

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 44/2021/SIC

Shri Reema Sadanand Khandolkar,
H. No. 151, Carmi Bhat,
Merces, Tiswadi-Goa,
Pin code: 403005

.....Appellant

V/s.

1. Public Information Officer,
Assistant Accounts Officer,
Bal Bhavan –Goa,
Campal, Panaji-Goa
2. The First Appellate Authority,
The Director, Bal Bhavan Goa
Campal, Panaji-Goa,
Pin Code: 403001

.....Respondents

Filed on :23/02/2021

Decided on : 21/10/2021

Relevant dates emerging from appeal:

RTI application filed on	: 20/11/2020
PIO replied on	: 18/12/2020
First appeal filed on	: 06/01/2021
FAA order passed on	: 12/02/2021
Second appeal received on	: 23/02/2021

ORDER

1. The brief facts of this appeal are that the Appellant Smt. Reema Sadanand Khandolkar, resident of Merces, Tiswadi, Goa, vide application dated 20/11/2020 sought from Respondent No. 1 Public Information Officer (PIO), Assistant Accounts Officer, Bal Bhavan, Panaji-Goa, information under section 6(1) of the Right to Information Act (for short, the Act) on 5 points, mentioned in the said application.
2. It is the contention of the Appellant that PIO furnished misleading information vide reply dated 18/12/2020. The Appellant filed appeal before the Respondent No. 2 First

Appellate Authority (FAA), Director, Bal Bhavan, Panaji Goa, on 06/01/2021. That the FAA rejected the appeal without considering merits placed before him. Being aggrieved, the Appellant preferred second appeal dated 23/02/2021 before this Commission.

3. The concerned parties were notified and pursuant to the notice the PIO as well as FAA appeared before the Commission. PIO filed reply dated 06/07/2021. The Appellant, represented by her husband, under authority letter, filed written submission dated 24/08/2021 alongwith enclosures.
4. The Appellant, vide appeal memo and reply filed subsequently has contended that the PIO has denied the information in spite of the same being available in PIO's Office. That the PIO and FAA have jointly fabricated information and misrepresented before this authority and furnished incorrect, incomplete and misleading information.
5. The Appellant has raised certain reservations and has alleged irregularities in the appointment of the FAA on the post of Director of Bal Bhavan. The Appellant has produced some documents procured from Directorate of Education and Department of Personnel claiming the FAA has retired from the Directorate of Education on 31/08/2019 and therefore his continuation as Director/FAA in Bal Bhavan beyond this date is questionable. At the same time, the Appellant has enclosed one 'Appointment Order' dated 04/09/2019 signed by Chairperson, Bal Bhavan Dr. Sheetal D. Naik which states that Shri. Vinay D. Sahakari is appointed as Director/ Member Secretary of Bal Bhavan w.e.f. 04/09/2019, under the clause IV (ii) and clause VI (iii) of the provisions of the rules and regulations of Bal Bhavan Board. The Appellant has claimed that the appointment of Shri. Vinay Sahakari as Director/Member Secretary of Bal Bhavan is not in accordance with the rules and procedures. Stating this, the Appellant has made allegations against the FAA, the PIO and also against the Chairman of Bal Bhavan.

6. The PIO stated in his reply dated 06/07/2021 that the available information has been furnished to the Appellant and remaining information is not available as his office is not aware of the original source of the information. The PIO has also stated that he has not refused the information, nor furnished fabricated information. The PIO has submitted that whoever is being appointed as the Director of Bal Bhavan, he or she becomes the First Appellate Authority under the Act and has denied any irregularity in this process.

7. Upon perusal of all the submissions made by both the sides the Commission has arrived at following findings:-
 - (a) The Appellant, vide application dated 20/11/2020 had asked for the following information:-
 - (i) Name and contact number of the person (original source), the screenshot was shot/clicked.
 - (ii) Name and designation of official/Board Member, the screenshot was provided to the Bal Bhavan.
 - (iii) Certified copy of report, if any, certified by the "WhatsApp" that Reema BBK Bandora is registered with Phone Number 8007733712.
 - (iv) Certified copy of attachment details of above mobile phone, if any, done by the Bal Bhavan or any other authority.
 - (v) Certified copy of mobile analysis report, if any, conducted by authorised forensic Laboratory.

 - (b) The PIO, vide reply dated 18/12/2020 furnished information sought at point No. 2 and 3 ; and stated the information at point 1,4,5 is not available in Bal Bhavan Office.

 - (c) It appears that though the Appeal is filed to seek information the Appellant who is/was employee of Bal Bhavan Panaji has grievance related to service matters and the Appellant has leveled number of allegations against the PIO as well as FAA. The appellant has claimed irregularities in the appointment/continuation of Shri. Vinay Sahakari as Director/FAA of Bal Bhavan. The

Appellant has also made allegations against the PIO Shri. Laxmidas V. Manerkar for not furnishing the information.

- (d) This Commission can deal with allegation pertaining to the Right to Information Act, 2005 and not all other matters not covered under the Act. This is not the forum to investigate other grievance matters.
- (e) The argument that a retired State Government Officer cannot function as the FAA under the Act cannot be accepted as there is no provision under the Act stipulating this eligibility.

Section 19 (1) of the Act states that a person aggrieved with the decision of the PIO may file an appeal to such a Officer who is senior in rank to PIO in each Public Authority. It does not specify, that the details of Senior Officer and therefore we are not inclined to accept this argument.

8. In the case of Tushar Kanti Chatterjee V/s SPIO, P and RD, Directorate, No. 1785 (3) decided by West Bengal Information Commission on 25/08/2019 it is stated:-

"Since service matters are guided by memos, rules, order, circular etc., which are being followed by the concerned department and it is impossible for the Commission to go into every detail of the complexity of Government Establishment. Nor the Commission can assume the charge of an expert about every service matter of a Government Department and would be able to adjudge whether or not an information has been correctly furnished. For the purpose of ameliorating grievances of the members of staff, the Government Administrative Tribunals have been set up which is a proper forum."

9. The State Information Commission has no jurisdiction to hear service grievances. It is not the case that the Appellant has challenged the appointment of FAA by designation. Appellant after receiving the notice from the FAA, has filed reply and

sought the option to remain absent during the hearing, being busy in domestic schedule. The grievance is that Shri Sahakari, having being relieved from service on 31/08/2019, is functioning as FAA. However, the Chairperson of Bal Bhavan has appointed Shri. Sahakari as the Director/Member Secretary vide order dated 4/09/2019 and therefore Shri. Sahakari has functioned as FAA by designation. The role of the Commission is limited to ensure that the citizen is provided with information that he/she seeks under the Right to Information Act, 2005, and take penal action against the Respondent as and when required. Further, the manner in which the appointment is done, the eligibility, criteria of such appointment is not the domain of this Commission. On the issues raised and not addressed here for want of jurisdiction, the Appellant may seek relief before the appropriate forum.

10. In the background of above discussion and based on the facts brought on record, the Commission finds no merit in the appeal and therefore the appeal is dismissed.

Proceedings stand closed.

Pronounced in the open hearing.

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