

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

Appeal No. 68/2020/SIC-I

Smt. Judith Maria Do Rozario Souza Calseira Pinto,
Casa Pinto, House No. 267,
Salchem, Bardez-Goa.

....Appellant

V/s

- 1) Headmaster
The Public Information Officer (PIO),
St. John of the Cross High School,
Sanquelim-Goa.
- 2) Deputy Director, North Education Zone,
First Appellate Authority,
Mapusa, Bardez-Goa.

.....Respondent

CORAM: Ms. Pratima K. Vernekar, State Information Commissioner

Filed on: 20/02/2020
Decided on: 29/07/2020

ORDER

1. The Appellant, Smt. Judith Maria Do Rozario Souza Calseira Pinto has filed the present appeal on 20/2/2020 praying that the Information as requested by the Appellant in her application dated 7/11/2019 be furnished to her correctly and for invoking penal provisions .
2. The brief facts leading to the second appeal are as under:
 - a. That the Appellant, vide her application, dated 7/11/2019 addressed to the Respondent Public Information officer (PIO) of St. John of the Cross High School, Sankelim-Goa, requested to furnish information on 5 points as stated therein in the said application. The Said information was sought in exercise of his right u/s 6(1) of RTI Act, 2005.
 - b. Vide said application the Appellant has sought the following information;

- i. Certified copy of my service book maintained in the School office indicating entries till date.
 - ii. Certified copy of my Confidential Report for the year 2016-17,2017-18 and 2018-19.
 - iii. Inspection of the inward Register maintained in the School office for the period from 1st August 2017 to 30th April 2018.
 - iv. Certified copy of the inward Register maintained in the school office for the from 1st August 2017 to 30th April 2018.
 - v. Certified copy of the Muster Roll maintained in the school office for the period from 1st July 2017 to 31st July 2017.
- c) It is the contention of the Appellant that her above application filed in terms of sub section(1)of section 6 was responded by the Respondent Public Information Officer (PIO) on 5/12/2019 where in her request was rejected and no information was furnished to her as such she being aggrieved by such an response of Respondent PIO filed First Appeal before the Respondent No. 2 Deputy Director of Education, North Zone at Mapusa on 6/12/2020 being First Appellate Authority in terms of section 19(1) RTI Act 2005. The said first appeal was register as case No.NEZ/Adm/RTI/FAA/79/2019.
- d) It is the contention of the Appellant that notices of the said Appeal was given to both the parties and then after hearing both the parties the Respondent No. 2 First Appellate Authority disposed the said appeal by order dated 29/01/2020. By this order the first appellate authority allowed the said appeal and directed the Respondent PIO to furnish the desired information at point

NO. 1 to 5 to the Appellant within 15 working days, free of cost from the receipt of the order.

e) It is the contention of the Appellant that the Respondent PIO did not comply the order of First Appellate Authority and also did not furnished her the information within stipulated time as directed by the First Appellate Authority, as such she being aggrieved by the action of PIO, is forced to approach this Commission by way of second appeal as contemplated u/s 19(3) of RTI Act.

3. In the above background the Appellant has approached this commission in this Second Appeal u/s 19(3) of the Act on the grounds raised in the memo of Appeal with the contention that the information is still not provided and seeking order from this Commission to direct the PIO to take steps as may be necessary to secure compliance of the order passed by the First Appellate Authority to furnish the information as also for invoking penal provisions as against Respondent PIO
4. Matter was taken up on board and was listed for hearing and accordingly notices were issued to the parties, in pursuant to which Appellant was present in person alongwith Advocate Avinash Nasnodkar . Respondent No. 1 PIO was represented by Advocate Bernard Fernandes who was duly assisted by Advocate Sagar Rivankar . Respondent no. 2 First Appellate Authority opted to remain absent .
5. Advocate for the Respondent PIO during the hearing on 21/7/20220 sought time to file reply and to furnish information and accordingly reply was filed by Respondent PIO on 29/7/20220 alongwith the enclosures thereby furnishing information. The Respondent PIO also undertook to give inspection as sought by the Appellant at point No. 3 on 14/8/2020 at 11.00 am. The copy of the same was furnished to the Appellant. The Appellant

after verifying the information acknowledged the same on the memo of Appeal and also undertook to inspect the documents specified at point No. 3 on 14/8/2020 and also did not pressed for Penalty.

6. However it is the contention of the Appellant that the Respondent PIO acted perverse by not furnishing the information and failed to discharge his duty cast upon him under the RTI Act . It was further contended that the reason given by the Respondent No. 1 in not furnishing the information is not sustainable so much so that the same is not in accordance with law. The Appellant further contended that the Respondent PIO have deliberately denied and acted irresponsibly and have failed to attained the request the malafides blocking the information sought for. It is herfurther contention that PIO did not adhere to the directions given by the First Appellate Authority vide order dated 29/01/2020. She further contended that the above documents were required to place the grievances of the Appellant before the competent forum.
7. It is the contention of the Appellant that great hardship has been caused to her and lots of her valuable time have been wasted in pursuing the said application /information which was sought by her.
8. On a contrary it is the contention of the Advocate for the Respondent No. 1 PIO that the Appeal filed by the Appellant is baseless, frivolous and not maintainable as much the Appellant is successful in the Appeal as the first Appeal was allowed by Respondent No. 2 First Appellate Authority, as such the Appellant cannot be said to be aggrieved person who could maintain the Appeal . It was further contended that the contents of the Appeal is devoid of any substance and merits and does not required any rebuttal as appeal itself is not maintainable . It was further

contended that the Appellant herself is at fault as she has not taken any steps to demand the documents after the order of the First Appellate Authority . It was further contended that the order was never communicated by Respondent No. 2 to him at any point of time either before filing the this second Appeal or thereafter.

9. It was further contended by the Respondent PIO that for the sake of convenience the relevant documents/information has been submitted along with the reply. It was further submitted that with respect to inspection sought at item No. 3 of the Application dated 7/11/2019, the Appellant may inspect the same on 14/8/2020 at 11.00 am.
10. I have scrutinized the records available in the file and consider the submissions made by both the parties.
11. Since the information has now been provided to the Appellant as per her requirement, I am of the opinion that no intervention of this commission is required for the purpose of furnishing the information and hence the prayer (a) becomes infructuous.
12. For the purpose of considering such liability as contemplated u/s 20(1) and 20(2) of the RTI Act 2005, the Hon'ble High court of Bombay , Goa Bench at Panaji in writ petition No.205/2007 ; Shri A. A .Parulekar v/s Goa State information commission has observed:

"unless and until it is borne on record that any Office against whom order of penalty for failure to be sought to be levied and has occasion to complied with the order, and has no explanation or excuse available worth satisfying the forum, possessing the knowledge of the order to supply information, an order of penalty cannot be levied".

13. It is seen from the records that the Application was filed on 7/11/2019 which was duly replied on 5/12/2019 within stipulated

time of 30 days . From perusal of the order dated 29/1/2020 it is seen that the Respondent No. 1 is directed to furnish the information which is in public domain within 15 working days , free of cost from the receipt of the order. There is nothing on record to show that the said order was communicated to Respondent no. 1 PIO by Respondent no.2 First Appellate Authority . Hence by subscribing to the Ratio laid down in A.A. Parulekar case(Supra), I am of the opinion that the levy of penalty is not warranted in the facts and circumstances of the present case .

14. Nonetheless, the Appellant also did not pressed for penal provisions. Considering the submissions and the endorsement made by the Appellant , I find no reasons to proceed with the present Appeal.

The Appeal proceedings disposed and closed Accordingly .

Notify the parties.

Pronounced in the open court.

Authenticated copies of the Order should be given to the parties free of cost.

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