

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

Appeal No. 52/2019/SIC-I

Shri Gafur Khan,
Gafur Watch repair,
Near Radio Mandal,
Margao Goa.

....Appellant

V/s

1) The Public Information Officer,
Jamia E Maqbuliya Urdu High School,
Betoda, Ponda Goa. 403409.

2) First Appellate Authority,
Dy. Directorate of Education,
Central Education Zone,
Panaji Goa.

.....Respondents

CORAM:

Ms. Pratima K. Vernekar, State Information Commissioner.

Filed on: 27/2/2019

Decided on: 11/04/2019

ORDER

1. The second appeal came to be filed by the appellant Shri Gafur Khan on 27/2/2019 against the Respondent no. 1 Public Information Officer (PIO) of Jamiya E Maqbuliya Urdu High School, Betoda, Ponda-Goa and against Respondent No. 2 First Appellate Authority (FAA) under sub section (3) of section 19 of RTI Act, 2005.
2. The brief facts leading to the second appeal are that the appellant vide his application dated 29/11/2018 had sought for certified copies all the qualifications certificates produced by teachers and staff working in the said institution at the time of their appointment and all department approval of following staff:- (a) Baig Khurshid Alam A, (b) Smt. Khan Farhin Pathan, (c) Mohammed Suleman, (d) Aasifa Banu Solapur, (e) Fatima Umar Budwanth, (f) Mulla Tausif Ali Muzawar, (g) Sayed Kalim, (h) Sahil Abubacar Muzawar, (i) Ashraf Solkar, (j) Nuha D Aga, and (k) Reshma Shaikh. The appellant has

sought the said information in exercise of his right u/s 6(1) of RTI Act, 2005.

3. The said application was responded by Respondent No. 1 PIO on 08/01/2019 thereby informing him to collect the information in respect of serial no. a, c, d, e, j, i, k, and i on payment of rupees 14/- as Xerox charges. vide said reply it was also informed to the appellant that information in respect of serial number b, f, g and h cannot be furnished as a staff i.e third party objected for furnishing their information.
4. Being not satisfied with said response of respondent no. 1 PIO, the appellant approached the Respondent No.2 Dy. Director of Education, Central Education Zone, Panaji on 09/01/2019 being First Appellate Authority by way of first appeal u/s 19(1) of RTI Act, 2005.
5. It is the contention of the appellant that Respond No. 2 the First Appellate Authority after hearing the parties passed an order on 04/02/2019 by upholding the say of PIO and dismissing the matter as third party has objected for dispensing their information and also by coming to a conclusion that information is not sought in larger public interest.
6. Being aggrieved by the action of both the respondents and as the as the appellant did not received complete information as sought by him at serial no. b, f, g and h, he approached this commission by way of second appeal on 27/02/2019 as contemplated u/s 19(3) of RTI Act, 2005 with the prayer for direction for furnishing him the information as sought by him and for invoking penal provisions.
7. Matter was listed on board and was taken up for hearing. In pursuant to the notices of this commission appellant was present in person along Advocate Avinash Nasnodkar. Respondent No. 1 Shri Ashraf Solkar was present. Respondent No. 2 FAA was represented by Shri Dayanand Chawdekar.

8. Reply filed by Respondent No. 1 PIO On 04/04/2019. Copy of the same was furnished to the appellant.
9. Notices under section 19 (4) of RTI Act was issued to Smt. Khan Farhin Pathan, Shri Mulla Tausif Ali Muzawar, Shri Sayed Kalim, and Shri Sahil Abubacar Muzawar to be served by the Respondent No. 1 Shri Ashraf Solkar. The Respondent no.1 PIO during the hearing on 11/4/2019 submitted that the notices are duly served on the above named persons. In pursuant to the notice issued u/s 19(4) of RTI Act non above named persons appeared nor filed any reply to the proceedings .
10. Arguments were advanced by both the parties.
11. Appellant submitted that he is satisfied with the information furnished to him at serial No. a, c, d, e, I, j and k and his grievance is in respect of non furnishing of the information at serial no. b, f, g and h. It is contention of appellant that there should be transparency in the appointment of qualified teachers in schools and the candidates should be appointed on genuine qualifications and not with the fake and fabricated certificates. It was further contended that he got reliable information that one of the teacher working in the said institution was possessing fake B.Ed certificate and when the school management came to know about it, the said teacher immediately resigned from the post. It is contention that he is worried about the future of the students studying in the said school and of the opinion that students should not suffer. It is his contention that the teacher with the fake training certificate will not be able to do justice to the students in imparting education. As such he in the larger interest has sought the said information pertaining to the teachers in the said institutions.
12. The respondent PIO vide reply and during verbal arguments submitted that he being a teacher agrees with the contention of the appellant that the teacher performs noble duty to educate the students and since they are paid from ex-chequer fund, there

should be transparency as far as the education qualification are concerned and more particularly with training qualifications B.Ed., D.Ed etc. It was further submitted that most of the teachers did not raised an objection for furnishing the information including him. He further submitted that since the teaching and non teaching staff at serial no. b, f, g and h strongly objected for furnishing their information, the same could not be submitted to the appellant. He further submitted initially he had no grievance in furnishing the information at serial no. b, f, g and h but in view of the objection raised by 2 candidates the same information could not be furnished to appellant and accordingly the applicant was informed vide letter dated 08/01/2019. He further prayed to pass appropriate orders in the best interest of students education.

13. It was further contended that there was no malafide intention to delay or not to provide the information to the appellant and has acted in full spirit to provide the required information to the appellant.
14. I have perused the records in the file so also considered the submission made on behalf of both the parties.
15. In the present case the appellant is trying to seek the document that is the qualification certificates and department approval letters pertaining to teachers functioning at Jamiya E Maqbuliya High School. The information pertaining to seven teachers have been already furnished to the appellant and the information of remaining four teachers were nor furnished on the ground that they had objected. It is the admitted fact by the respondent that the salaries are paid to the teachers and the other staff from public ex-chequers. The education certificates is submitted by the third party for seeking said post. The same is available with the said education institution.
16. Hon'ble High Court of Karnataka at Ernakulum in writ petition © 4668 of 2007 (e):- M.P. Varghese V/s mahatma Gandhi University. The Honb'le High has held –

“Further, these colleges deal with information relating to educational activities pertaining to students who pay fees to the Government **and teachers and staff whose salaries are paid by the Government. When these colleges are financed and controlled by the Government and Universities and they are privy to information relating to students and staff, those information do not have the character of private or sensitive information and the public have a right of access to such information so as to ensure transparency in the conduct of the management of the colleges in which the public are vitally interested. Denial of such information would be against the very object of the statute. Essentially much of these information relate to students, teachers and staff of these colleges, and not to any information to any private activities of the managements of the colleges.** That being so, these colleges would certainly answer the definition of "public authority" under [Section 2\(h\)](#) of the Act.”

17. The Hon'ble High Court of Delhi at New Delhi in LPA No. 797/2011 Union Public Service Commission v/s N Sugathan has held at para 6 and 7 as under ;

“ The information submitted by an applicant seeking a **public post and which information comprises the basis of his selection to the said public post, cannot be said to be in private domain or confidential.** We are unable to appreciate the plea of any secrecy there around. An applicant for a public post participates in a competitive process where his eligibility/suitability for the public post is weighed/compared vis-a-vis other applicant's. The appointing /recommending authorities in the matter of

such selection and expected to act objectively and to select the best. Such selection process remains subject to judicial review.

We are unable to fathom the secrecy/confidentiality if any as to the educational qualification and experience of the selectee to a public post: **such information ordinarily also is in public domain and education qualifications and experience are something to be proud of rather than to hide in a closer".**

18. It is not a case of PIO that the information at point No. b,f,g, and h is not available. It was denied since the third party namely Smt. Khan Farhin Pathan, Shri Mulla Tausif Ali Muzawar, Shri Sayed Kalim, Shri Sahil Abubacar Muzawar has objected.
19. In the present case information on above points sought pertains to teachers working in an Government aided school wherein they had filed application with supporting documents to the education institution for securing the job. The said documents are on the records of the public authority concerned herein.
20. Hence subscribing to the ratios laid down by the above courts and so also based on the discussion above, I am of the opinion that the disclosure of such information would not cause unwarranted invasion of privacy of the individual who are teachers performing their functions in an Government aided school and who are paid salaries from public exchequer and such has relation to public activity and / or interest. The parliament and or State legislature is also entitled to receive such information. As such keeping in view the objective that act seeks to achieve, this commission have no hesitation in holding that the spirit of the act enjoins disclosure of information as a general rule and exemption there from as an exception. I am of the opinion that the appellant is entitled to get

the information in the larger public interest as sought by him vide his application dated 29/11/2018.

21. The PIO was diligent in his duties under the RTI Act and there was no denial from his side to furnish the information, as such I am of the opinion that this is not an fit case for warranting levy of penalty on PIO hence, I am declined to grant relief sought at No. 2 by the appellant in the memo of appeal.
22. In the above circumstances and in the light of the discussions above I dispose off the above appeal with the following :

ORDER

- i. Appeal partly allowed .
- ii. The Respondent No. 1 PIO is hereby directed to furnish the information as sought by the appellant at serial No. (b), (f), (g) and (h) of his application dated 29/11/2018 within 15 days, free of cost, from the date of receipt of this order.

With the above direction appeal proceedings stands closed.

Notify the parties. Authenticated copies of the Order to be provided to the Appellant, Respondents and the third parties.

Pronounced in the open court.

Aggrieved party if any may move against this order by way of a Writ Petition as no further Appeal is provided against this order under the Right to Information Act 2005.

Sd/-

(Ms.Pratima K. Vernekar)
State Information Commissioner
Goa State Information Commission,
Panaji-Goa