

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

CORAM: Shri Juino De Souza: State Information Commissioner

Appeal Nos: 271, 272, 273, 274, 275 & 276/2018/SIC-II

Prakash Matonkar,
H.no.79, Seraulim,
Salcete –Goa. 403708

...Appellant

v/s

1. Public Information Officer,
Guardian Angel High School,
Curchorem - Goa. 403706.
2. The State Public Information Officer,
Planning Section,
Directorate of Education,
Porvorim-Goa.403101.
3. Public Information Officer,
Our Lady of Piety High School,
Collem - Goa. 403410.
4. Public Information Officer,
Father Agnel High School,
Pilar - Goa. 403402.
5. Public Information Officer,
Miracles High School,
Sanguem - Goa. 403704.
6. Public Information Officer,
Our Lady of Fatima High School,
Rivona - Goa. 403705.

...Respondents

First Appellate Authority,
Directorate of Education,
Porvorim-Goa. 403101.

Relevant emerging dates:

Date of Hearing : 14-03-2019

Date of Decision : 14-03-2019

O R D E R

Sr No	Appeal Nos.	Date of filing RTI Application	Date of transfer by PIO	Date of filing First	Date of Order of FAA	Date of filing 2nd Appeal
1)	Appeal No. 271/2018/SIC-II	06/08/2018	09/08/18	20/09/2018	No Order	15/11/2018
2)	Appeal No. 272/2018/SIC-II	06/08/2018	09/08/18	20/09/2018	No Order	15/11/2018
3)	Appeal No. 273/2018/SIC-II	06/08/2018	09/08/18	20/09/2018	No Order	15/11/2018
4)	Appeal No. 274/2018/SIC-II	06/08/2018	09/08/18	20/09/2018	No Order	15/11/2018
5)	Appeal No. 275/2018/SIC-II	06/08/2018	09/08/18	20/09/2018	No Order	15/11/2018
6)	Appeal No. 276/2018/SIC-II	06/08/2018	09/08/18	20/09/2018	No Order	15/11/2018

The above six appeals pertain to one and the same Appellant and are having similar subject matter as such they are combined together and disposed by one common order.

1. **BRIEF FACTS OF THE CASE:** The Appellant herein Shri Prakash Matonkar has filed Six separate Second Appeals before the Commission. All important dates including the date of filing the RTI application, date on which the PIO has transferred the RTI application u/s 6(3) of RTI act 2005, date of filing the First Appeals and the date of filing Second Appeals before the commission are listed in tabulation form. It is seen that in all the above six appeal cases, the First Appellate authority (FAA) has not passed any order.
2. The main grievance of the Appellant is that although he filed a single RTI application u/s 6(1) seeking information from the Respondent PIO, Directorate of Education, Porvorim-Goa, the said PIO vide letter dated 09/08/2018 has transferred the said RTI application u/s 6(3) to six PIO's of various Public Authorities who have not furnished the information and further even on filing the First appeal as per 19(1), the First Appellate authority (FAA) has not passed any order and as such the Appellant has approached the Commission u/s 19(3) by way of six Second Appeals and has prayed to direct the Respondent PIO's to furnish correct and complete information without further delay free of cost and to impose fine and for other such reliefs.
3. **HEARING:** During the hearing the Appellant is represented by Adv. Vithal Nak who files Vakalatnama which is taken on record. The Respondent PIO and FAA are both absent.
4. **SUBMISSIONS:** Adv. Vithal Naik submits that the RTI Application dated 06/08/2018 was addressed to PIO, Directorate of Education, Porvorim-Goa and that the information pertained to certified copies of Approval letters of Directorate of Education of the Appointment of Principals/Headmasters in the Schools run by Xaverian Education Society, Pilar for the period from 1999 till date of the RTI application.

5. Adv. Vithal Naik further submits that this information is available with the PIO, Directorate of Education and that the PIO has however transferred the RTI application u/s 6(3) of RTI Act 2005 vide letter dated 09/08/2018 to the PIO's of various Schools and the PIO, Planning, Director of Education.
6. It is finally submitted that the First Appeal's were filed before the First Appellate Authority (FAA), Directorate of Education, Porvorim-Goa on 20/09/2018, but the FAA has failed to pass any order and there is delay in furnishing the information and that the Commission should issue directions to the PIO to furnish the same immediately.
7. **FINDINGS:** The Commission after perusing the material on record and hearing the Advocate Vithal Naik finds that the Appellant has not made the PIO, Directorate of Education, Porvorim-Goa a party before this Commission. If the Appellant had felt that that the RTI application dated 06/08/2018 which was addressed to the PIO, Directorate of Education, Porvorim-Goa was wrongly transferred u/s 6(3) of the RTI act 2005 to PIO's of various Public Authorities/ Schools, then the Appellant should have filed his objections before the said PIO and which has not been done.
8. The Appellant has also not escalated this grievance in the First Appeal dated 20/09/2018 filed with the before Appellate Authority (FAA). Therefore the Commission is unable to issue directions to the PIO, Directorate of Education, Porvorim-Goa to furnish the information.
9. The Commission finally finds that the FAA has not passed any Order in all the above six appeal case. The FAA being a quasi judicial body should have applied his mind and decided the First Appeals under the RTI Act. The FAA is duty bound to see that the justice is done. The Commission notes with serious concern that such a serious lapse on part of the FAA clearly tantamount to dereliction of duty and cannot be taken lightly more so as the FAA is a senior officer of the rank in the Directorate of Education.

09. **The FAA is hereby called upon by this Commission to explain the reason for the failure to discharge his duties which he is legally bound as per the RTI act 2005. The FAA is directed to remain present personally before the Commission with his reply on 15th April 2019 at 11.30am .**
10. **DECISION:** A Second Appeal u/s 19(3) of the RTI Act 2005 lies against the Order of the First Appellate Authority (FAA). As there is no Order passed by the FAA, the Commission without going into the merits of the individual appeal cases remands the matter back to the First Appellate Authority (FAA).
11. The FAA is directed to issue fresh notices to both the Respondent PIO and the Appellant in all the above six appeal cases within 15 days of the receipt of this order in any case latest by 20th April, 2019. The FAA shall after hearing the parties decide the First Appeal on merits by passing a speaking order.
12. The FAA should dispose the said First appeal within 30 days from 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.
13. The Appellant is at liberty to file a fresh First Appeal by making the PIO, Directorate of Education, Porvorim-Goa a necessary party and challenging the decision of the PIO to transfer u/s 6(3) the RTI application to six PIO's of various Public Authorities, if he so desires.
14. If the FAA comes to a conclusion that the appellant should be supplied information by the PIO, Directorate of Education or the PIO, Planning Section, Directorate of Education, Porvorim-Goa or any of the other PIO's, then he may either.....

..... i) pass an order directing the said PIO to give such information to the appellant or ii) he himself may call for the information from the said PIO and furnish the same to the appellant while disposing off the First Appeal. It is made clear that in each of the appeal cases where the PIO has not given a reply as per 7(1) to the RTI application within mandated time period, the FAA may decide to furnish the information free of cost as per law.

15. It is open to the Appellant if he is still 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.

16. Before parting the Commission would appreciate if the Secretary Education take a serious note at the manner in which the First Appellate Authority has dealt with the First appeal case by not passing any order. The Commission recommends that the concerned First Appellate Authority be deputed for a training course in RTI.

The Registrar is directed that a Copy of this order be sent to the Education Secretary, Secretariat, Porvorim-Goa.

With these directions all the Six Appeal cases 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**