

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 138/2020

Shri. Jawaharlal T. Shetye,
H. No. 35/A, Ward No. 11,
Khorlim, Mapusa-Goa, 403507 Appellant
v/s

Public Information Officer,
I/C. Principal (Devendra Kenavdekar),
P.V.S. Sarojini Madhusudan Kushe Higher Secondary School and Institute
of Vocational Studies, P. V. S Kushe Nagar, Post Mapusa,
Assagao, Bardez-Goa Respondent

Filed on : 09/09/2020

Decided on : 20/08/2021

Relevant dates emerging from appeal:

RTI application filed on	: 04/07/2020
PIO replied on	: 28/07/2020
First appeal filed on	: 06/08/2020
FAA order passed on	: nil
Second appeal received on	: 09/09/2020

ORDER

1. The Second Appeal filed by the Appellant Shri. Jawaharlal T. Shetye, resident of Khorlim-Mapusa, Goa against the Respondent Public Information Officer (PIO), Principal, PVS Sarojini Mudhusudhan Kushe Higher Secondary School and Institute of Vocational Studies, Assagao- Bardez Goa under section 19(3) of the Right to Information Act, 2005 (RTI Act) came before this Commission on 09/09/2020.
2. Brief facts leading to the Second Appeal as contended by the Appellant are that :-
 - (i) The Appellant vide application dated 04/07/2020 had sought information on 5 points from the PIO. The PIO

replied dated 28/07/2020 stating the said application is not maintainable.

(ii) The Appellant, not satisfied with the reply of the PIO filed first Appeal dated 06/08/2020 before the same PIO. The PIO Shri. Devendra Kenavdekar, Principal of the Higher Secondary School replied stating the said Higher Secondary School has only Public Information Officer and hence the Appeal is returned to the Appellant.

(iii) Being aggrieved, the Appellant has preferred the Second Appeal dated 09/09/2020 before the Goa State Information Commission praying for information, implementation of section 4 of the RTI Act and any other order deemed fit.

3. Matter was taken up on board and was listed for hearing and accordingly notice was issued to the concerned parties. Reply was filed by the Respondent PIO alongwith the enclosures and the Appellant also filed his submission.

4. During the hearing Advocate Avinash Nasnodkar appeared on behalf of the Respondent and filed additional reply stating that PIO had erroneously addressed to the Appellant that there is no FAA designated. That the First Appellate authority is the Deputy Director of Education, North Zone, Mapusa Goa. He further prayed for the order directing the Appellant to file the first Appeal before the appropriate authority, Deputy Director of Education, North Zone, Mapusa-Goa.

5. On this Submission the Appellant agreed to file first Appeal before the First Appellate Authority, Deputy Director of Education, North Zone, Mapusa-Goa.

6. It is noted by the Commission that the PIO, Shri. Devendra Kenavdekar, Principal of the said Higher Secondary School was not aware of the provisions of the RTI Act regarding first Appeal. The PIO should have guided the Appellant to file first Appeal before the appropriate First Appellate Authority. Section 7(8)(iii) of the Act provide that the applicant shall be informed of the particulars of the Appellate Authority. The Commission without expressing its views on the merits of the matter is of the opinion that, in the interest of justice, the matter has to be remanded to the FAA to hear all concerned parties in accordance with the RTI Act.

7. In view of the above discussion the present Appeal is disposed with the Order as under:-

- a) The matter is remanded back to the First Appellate Authority, Deputy Director of Education, North Zone, Mapusa Goa and the FAA is hereby directed to hear the First Appeal in accordance with the Act, without insisting on the period of limitations.
- b) The Appellant will be free to approach this Commission by way of fresh Second Appeal/Complaint, if aggrieved by the decision of the FAA, within the period of limitation thereafter.
- c) The PIO is directed to implement section 4(1)(a) and section 4(1)(b) within 30 days of the receipt of this Order, if not implemented yet

Hence the Appeal proceedings stand 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