/01/2019, the Appellant Mr. Uday A.C. Chari was present in person. The PIO, Respondent No. 1 V. M. Salgaonkar College of Law Miramar - Goa was absent. The Respondent No. 2 Shri. C. Radhakrishnan, Asstt. Engineer, Div. III, S. D. II Public Works Department, Tonca, Caranzalem – Goa was present and the matter was posted for orders.
4. However as the Respondent No 1, PIO, V. M. Salgaonkar College of Law Miramar - Goa was absent and not heard in the matter and further the fact that both the Appellant and Respondent No 2 have grudges with each other, the Commission so as to allow sufficient time to the parties to mediate and settle the differences between themselves more so as Respondent No 2 has retired from government service had brought the matter again on board and fresh notices issued to the respective parties.
5. **HEARING:** Pursuant to the notices dispatched, the Appellant Uday Chari is present in person. The Respondent No.1 & 3 is represented by Advocate C. Fernandes. Shri Ratnakar Naik UDC is present on behalf of Respondent No.2, Asstt. Engineer, Div. III, S. D. II. Shri. C. Radhakrihnan (third party) appears after conclusion of the hearing. In view that the Appellant and the Respondent No 2 have not reconciled and are unwilling to arrive at an amicable settlement, the Commission takes up the matter for final disposal.
6. **SUBMISSIONS OF THE APPELLANT:** The Appellant *inter alia* submitted that the PIO, vide reply dated 15/02/2010 had informed to collect the information on payment of Rs.44/- and when the Appellant approached the office of the PIO, it was informed that a third party has objected to furnishing the information before the First Appellate Authority who disposed of the First Appeal with a direction to the PIO to consider the objection raised by the Respondent No 2 and because of which the PIO did not furnish the information. ...3

7. The Appellant maintained what he submitted at the hearing held on 16/01/2019 and reiterated that the Respondent No.2, Shri. C. Radhakrishnan was then working as an Asstt. Engineer, Div. III, S. D. II PWD, Tonca, Caranzalem and took admission at the V.M. Salgaonkar College of Law, Miramar without prior permission of the Government in the year 2009 and was attending classes between 7.30 a.m. to 11.30 a.m during office hours and thus hampering his duties which is highly objectionable, unwarranted and in violation of C.C.S Conduct Rules.
8. The Appellant also submitted that a third party under Section 11 of Act can object to furnish information, but the Public Information Officer (PIO) can overrule the objections and disclose information on the grounds that the information sought is in larger public interest. It is submitted that Respondent No 2 was holding the post of Public servant in P.W.D and had failed to discharge his official duties and instead was attending the classes during the office hours and no NOC is given to him by the government to attend the classes during Office hours and as such every citizen has right to seek the information in larger public interest.
9. **SUBMISSIONS OF THE Respondent No.1:** Advocate C. Fernandes for The Respondent No.1 PIO, V. M. Salgaonkar College of Law Miramar - Goa submitted that the information sought was of the year 2009 and that hundreds of students take admission in the Law College and the information sought by the Appellant about the Student Shri C Radhakrishnan who took admission in the year 2009 is not available. It is also submitted that the First Appellate authority had dismissed the First Appeal on the ground that the information sought is Personal Information.
10. **SUBMISSIONS OF THE Respondent No.2** At the hearing held on 16/01/2019, Respondent No.2, Shri. C. Radhakrishnan in his submission had pointed out that of the 6 points of the information sought in the RTI application, the decision not to furnish information at point no 2 - passing certificate and point no 4- birth certificate. ...4

...was taken by this Commission in Appeal No. 318/2008 and a contrary decision cannot be taken in the present Appeal.

11. Shri. C. Radhakrishnan had submitted that information at the point no 2 which is the passing certificate of Degree from recognized university and information as point no 6 which is copy of NOC granted by the Government to study LL.B in the RTI application dated 23/01/2010 have already been collected by the appellant in the year 2017 from the PIO, P.W.D. Altinho, Panaji without the knowledge of this Respondent and that the Appellant has concealed this fact before this commission.
12. Shri. C. Radhakrishnan also submitted that the Appellant is in the habit of filing various additional papers and irrelevant case laws, incorrect and vague arguments and concealing certain facts with a view to confuse the Commission and hence the Appeal deserves to be dismissed and costs should be imposed on the Appellant for wasting valuable time of the Commission.
13. The Respondent No.2, Shri. C. Radhakrishnan also submitted that the Appellant had failed to establish public interest and that the information sought by the Appellant is personal information hit by provision of 8 (1)(J). The Respondent No.2 stated that all the judgments submitted by the appellant including the High Court and Supreme Court Judgements are not in his favour.
14. The Respondent No.2 further submitted submits that there was a similar being Appeal No.318/2008 by this Commission between the same parties which had already decided that the copies of passing certificates, copies educational qualification, Date of birth etc are personal information. It is also submitted that the Appellant had also filed the Writ Petition before the High Court in Writ Petition No.377/2010 and he failed to get any relief and instead of challenging the High Court order before the Supreme Court, approached another PIO, of the Salgaonkar College of Law for the same information.

15. The Respondent No.2, Shri. C. Radhakrishnan stated that it is misuse of the RTI Act to settle personal scores out of vendetta and not for public interest and mainly to harass because of a dispute regarding laying of silver water pipe by PWD in the property encroached by the Appellant and because of which the Appellant has filed more than 50 RTI applications. The Respondent No.2 stated that the First Appellate Authority (FAA) has passed a reasoned Order which needs no interference.
16. The Respondent No 2, Shri. C. Radhakrishnan also drew the attention of the Commission, that the Appellant who is a Govt Servant in IPHB Bambolim had himself objected by his letter dated 28/08/2009 and refused to provide this attendance, qualification details, NOC's, movement register and other such documents under RTI Act 2005 to an RTI Applicant stating that these information are personnel information and exempted under section 8(J) of the RTI Act.
17. The Respondent No 2 Shri. C. Radhakrishnan also had stated that there are two cases and charge sheets filed by the Panaji Police against this Appellant, one for destroying govt. property and another for theft of Govt. documents. The Appellant who is a Govt. servant is now on bail on both these matters and fears that this Respondent who is prosecution witness in both this matters may expose his criminal and illegal actions.
18. The Respondent No 2 Shri. C. Radhakrishnan argued that the LLB Course was had done with due permission from the Govt. of Goa and that copy of the said NOC and educational certificate copy was also illegally obtained by the Appellant from PWD due to a wrong decision of PIO and Appellate Authority without knowledge of this Respondent.
19. The Appellant and Respondent No 2 have relied on various Judgments and Orders passed by the Information Commission.

20. **FINDINGS**: The Commission has heard the respective parties at length and has perused the following material on record including the order of the FAA. The main point for determination is whether the information sought in the RTI application dated 23/01/2010 falls within the ambit of Personal Information which has no relation to public activity and therefore qualifies under exemption as per section 8(1)(j) of the RTI act 2005.
21. Section "8. Exception from disclosure of information states- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen (j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person."
22. The Respondent No 2, Shri. C. Radhakrishnan, admittedly, was working on the post of Assistant Engineer, PWD and is as such holding a public post. The information sought by Appellant primarily related to the details of the admission of the Respondent No 2, Shri. C. Radhakrishnan in the LL.B Course including copies of the passing certificate of Degree from recognized University, attendance and timings of the classes, birth certificate, migration certificate and NOC copy and the information sought would certainly fall within the scope and ambit of the expression "Information" as defined under Section 2 sub clause (f) of the Act.
23. The only question that would arise for consideration is as to whether the information sought by Appellant would stand covered in the exemption clause as per Section 8 sub clause (j). ...7

24. The exemption under Section 8 clause (1) sub clause (j) would cover information which is in the nature of personal information and the disclosure of which would have no relationship to any public activity or interest or the disclosure of which would cause unwarranted invasion of the privacy of an individual. Even under such exemption clause the authority has been vested with the Public Information Officer (PIO) or the First appellate authority (FAA) as the case may be to even disclose such public information upon satisfaction that the larger public interest would justify the disclosure of the same.
25. While examining the scope of an exemption clause under Section 8 of the Act, it would be useful to refer to the statement of objects and reasons of the Act itself. The object and reasons of the Act recite that the provisions of the Act are to ensure maximum disclosure and minimum exemptions consistent with the constitutional provisions and to provide for an effective mechanism for access to an information and disclosure by authorities. Still further the Act has been enacted in order to promote transparency and accountability in the working of every public authority and it is necessary therefore in the interest of justice to attempt to strike a balance between public interest as also the privacy of the individual concerned.
26. The Appellant has vehemently argued that the information sought in the RTI application dated 23/01/2010 is in larger public interest as the Respondent No.2 Shri. C. Radhakrishnan was holding the post of Public servant in P.W.D and took admission at V.M. Salgaonkar College of Law, Miramar without prior permission from the Government in the year 2009 and was attending the classes between 7.30 a.m. to 11.30 a.m during the office hours and thus hampering office duties and such act is in violation of C.C.S Conduct Rules as salaries are paid from the State Exchequer and every citizen has the right to seek information of the public servant whether he is honest and sincere towards his duties.

27. Therefore this Commission is of the considered opinion that as the information sought was regarding the admission of a Public servant in a law college that was required by the Appellant to find out whether the timings and attendance in the Law Course is hampering the office duties and if an NOC was issued by the government to attend such course definitely falls under the domain of larger public interest and the same does not qualify as Personal Information. The Commission also finds that the PIO vide an earlier letter dated 15/02/2010 had informed the Appellant to collect the information pertaining to point 1 & 3 after making payment and did not invoke section 11 (third party information) within five days of the receipt of the RTI request which is mandatory.
28. Section 11(1) states if the information relates to or has been supplied by a third party and has been treated as confidential by the third party, and if the Public Information Officer intends to disclose any such information or record on a request made under the Act, in such case after written notice to the third party of the request, the Officer may disclose the information, if the third party agrees to such request or if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party and the PIO can certainly furnish the information in larger public interest despite the objections.
29. The Commission also finds that the PIO did not initially reject the RTI application by applying exemption of 8(1)(j) but changed his stand only after Respondent No 2, Shri. C. Radhakrishnan filed an appeal on 17/02/2010 and the FAA directed the PIO to give a hearing to Respondent No 2 and consider the objections and due to which the PIO vide letter dated 09/06/2010 subsequently rejected the information sought in the RTI application as Personal Information. The stand of the PIO in unnecessarily stretching the information sought as personal information about third party is not tenable.



30. The Commission also finds that the FAA was carried away with the decision arrived at by this Commission in Appeal 318/2008 which is different from the present appeal case. The Appellant in the present case wants the information in public interest to point out that the Respondent No 2 was attending the classes between 7.30 a.m. to 11.30 a.m during the office hours and which is hampering office duties and which is in violation of C.C.S Conduct Rules.
31. Also the FAA has erred in assuming that just because another information seeker had approached the PIO, Institute of Psychiatry and Human Behaviour where the Appellant was employed and sought copies of the same information of attendance register, etc and which were objected by the Appellant herein and the same yardstick is applicable in the present case.

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(1)(j) of the RTI Act states there shall be no obligation to give information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information.

32. The Respondent No 2 has relied on Supreme Court Judgment viz: Girish Ramchandra Deshpande Versus Central Information Commissioner & Ors. (LNIND 2012 SC 615, [2012] 8 MLJ 122 SC) to show that the information was held, to be the personal information by the Apex Court, however this Judgment relates to the copies of all memos, show cause notices and censure/punishment awarded, details of movable and immovable properties, investments, lending and borrowing from Banks and other financial institutions, details of gifts etc that finds a place in the income tax returns of the third respondent and as such this decision is not applicable to the facts of this present appeal case.

33. **DECISION/ CONCLUSION:** In view of the above discussions, the Commission comes to the conclusion that the impugned order is passed without valid and justifiable reason and is in violation of Section 8 clause (1) sub clause (j) of the Act. **Accordingly the order of the FAA dated 11/08/2012 is hereby quashed and set aside.**
34. The Appellant has stated that he is interested in receiving information only at points 1,2,5 & 6 of the RTI application. However the Advocate for the Respondent No 1 has submitted that this old information is not available. Nevertheless, the Commission once again directs the Respondent No 1, PIO, V.M Salgaonkar Law College, Miramar-Panaji to do a diligent search for the information and if the same is available to furnish it to the appellant within 30 days of the receipt of this Order (latest by 26<sup>th</sup> November 2019) by Speed Post. In the event the said information is not traceable and not available, the PIO may inform the Appellant accordingly with a copy marked to this Commission.

**With these directions the Appeal case stands disposed.**

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**