

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

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Appeal No.186/2020/

Shri. Prabhakar P. Difle,
'Laxmi Kunj', Talap Wada,
Cumbarjua, Goa.
403107.

.....Appellant

V/S

1. Joint Secretary/ Public Information Officer
Goa Board of Secondary & Higher Secondary Education,
Porvorim, Bardez - Goa.
403521.

2.The Chairman / First Appellate Authority
Goa Board of Secondary & Higher Secondary Education,
Porvorim, Bardez - Goa.
403521.

.....Respondents

Shri. Vishwas R. Satarkar State Chief Information Commissioner

Filed on: 06/11/2020
Decided on: 30/08/2021

FACTS IN BRIEF

1. The Appellant, Shri. Prabhakar P. Difle, r/o Laxmi Kunj, Talap Wada, Cumbharjua, Goa by his application dated 10/08/2020 filed under sec 6(1) of the Right to Information Act, 2005 (Act for short) sought certain information from the Public Information Officer of Goa Board of Secondary & Higher Secondary Education, Porvorim Goa under two points namely:-

“1. Kindly furnish to me a list of the students who gained more than 90% marks (aggregate) at the SSC Exams for the academic year 2019-20, along with the names of such students (or the names of the respective schools), their exam seat nos. and total marks scored.

2. Out of how many marks are marks for sports are given?”

2. The said application was replied on 20/08/2020 informing Appellant as under:

“Point No. 1: It has been discontinued by this Board from March 2001 onwards.

Point No. 2: Refer Circular No. 34, 10/12/2013 for information available on the official website www.gbshse.gov.in of this office.”

Not satisfied with the reply, the Appellant filed first appeal before Chairman, Goa Board of Secondary & Higher Secondary Education, Porvorim Goa being the First Appellate Authority (FAA).

3. FAA by order dated 19/1/2020, dismissed the appeal stating that information sought is linked directly with merit list which Board has stopped since March 2001. Aggrieved with the order of FAA, the Appellant approached this Commission in this second appeal under sec 19(3) of the Act.

4. Notice was issued to the parties, pursuant to which PIO appeared and filed her reply on 24/03/2021. Appellant appeared through his representative Adv. R.G. Pereira on 24/03/2021, and thereafter opted not to remain present. FAA appeared however opted not to file any reply in the matter.

5. According to PIO, information sought by the Appellant at point No. 1 is tantamount to merit list and Goa Board vide its Circular No. 12 dated 04/02/2000 has discontinued the practise of publishing the merit list of students appearing for Board Examinations of SSCE and HSSC.

Said policy decision was taken by the Board in its Academic Council Meeting held in the year 2001 on the request of Directorate of Education to discontinue the practise of publication of merit list in public interest. She also produced on record the minutes of Board Meeting.

The objective behind this is to reduce the tension of the students, and to avoid unhealthy competition between the students. If such information is disclosed then it will defeat the very purpose of discontinuation of the merit list.

6. PIO placed on record the Circular No. 12 dated 04/02/2000, addressed to the Heads of all recognized Secondary and Higher Secondary School, in which it is informed that the Board has decided to discontinue the practise of publishing the merit list of SCC and HSSC examination w.e.f. March 2001 examination.

She also placed on record the Circular No. 34 dated 10/12/2013, addressed to Heads of all recognised Secondary and Higher Secondary Schools under the jurisdiction of Goa Board, and circular dated 26/11/2013 issued by Directorate of Sports and Youth Affairs, related to implementation of sports merit marks scheme with reference to the Goa State Sports Policy.

7. PIO further submitted that above mentioned Circular No. 12 dated 04/02/2000 and Circular No. 34 dated 10/12/2013 has been duly furnished to the Appellant during the course of hearing before First Appellate Authority and rest of the information is not furnished as no larger public interest is justified in disclosure of such information.
8. Considering the nature of information sought for by the application dated 10/08/2020, I find that, disclosure of information does not appear to be very practical proposition particularly when Appellant has not established any larger public interest in such disclosure.

In balancing the competing interest, the disclosure of information must appear to justify public interest and not will cause harm to the public institution.

Hon'ble High Court of Andhra Pradesh in **Kunche Durga Prasad Anr. v/s Public Information Officer of Chief Manager (HR), Oil & Natural Gas Corporation Ltd. (2010 (3) ALL MR (JOURNAL) 11)** has held that:

"9. It is not a place of mention that Parliament was very much aware of the necessity to strike a decent balance between making the information available to the citizenry, to promote public interest and efficiency, on the one hand, and, preservation of confidentiality of sensitive information, on the other hand. The statement of objectives of the Act emphasizes the need to harmonize these two conflicting interest.

10. The right to information is treated as a facet of the fundamentals rights guaranteed under Articles 19 and 21 of the Constitution of India. That, however, would be in respect of the information which related to the functioning of the Government and public activity. The information which relates to an individual cannot be compared with, or equated to, the one of public activity. On the other hand, disclosure of the information in relation to an individual, even where it is available with the Government, may amount to invasion of his privacy or right to life which in turn is also referable to Article 21 of the Constitution of India. It is also possible to treat the privilege of an individual not to be compelled to part with any information available with him, as an essential part of the Article 19(1)(a) of the Constitution of India. Even while exercising his right of freedom of speech and expression, an individual can insist that any information relating to him cannot be furnished to others unless it is in the realm of public activity or is required to be furnished under any law, for the time being in force."

The Act has sought to harmonise two conflicting interests essentially for preserving democracy. One is to bring about transparency and accountability by providing access to information and another is that actual practise does not conflict with other public interest which includes efficient functioning of Government and preservation of confidentiality of sensitive information.

Hon'ble Supreme Court in the **Institute of Chartered Accountant of India v/s Shaunak H. Satya & Ors.** (C.A. No. 7571/2011) Has held that:

“One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability. But achieving this object does not mean that other equally important public interests including efficient functioning of the governments and public authorities, optimum use of limited fiscal resources, preservation of confidentiality of sensitive information, etc. are to be ignored or sacrificed. The object of RTI Act is to harmonize the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information, on the other hand. While sections 3 and 4 seek to achieve the first objective, sections 8, 9, 10 and 11 seek to achieve the second objective. Therefore when section 8 exempts certain information from being disclosed, it should not be considered to be

a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals. Therefore in dealing with information not falling under section 4(1)(b) and (c), the competent authorities under the RTI Act will not read the exemptions in section 8 in a restrictive manner but in a practical manner so that the other public interests are preserved and the RTI Act attains a fine balance between its goal of attaining transparency of information and safeguarding the other public interests.”

9. In the background of above facts and in view of the principles laid down, I find no denial of information by the PIO, hence I dispose the present appeal with following:

ORDER

The appeal stands dismissed.

Proceedings closed.

Pronounced in the open court.

Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner