

GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437880, 2437908 E-mail: spio-gsic.goa@nic.in Website: www.gsic.goa.gov.in

Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 111/2020/

Shri. Sanjivkumar Kubal,
Mathura Niwas, 172/16(1),
Near Dangui Bakery,
Shantinagar, Ponda Goa.

..... Appellant

v/s

1) Mrs. Prachi Bhave,
Headmistress,
Hirabai Talaulikar High School,
Sacordem – Goa.

2) Shri D.R. Bhagat,
Dy. Director of Education,
Porvorim – Goa.

..... Respondents

Filed on : 23/06/2020
Decided on : 28/10/2021

Relevant dates emerging from appeal:

RTI application filed on	: 28/11/2019
PIO replied on	: 15/01/2020
First appeal filed on	: 07/02/2020
FAA order passed on	: 27/02/2020
Second appeal received on	: 23/06/2020

ORDER

1. The brief facts of this case, as contended by the Appellant Shri. Sanjeevkumar Kubal are that the Appellant vide application dated 28/11/2019 sought information on eight points under section 6 (1) of Right to Information Act, 2005 (for short, the Act) from Public Information Officer (PIO), Directorate of Education, Porvorim Goa. The PIO transferred the application to the Headmistress/PIO, Smt. Hirabai Talaulikar High School, Sacordem Goa, vide letter dated 05/12/2019.

2. It is the contention of the Appellant that the PIO, Smt. Hirabai Talaulikar High School denied information vide letter dated 15/01/2021. Aggrieved by this decision, the Appellant preferred appeal before the First Appellate Authority (FAA), Central Education Zone, Panaji Goa. The FAA vide order dated 27/02/2020 adjudged reason given by the PIO for not disclosing the information to be reasoned one and disposed the appeal, accordingly.
3. Being further aggrieved, the Appellant filed second appeal under section 19 (3) of the Act against Respondent No.1 PIO, Headmistress, Smt. Hirabai Talaulikar High School and Respondent No. 2 FAA, Dy. Director, Central Education Zone, Panaji Goa. Appellant inter-alia prayed for information free of cost, training for concerned officials and penalty under section 20(1) and 20(2) of the Act. Pursuant to the notice, Appellant appeared before the Commission. However, both the Respondents remained absent. Smt. Prachi Bhave, PIO and Headmistress of Smt. Hirabai Talaulikar High School filed reply by email received in the registry dated 31/08/2020. It is seen from the records that the Appellant appeared before the Commission initially, argued the matter on 30/10/2020 and later remained absent continuously.
4. The serious aspect of proceeding of this case is continuous absence of PIO. Except once on 25/11/2020; the PIO never appeared before the Commission inspite of issuance of notice on more than two occasions. Even more serious is her reply dated 31/08/2020. The PIO stated that the application of appellant was not in prescribed form and that the information sought by the Appellant is governed by service rules, falls under the expression of personal information and the disclosure of which, has no relationship to public interest. The PIO relied on verdict delivered by the Chief Information Commission, Delhi in petition File No. CIC/SM/2013/000058 dated 26/06/2013, to deny the information.

5. It is deplorable on the part of PIO to state that the application is not in prescribed form. PIO being a responsible officer should be aware that there is no such prescribed form to seek the information under section 6(1) of the Act. On the contrary, the PIO, respecting the spirit of the Act, should have guided the Appellant if she found anything wrong in the application for which the Act provides. However, it appears that the PIO was more interested in denying the information in order to avoid disclosure. In the process of denial the PIO has not quoted any sub section of section 8 of the Act, which allows exemptions for valid reasons.
6. Hon'ble High Court of Punjab and Haryana in the case of **Vijay Dheer v/s, State Information Commission, Punjab and Ors. (LNIND 2013 PNH 2263)** has 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 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.

The State Information Commission while passing the impugned order has attempted to strike a balance between public interest as also the privacy of the individual concerned i.e. the petitioner. The Public Information Officer concerned has been directed to provide such part of the information sought by respondent no. 3 which primarily relates to the mode of appointment and promotion of the petitioner to a public post. The basis of passing the impugned

order by the State Information Commission stands disclosed in the impugned order itself in the following terms:-

It is necessary in order to understand as to what is the larger public interest vis-a-vis personal information which would cause unwarranted invasion of the privacy of the individual. After considering all relevant aspects in the instant case, I find that the stand/order of the PIO Office ADC (D), Roop Nagar is not tenable. The PIO concerned has unnecessarily stretched the information sought as personal information about third party as unwarranted invasion on the privacy of the individual. A part of information/documents sought by the complainant, relates to the mode of appointment/promotion of a person on a public post, therefore, information/documents to that extent fall under the domain of larger public interest. The documents on the basis of which a person has sought an appointment in a public office becomes the documents of larger public interest."

The above judgement is self explanatory and applying this principles, the PIO in present case is liable to furnish information.

7. The Appellant vide appeal memo prayed for imposing penalty on PIO for not furnishing the information. However, he did not pursue the matter and preferred to remain absent during the proceeding. He did not appear even after issuance of notice for appearance. When the notice returned undelivered, the Appellant was informed about the next date of hearing vide email dated 20/09/2021, but the Appellant did not turned up. Nevertheless, the Appellant deserves to get the information he sought and PIO is mandated to furnish the same. The Commission has not considered other prayers of Appellant as he has not pressed for any.

8. In the light of above discussion, the appeal is disposed with the following order :-

(a) The PIO is directed to furnish the information sought by the Appellant vide application dated 28/11/2019, within 15 days from the date of receipt of these order free of cost .

(b) All other prayers are rejected.

Proceeding stands closed.

Pronounced in the open court.

Notify the parties.

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/-

Sanjay N. Dhavalikar
State Information Commissioner
Goa State Information Commission
Panaji - Goa