

GOA STATE INFORMATION COMMISSION

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

E-mail: spio-gsic.goa@nic.in Website: www.scic.goa.gov.in

Shri Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 104/2020/SIC-I

Ms. Josephine Vaz,
Flat No. 8, 1st Floor,
Soares Apartment,
Near Ponda Municipal Council,
Ponda, Tisk Goa
403401.

..... Appellant

v/s

1. Dr. Pooja M. Madkaiker,
The PIO/Deputy Director (Admin.),
Institute of Psychiatry &
Human Behaviour (IPHB),
Bambolim Goa 403202.

2. Prof. Dr. S.M. Bandekar,
First Appellate Authority,
Director/Dean,
Institute of Psychiatry &
Human Behaviour (IPHB),
Bambolim Goa 403202.

..... Respondents

Filed on : 03/07/2020

Decided on : 25/08/2021

Relevant dates emerging from appeal:

RTI application filed on	: 24/01/2020
PIO replied on	: 18/02/2020
First appeal filed on	: 06/03/2020
First Appellate Authority Order passed on	: 07/04/2020
Second appeal received on	: 03/07/2020

ORDER

1. The Second Appeal filed under section 19 (3) of the Right to Information Act, (RTI Act) by Ms. Josephine Vaz, R/o. Ponda Goa against Respondent No. 1, Public Information Officer (PIO), Dr. Pooja M. Madkaiker, Deputy Director (Admin), Institute of Psychiatry and Human Behaviour (IPHB), Bambolim Goa and

Respondent No. 2, the First Appellate Authority (FAA), Director/dean, Institute of Psychiatry and Human Behaviour (IBHB), Bambolim Goa came before this Commission on 03/07/2020.

2. The brief facts leading to second appeal, as contended by the Appellant are that :-

a) The appellant vide application dated 24/01/2020 sought following information from the PIO:-

i. Leave eligible for and availed by me as per my leave records during my service with IPHB, according to calendars days, month, year since joining dated 11-05-1987 till January 2020 i.e. 1.Earned leave, 2. Commuted leave, 3.Extra Ordinary Leave.

ii. Kindly provide the following Earned and Commuted Leave taken and in balance since joining dated 11-05-1987 till January 2020

(a) How many numbers of leave days earned ;

(b) Number of leave days taken/availed by me ;

(c) How many leave days are in balance.

iii. Please provide extra work worked during my day shift i.e. 9.00 a.m. to 5 p.m. (8 hours) and night shift i.e. 5 p.m. to 9 a.m. (16 hours) since my joining dated 11-05-1987 till January 2020.

iv. Provide information regarding working Saturdays, 1/2 day off eligible and availed by the IPHB Nurses employees during their service with IPHB .

b) The PIO failed to give decision within the stipulated period and did not provide the details and breakdown of fees by itemised cost calculations. The PIO waited until the fag end of the 30 day period and failed to state which information the PIO has decided to provide or otherwise reject by citing reasons for the same.

c) The appellant filed first appeal dated 06/03/2020 before the F.A.A. The FAA, by an order dated 07/04/2020 directed the PIO

to furnish the remaining information. The FAA also directed the PIO to transfer the said application to the concerned authority, if the information is not available with the PIO.

d) The Appellant did not receive complete information and therefore filed second appeal dated 03/07/2020 under section 19(3) of the RTI Act with various prayers including complete information, penalty u/s 20(1) and written warning to PIO.

3. After notifying the concerned parties, the matter was taken up for hearing on 30/07/2020. The Appellant and PIO appeared before this Commission and both the respondents, i.e. PIO and FAA filed reply. Subsequently, additional reply and submission was filed by both the sides and arguments were advanced; the Commission directed the PIO to furnish available information and the PIO subsequently furnished information. However the appellant argued and stated that complete information is still not furnished. Further, during the hearing the appellant submitted list of documents not yet furnished and the Commission directed the PIO to provide information as mentioned in the submission of Appellant. The PIO, as per the direction of the Commission submitted before the Commission on 15/07/2021 that the remaining information sought by the appellant has been furnished by speed post. Over and above, the PIO conveyed her willingness to facilitate inspection of records, if desired by the appellant.

4. The Commission has perused the appeal memo, replies, other submissions and have heard arguments of both the sides. After careful perusal, the Commission has arrived at following finding:

a) The appellant vide application dated 24/01/2020 has sought information related to service book dated to 1987. The PIO vide three letters dated 18/02/2020, 06/02/2020 and 18/03/2020 conveyed the appellant to collect the information from her office after paying prescribed charges. First letter dated 18/02/2020 was sent to the appellant within the stipulated period.

- b) The appellant did not collect the information presuming the information is not complete. On the contrary, the appellant could have collected the information provided by the appellant and then challenge, if it is incomplete/wrong. The appellant, instead of collecting the information, opted to file first appeal dated 06/03/2020 before the F.A.A.
 - c) The FAA, in his order dated 07/04/2020 has mentioned, " this is to state that the Appellant Ms. Josephine A. Vaz has filed an appeal before collecting the requested information. Further, to state that the required information was not denied, nor delayed by the Public Information Officer."
 - d) The PIO, in her submission dated 30/07/2020, has stated that the Appellant did not pay the required amount to collect the information inspite of the fact that the PIO sent this letter within the stipulated period which was received by the Appellant. It can be seen from the records that the PIO had sent letter on 18/02/2020, within the stipulated period of 30 days.
 - e) The PIO furnished some more information to the appellant on 06/11/2020. The appellant made a submission on the same day highlighting which information is yet to be furnished. Later the PIO stated before the commission on 15/07/2020 that remaining information has been furnished to the appellant by speed post. The appellant has not contested this statement of PIO.
5. The events unfolded above, indicate that the PIO has acted within the provision of the RTI Act and has furnished the available information free of cost to the Appellant, even though the appellant had not paid the requisite charges initially. The PIO has also shown readiness to provide inspection of documents if desired by the Appellant.
6. The PIO has always shown willingness to provide information and has never denied any information to the appellant. If the

circumstances considered cumulatively and the law laid down by the Hon'ble High Court of Bombay at Goa in the case of A.A. Parulekar v/s. Goa State Information Commission is applied, then it does appear that there is no malafide on the part of the PIO and there is no justification for imposing penalty u/s. 20(1) upon the PIO.

7. In the background of above discussion and as per the documents brought on record, the Commission concludes that the available information has been furnished by the PIO and the appeal is thereby required to be disposed with the following :-

a) As the available information has been furnished to the appellant, the prayer for information becomes infructuous.

b) The appellant may undertake inspection of records in the office of the PIO, if desires, within 10 days of the receipt of this order, with prior intimation to the PIO. The PIO is directed to facilitate the inspection to the Appellant, if desired by her within the stipulated period.

c) All other prayers are rejected.

8. Hence the appeal is disposed accordingly and proceedings stand closed.

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/-

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