

GOA STATE INFORMATION COMMISSION
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Appeal No. 162/2020

Shri. Mohammed Hussain Shaikh,
Bldg. No. CF-3, Rehabilitation Board,
GRB Colony, Headland Sada,
Mormugao, Goa.

-----Appellant

v/s

1. Shri. Cajetan Fernandes,
State Public Information Officer,
Nodal Officer (IT & Computerization)/ Technical Officer
(Computers) & PIO Training,
Office of Dy. Director (Planning),
Directorate of Education,
Porvorim-Goa

2. Shri. D.R. Bhagat,
Deputy Director of Education (Planning),
Directorate of Education,
Porvorim-Goa.

----Respondents

Shri Vishwas R. Satarkar - State Chief Information Commissioner

Filed on:-05/10/2020

Decided on:-08/09/2021

FACTS IN BRIEF

- a. The Appellant Mohammed Hussain Shaikh, r/o CF-3, Rehabilitation Board Colony, Headland Sada, Mormugao Goa by his application dated 10/07/2020 filed under sec 6(1) of the Right to Information Act, 2005 sought from PIO, Nodal Officer, Directorate of Technical Education, Porvorim Goa the following information:

“Kindly arrange to provide copy of following documents submitted in your office of Computer Teacher in respect of Al-Madina High School, Cortalim-Goa.

1. Educational qualification certificates
2. Residential Certificate.”

- b. Since the said application was not responded by PIO within the stipulated period, deeming the same as refusal, Appellant filed first appeal to the Deputy Director (Planning), Directorate of Technical Education, Porvorim being the First Appellate Authority (FAA). On 20/08/2020.
- c. According to Appellant on the same day i.e on 20/08/2020 the PIO vide letter No. DE/Plg./RTI/20-21/676 dispatched letter to Appellant stating that “with reference to your letter dated 10/07/2020, it is to inform that personal documents / information pertaining to third party cannot be provided under RTI Act, 2005.”
- d. FAA, after hearing both parties by an order dated 24/09/2020 allowed the first appeal and directed the PIO to furnish the information immediately as sought by the Appellant.
- e. According to Appellant, instead of complying the order of FAA, he responded again to Appellant by letter dated 28/09/2020, stating that, he is unable to furnish the information as said information is personal information and pertaining to third party, and that Appellant has not shown any larger public interest while seeking the information.
- f. Aggrieved with the reply of the PIO the Appellant has landed before this Commission in this second appeal under sec 19(3) of the Act.
- g. Notice was issued, pursuant to which, PIO appeared on 26/03/2021 and submitted that he will file his reply on next date of

hearing and thereafter did not appear for subsequent hearing. FAA duly served, opted not to appear and file his reply in the matter.

- h. On perusal of the records and upon hearing the representative of Appellant, it is seen that, Appellant has sought the Educational qualification and Residential certificate of one Computer teacher of Al-Madina High School, Cortalim-Goa.
- i. It is an admitted fact that Al-Madina High School is a aided educational institution recognized under the provisions of Goa School Education Act, 1984 and receiving the grant –in-aid from the Government of Goa, therefore said institution is a ‘public authority’ as defined in sec 2(h) of the Act.
- j. The information sought is of computer teacher of the said school which is a public office discharging public function in Government aided institution. Therefore documents submitted by computer teacher in pursuance of his/her appointment to public office falls in public domain. Hence said information cannot be considered as personal information and therefore exemption as provided under sec 8(1)(J) of the Act is not applicable.

Hon’ble High Court of Jharkhand at Ranchi in **Geeta Kumari v/s the State of Jharkhand and Ors. In W.P. (S) No. 5875/2014** has held that:

"In the present case, the information being sought for from the petitioner relates to her appointment to a Govt. 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 Govt. 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 for from the petitioner, are not the personal information which could not be furnished under the RTI Act. "

It is clear therefore that the information provided by person to obtain employment in public offices cannot be considered as personal information.

- k. In an identical Judgment of Delhi High Court in **Union Public Service Commission v/s N. Sugathan in LPA 797/2011**, has held that :

"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-à-vis other applicants. 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.**"*

This view is also fortified by Hon'ble Punjab and Haryana High Court in Vijay Dheer v/s State Information Commission, Punjab & Ors (LNIND 2013 PNH 2263).

- I. By order dated 24/09/2020, the FAA directed the PIO to provide the information immediately. Instead of complying the order of FAA, the PIO by letter dated 28/09/2020 replied in a contradictory manner, which is inappropriate.

Under the Act, PIO is a forum with original jurisdiction and FAA as an Appellate Authority. Thus if information is denied by PIO, there is appellate procedure prescribed. However, thereafter the PIO shall be subjected to the order of FAA. FAA in its official designation is an officer senior to PIO. The act of PIO is against the provision of law.

- m. Sec 7(1) of the Act, requires the PIO to dispose the request of the seeker within 30 days. Disposal of request may result in furnishing of information on payment of fees or rejection of request on ground as mentioned in sec 8 and/or sec 9 of the Act. In case PIO finds that the information can be furnished, he has to furnish within said time or refuse it also within said time, thus any of such exercise has to be completed within 30 days.

In the present case the PIO has not replied to the RTI application within time, I find that, the PIO has failed to perform his obligation under the Act. However since delay is of marginal nature, there is no sufficient ground to take any penal action. However the approach of the PIO is very casual and therefore it is appropriate to warn the PIO that henceforth he should discharge his duties under RTI Act with deligent manner.

In the circumstance mentioned hereinabove, PIO is directed to furnish the information and accordingly, the present appeal is disposed with the following:

O R D E R

- The appeal is allowed.
- The PIO shall furnish to the Appellant the information as sought by him by his application dated 10/07/2020, free of cost within **FIFTEEN DAYS** from the date of receipt of this order.
- Proceedings closed.
- Pronounced in open court.
- Notify the Parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner