

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

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**Appeal No. 246/2019/SIC-I**

Shri Omkar Ramchandra Naik,  
H.No. 78, Near Rani Construction,  
Khadpabandha, Ponda-Gao.

.....Appellant

V/s

1) First Appellate Authority,  
Electricity Department,  
Vidyut Bhavan, Panaji-Goa

2) The Public Information Officer,  
Dy. Director (Admin),  
O/o Chief Electrical Engineer,  
Electricity Department,  
Vidyut Bhavan, Panaji-Goa.

.....Respondents

**CORAM:**

**Ms. Pratima K. Vernekar**, State Information Commissioner.

Filed on: 14/8/2019

Decided on: 5/6/2020

**ORDER**

1. The second appeal came to be filed by the Appellant Shri Omkar Naik on 14/8/2019 against the Respondent no. 1 First Appellate Authority (FAA) of the Electricity Department and against Respondent No. 2 Public Information Officer (PIO) of the office of Chief Electrical Engineer, Electricity Department, Panajim-Goa under sub section (3) of section 19 of RTI Act, 2005.
2. The brief facts leading to the second appeal as put forth by the Appellant are as under;
  - a)The Appellant vide his application dated 22/4/2019 had sought for certified copies of all the certificates relied upon by the candidates selected and appointed for the post of Junior Engineer in the Electricity Department in the month of January 2019 and also sought for the names

of the candidates selected under reserve category. The Appellant had sought the said information in exercise of his right u/s 6(1) of RTI Act, 2005.

- b) The Appellant had sought for the information pertaining to Jr. Engineers namely Mr. Dhavalbharti M.Goswami, Mr. Avinash M.Chalwadi, Mr. Mahesh B.Gowda, Mr. Avinash R. Kochrekar, Mr. Hrishikesh B. Adel, Mr. Fondu N. Bhaip, Ms.Tanvi R. Lingudkar, Mr. Laximan H. Parwar, Mr. Ravindra R. Araganji and Mr. Akshay D. Palni.
- c) The said application was responded by Respondent No. 2 PIO on 22/5/2019 in terms of section 7(1) of RTI Act, wherein the information at point no. 1 (c) i.e names of candidates selected under reserve category were provided to the Appellant and information at point 1 (a) and at point 1(b) i.e certificates/documents relied upon by the above names candidates/Engineers were rejected in terms of section 8(1)(j) of RTI Act.
- d) Being not satisfied with said response of Respondent no. 2 PIO, the Appellant approached the Respondent No.1, Chief Electrical Engineer of Electricity Department, Panaji on 6/6/2019 being First Appellate Authority by way of first appeal u/s 19(1) of RTI Act, 2005.
- e) It is the contention of the Appellant that Respondent No. 1 the First Appellate Authority after hearing the parties passed an order on 3/7/2019 by upholding the say of PIO and coming to the findings that *"the appellant was informed that the ASPIO Dy. Director (Admn) Panajim has furnished all the information as per the application"*.
- f) In this background, the Appellant being aggrieved by the action of both the Respondents and as the Appellant did not receive complete information as sought by him, he

approached this commission by way of second appeal on 14/8/2019 as contemplated u/s 19(3) of RTI Act, 2005 on the grounds raised in the memo of appeal with the prayer for direction for furnishing him the information as sought by him, for compensation and for invoking penal provisions.

3. 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 his representative Shri Swapnesh Sherlekar. Respondent No. 1 First Appellate Authority was represented by Mrs. Deepika Sawaikar during initial hearing . Respondent No. 2 PIO Shri Kuldip Arolkar appeared alongwith Shri Kashinath Shetye.
4. Reply filed by Respondent No. 1 First Appellate Authority on 20/9/2019 alongwith the enclosures and by Respondent No.2 PIO on 20/9/2019 and on 20/11/2019. Copy of the same was furnished to the Appellant.
5. Since the information were pertaining to third party i.e Jr. Engineers of Electricity Department listed as serial No. 1 to 10 in the RTI application, notices under section 19 (4) of RTI Act were issued to them and in pursuant to said notice Mr. Dhavalbharti M.Goswami, Mr. Avinash M.Chalwadi, Mr. Mahesh B.Gowda, Mr. Avinash R. Kochrekar, Mr. Hrishikesh B. Adel, Mr. Fondu N. Bhaip, Ms.Tanvi R. Lingudkar, Mr. Laximan H. Parwar,Mr. Ravindra R. Araganji and Mr. Akshay D. Palni appeared and filed their respective replies on 10/2/2019 vehemently objecting for disclosure for the information on the ground that it would intrude their personal privacy and it does not pertain to the routine functioning of the public authority and does not involved public interest. The copy of the same was furnished to the Appellant .
6. Written arguments are also filed by the Appellant on 20/2/2020 and also oral argument were canvassed by his representative Shri

Swapnesh Sherlekar. The arguments were also advanced on behalf of Respondent No. 2 PIO by Shri Kashinath Shetye. Third party namely Dhaval Bharti M. Gosavi, Mr. Avinash Chalwadi, Mr. Avinash Kocherekar, Mr. Harikesh B. Adel and Ravindra Araganji also canvassed their arguments. The rest third party namely, Mr. Mahesh Gawada, Mr. Fondu N. Bhaip, Mr. Laxuman H. Parwar, Mr. Akshay D. Palni and Ms. Tanvi R. Lingudkar adopted the argument advanced by other third parties.

7. It is the contention of the Appellant that the Respondent No. 2 has wrongly sighted the section 8(1) (j) of the Act without mentioning the reasons as to how the requested information falls under the purview of said section for denying the access to the information. It was further submitted that the said section is very elaborative and as such the PIO ought to have specified whether there were no public activity involved or it amount to personal information. It was further submitted that order of the Respondent no. 1 First Appellate Authority dated 4/7/2019 is void of any logic and arbitrary and the said order wrongly mentions that the PIO has furnished all the information to the Appellant when infact except information at point No. 1(c), non of other was provided. It was further submitted that the reply of both the Respondents shows that they are not aware of the provisions of the RTI Act and they have no knowledge that the notices has to be issued to the third parties in accordance to section 11 of the Act and such an conduct of both Respondents shows that they are not competent enough to handle matters under RTI Act. It was further submitted that the intend of RTI Act is to bring the transferecy. It was further submitted that the third parties are appointed on a public post and therefore denying access to such information of the selected candidates is a direct attempt to thwart the right to the public granted by the Act. It was further submitted that if the information related to this or any recruitment process is denied to the public then consequently the same is not

available for examining by any parliament or any state Legislative members. It was further submitted that the selection process will be in opaque manner wherein the selection of the entire process of the candidate will be accessible and limited to the selected committee only.

8. It was further submitted by the Appellant that in December 2018 Shri Kumar Suresh Rajput was selected for appearing for written examination held on 9/12/2018 for the post of Meter reader in the Electricity Department on ST Category and the Appellant has sought his information vide application dated 27/5/2019 which was replied on 30/7/2019 by the PIO thereby furnishing his application form no. 112 and on perusal of the said form it was seen that he had applied in the ST Category and certificate issued to him by the Government of Karnataka . He further submitted that in Goa special classes/communities have been declared as Schedule Tribes and Scheduled cast and the certificates relied by the said candidate was not valid in Goa. It was further submitted that the said candidate was not selected only after the said fact was exposed by the Appellant . Hence it is his contention that the scrutiny committee commits irregularity in scrutinising the application and in support of his above contention he relied upon letter dated 30/7/2019 addressed to the Appellant by Respondent no. 2 PIO and the application of the said candidate Shri Kumar Suresh Rajput .
9. It was further submitted by the Appellant that the present information is also sought in larger public interest as he suspect that few candidates who are already selected are undeserving for the post of Jr. Engineer and their selection has been done in fraudenat matter not as per the recruitment rules and for the fear of exposing this scam, the information is requested is being deliberately suppressed by the Authority.

10. It was further submitted that the documents on the basis on which a person has sought an appointment in a public office becomes a documents of a larger public interest. He also further submitted that the information related to the appointment of a person to a government job are not personal information of a person and a people at large are entitle to have the information about the appointment of such person and in support of his case he relied upon the judgment of the Hon'ble High Court of Punjab and Haryana given in w.p. No. 4239 of 2013 (O& M) and by the Hon'ble High Court of Jharkhand given in the w.p. (S) No. 5875 of 2014.
11. The Appellant also relied upon office memorandum dated 29/6/2015 issued by Department of Personnel and Training, Government of India and pointed out clause 4 of said memorandum which stated that " in order to reduce number of RTI Application related to service matters the information relating to recruitment ,promotions transfers should be brought into public domain promptly".
12. It was further submitted that the if there is no transferacy in selection of the candidates for such important post in Government offices then it will multiply report of corruption and scam coming up on almost daily basis and as such practices support or promotes corruption cannot be allowed to continue. It was further submitted that disclosing the information related to the selected candidates for the evaluating and scrutinizing the competent and eligibility as per the recruitment rule is definitely in the public interest and therefore needs to be disclosed in accordance to section 8(2) of the Act.
13. On behalf of Respondent PIO, Shri kashinath Shetye relied upon the decision given by the Hon'ble Apex Court in Civil appeal No. 10044 of 2010, Central Public Information V/s Suchashchandra

Agarwal and submitted that, testing the motive of the Applicant/Information seeker seeking the information is irrelevant under 6(2) of RTI Act but it may be relevant while testing the public interest in case of qualified exemptions. He further submitted that the Appellant was a candidate and since he had sought the information in a larger public interest they may abide the order of Goa State Information Commission.

14. The Third party Mr. Dhavalbharti M. Goswami submitted that the reply given by the PIO in terms of section 7 was earlier circulated on the Social Media i.e on the face book and on the whatsapp by the Appellant. In the said messages the Appellant has highlighted the names of the Engineers which has caused some sought of hatred in a society. It was further submitted that if the information is disclosed and provided to the Appellant then there is a fear that it can be again misused and their reputation and of the family will be spoiled . It was further submitted that he had applied on the general category and the said was published in the eligibility list by Electricity Department. It was further submitted that their names, category, addresses are also disclosed on the website of Electricity Department. It was further submitted that Appellant is trying to target the few 10 candidates when in fact 64 candidates were selected and appointed on a said post .It was further submitted that among them some are listed on top six on a merits list . It was further submitted that their information should not be disclosed as it would intrude their personal privacy and the said does not involved a public interest . It was further submitted that the Appellant was one of the candidate for the said post who was not selected hence he is trying to seek the said information with malafides motive.
15. The Third Part Namely Mr. Avinash M.Chalwadi submitted that the post were advertised and also put on website showing what are the requirement under recruitment rules for the said post . It

was further submitted that they had enclosed the relevant certificates to the applications and the exams were conducted by the Government Polytechnic. There were more than one thousand candidates who were appeared for written test whose written test marks obtained by different categories were disclosed on Goa electricity website . It was further submitted that only non Goan's are targeted by the Appellant to settle his personal score.

16. Third party Namely Mr. Avinash R. Kochrekar submitted that there is a fear and anxiety in their mind if the documents are given, there is no guarantee that it would not be misused and if the same is done , it would adversely effect their progressive currier. It was further submitted that the Engineers have joined only after the public authority concerned herein verified their documents. It was further submitted that their Certificates details, names of University, Certificate number, Date of Birth, Place of Birth and other relevant details can be furnished to the Appellant in a Tabular Form but not the copies of documents as it can be misused by the Appellant .
17. Third party, Mr. Hrishikesh B. Adel Submitted that it is mandatory to registered their names with Employment Exchange first and the relevant documents are submitted and verified by the Employment Exchange and affixed their stamp on the original certificates . It was further submitted that he has applied for the said post since he got the intimation from Employment Exchange to whom he had submitted documents earlier.
18. The third party namely Mr. Ravindra R. Araganji submitted that he has earlier applied for many Government post and each and every Government Department has verified the documents and after confirming they are calling for written test . It was further submitted that now he is 45 years old and as such cannot create false documents.



19. The Appellant Shri Omkar Naik while countering the arguments of the third party submitted that he is one of the candidate who was not selected and he has right to know the reasons for his non selections and also to obtain the information pertaining to the selected candidates. It was further submitted that he has not approached any social media and the third parties if so desires can check his face book Account and approach the correct forum with their grievances .
20. I have perused the records in the file so also considered the submission made on behalf of both the parties.
21. In the preset case it is admitted by the Respondent PIO and the third parties that the Appellant was one of the candidate who had applied for the said post and was not selected .Though the Respondent PIO initially in his reply dated 22/5/2019 has rejected the said information at point NO. 1(a) interms of section 8(1) (j) of RTI Act , however during his oral submission before this commission showed his willingness to furnish the said information if the said is sought in a larger public interest .
22. In the present case the Appellant is trying to seek the document i.e the qualification certificates and other relevant documents which third party/selected candidates had submitted for seeking the Government Job. It is the admitted fact by the Respondents that the salaries are paid to the said Engineers from public Ex-chequers. The said information is also available with the said concerned public authority .
23. The Hon'ble High Court of Delhi at New Delhi by an common order dated 12/12/2011 passed in LPA No. 797, LPA 802, LPA 803 and LPA 810 of 2011 has uphold the decision given by the Central Information commission directing the PIO to furnish the experience and education qualification and the other

information pertaining to same subject matter .The ratio laid down in above matter is reproduced herein

- (a) LPA 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**

- (b) **In** LPA 802/2011, Union Public Service Commission V/s Naresh Kumar has held;

“ The Respondent /information seeker in the present case was himself one of the applicants and had not been invited for the interview. The learned single Judge has while dismissing the writ petition held that photocopies of experience certificates cannot be held to be invasion of privacy of requiring the confidentiality under section 8(1)(j) of the Act

and further held that disclosure of such information could also be said to be in larger public interest”.

**further it has been held; “those who are knocked out before the interview even and did not have a chance to compete any further, are definitely entitle to know that they have not been knocked out arbitrarily to deprive then from even competing any further” .**

(c) In LPA 803/2011 Union Public Service Commission V/s Gourhari Kamila and in LPA hand LPA 810/2011 has held;

“ Information such as the photocopies of experience certificate of all the candidates called for the interviews can be provided and pertaining to other who were not called for the interview should not be allowed, as it cannot be said to be necessary in public interest or for a sake of transference or otherwise.

24. The Hon’ble High Court at Bombay at Goa in writ petition NO. 797 of 2018, Deepak Vaingankar V/s Suryakant Naik has held at para 19 while quashing and setting aside the order of Chief Information Commissioner of Goa State Information Commission, has held;

“That Respondent No. 1 (information seeker ) had categorily failed to show what was the public interest or rather the larger public interest which was involved to furnish the personal information of the petitioner

25. The Hon’ble High Court of Punjab and Haryana at Chandigarh in Writ Petition No. 4239 of 2013 Vijay Dheer V/s State Information Commission has held as under ;

“ The only question that would arise for consideration is to whether the entire information sought by Respondent no. 3 would stand

covered in the exempting clause as per section 8 sub- clause (j). The exemption under section 8(1) sub Clause (j) would cover information which is in the nature of personal information and the disclosure of 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 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 Central Public Information officer/State Public Information Officer or the Appellate Authority 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”.**

26. Hence in view of ratios laid down by the above Hon’ble courts it is cleared that though the information is private in nature, the same can be ordered to be furnished in a larger public interest .

27. In each case the Public interest would be applied to weigh the scales and in balance determine whether the information should be furnished or exempted and on considering the rival submission of the Appellant and third party ,in the present case the point arises for my determination is ;

(i) *whether the Appellant who was the candidates for the said post has established that the said information is sought by him in a larger public interest and whether he is entitled for the said information in a larger public interest.*

- (ii) Whether the Appellant is entitled to have the information free of cost ?

Point No. 1

28. The law is very clear on the point of personal information that it cannot be claimed as the matter of right, the disclosure can be order only when there is a public interest. This commission need to verify whether he had produce any evidence to show that the disclosure is in the larger interest of public .
29. The Appellant herein had produced on record the application form obtained by him under another RTI application dated 27/5/2019 of one of the candidates namely Kumar Suresh Rajput (application No. 112) who was selected for appearing the written test held on 9/12/2018 for the post of "Meter reader" in electricity Department and submitted that the documents relied by the said candidates at clause no. 6 i. e the certificate of Scheduled cast issued by the revenue Department of Karnataka was not valid in the State of Goa. The Respondent Shri Kuldip Aroskar who was present during the arguments of the Appellant also admitted the said fact. Hence I find some force in the arguments of the Appellant that there can be some lapses on the part of the public authority concerned herein in scrutinising documents relied by the third party who were selected for the said post and the Appellant as a candidate and as a citizen of India is entitled for the said information .
30. In the context of apprehension raised by the third party about misuse of their information, The Hon'ble Bombay High Court, in the matter of Mr. Surupsingh Hrya Naik V/s State of Maharashtra reported in AIR 2007 Bombay 121 has held;
- “ The court must bear in mind the object of the Right to information Act which is to make the public authorities accountable and their actions

open. The contention that the information may be misused is of no consequence, as Parliament wherever it has chosen to deny such information and so specifically provided.”

It has further held that;

“ In those cases where the information sought cannot be denied to either Parliament or State Legislature, as the case may be , then the information cannot be denied unless the third person satisfies the authority that parliament/Legislature is not entitled to the information’.

31. In the present case even though the third party i.e the selected candidates were given opportunities and were heard in details however, they failed to satisfy this commission that the Parliament /Legislature is not entitled to the information . It is also not the case of Respondent PIO that the Parliament /Legislature is not entitled for such records which are available in their official records .
32. The Hon’ble High Court at Zarkhand at Ranchi in writ petition (s) No. 5875 of 2014, GeetaKumari V/s State of Zarkhand has held ;  
“In the present case the information being sought for from the petitioner relates to her appointment to a Government job, and the educational qualification of the petitioner. In my considered view, ***these are not the personal information of a person who is appointed to a Government job, and the people at large are entitled to have the information about the appointment of such person and the fact whether the person concerned is holding the required educational***

***qualification for the same or not . As such the information which are sought from the petitioner, are not the personal information which could not*** be furnished under the RTI Act”.

33. The Hon’ble High Court of Punjab and Haryana in matter Vijay Dheer (Supra) has also held

“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 react 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. ”

34. 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 Appellant herein has succeeded in establishing that he had sought the said information in a larger public interest and that disclosure of such information would not cause unwarranted invasion of privacy of the individual who are Engineers performing their functions in an Government Department and who are paid salaries from public exchequer. 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. Hence in my opinion

the Appellant is entitled to get the information as sought by him vide his application dated 22/4/2019 is in larger public interest.

Point No. 2

35. Sub section of (1) Section 7 reads as under ;

“(1)Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer, or State Public Information officer, as the case may be on receipt of a request under section 6 shall, as expeditiously as possible , and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9”.

36. The section 7(6) of RTI Acts reads as under :-

“Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1)”.

37. In the present case the application u/s 6 was filed on 22/4/2019. In the ordinary course the same was required to be decided within 30 days of the receipt of the same. The records relied by Appellant as well Respondents shows that the said application of the Appellant was responded by Respondent PIO on 22/5/2019. Hence the said was responded well within stipulated time of 30 days as required and as contemplated under sub-section (1) of section 7 of RTI Act and even provided the information at point (c) free of cost by the PIO. Hence I find that there is no contravention of provision of RTI Act for the Appellant to get the



information free of cost. Hence the same cannot to be provided free of cost to the Appellant.

38. In a domain of human rights , the right of privacy and right to the information has been treated as co-equals and non can be taken precedence over the other, rather a balance needs to be strike hence taking into considerations the apprehension raised by the third parties of their information can be misused, this commission thought of exploring possibility of giving inspection first which was ruled out by Respondent No. 2 PIO on the ground that the files contains other information which are personal in nature and also includes other documents . The Appellant also did not agree for the same.
39. Needless to say that the Appellant is expected to use the said information in securing transparency and accountability in the working of public authorities and should not be and cannot be use to settle the personal scores.
40. It is seen from the records that the RTI application dated 22/4/2019 was responded by the Respondent PIO on 22/5/2019 with in stipulated time as contemplated 7(1) of RTI Act wherein part of the information was furnished to the Appellant. There is no records produced by the Appellant that the other information was denied with malafide motive. On the contrary the representative of PIO during his oral arguments showed their willingness to provide the said information in the larger public interest. As such I am of the opinion that this is not an fit case warranting levy of penalty on PIO, hence, I am declined to grant relief sought by the Appellant at prayer (b) and(c) in the memo of appeal. Only lapse found on the part of Respondents herein is non adhering to provisions of section 11 of RTI Act. The Respondent PIO is directed to be vigilant henceforth while dealing with RTI matters and to comply with the provisions of RTI Act in true spirit.

41. The relief sought by the Appellant at prayer (d) which is in nature of compensation cannot be granted as there is no cogent and convincing evidence produced on records by the Appellant what was the detriment and loss caused to him
42. 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. 2 PIO is hereby directed to calculate the cost of the providing the information and shall send the intimation to the Appellant giving the details as required u/s 7(3) (a) of the RTI Act within 5 days from the date of receipt of this order and then to furnish the information as sought by the Appellant at serial No. (A), of his application dated 22/4/2019 within 8 days from the date of deposit of the said fees.
- iii. Rest prayers are rejected.

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