

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 94/2021/SIC

Smt. Devyani C. Naik,
Flat No. S-1, Singbal Residency,
Warkhandem, Ponda – Goa
403401.

..... Appellant

v/s

- 1) Public Information Officer,
Office Superintendent,
Administrative Branch,
PHQ, Panaji – Goa
403001.
- 2) First Appellate Authority,
The Superintendent of Police (HQ),
PHQ, Panaji Goa.
403001.

..... Respondents

Filed on : 15/04/2021

Decided on : 18/11/2021

Relevant dates emerging from appeal:

RTI application filed on	: 18/12/2020
PIO replied on	: 11/01/2021
First appeal filed on	: 24/02/2021
FAA order passed on	: 18/03/2021
Second appeal received on	: 15/04/2021

ORDER

1. Brief Facts leading to this appeal, as contended by the Appellant Smt. Devyani C. Naik are that the Appellant vide application dated 18/12/2020 sought under section 6 (1) of the Right to Information Act, 2005 (for short, the Act) information on 8 points from Respondent No. 1, Public Information Officer (PIO), the Office Superintendent, Administrative Branch, Police Head Quarters, Panaji Goa. That the PIO furnished part information pertaining to her and

denied information regarding other police personnel under section 8 (1) (j) of the Act.

2. That being aggrieved, Appellant filed first appeal dated 24/02/2021 before Respondent No. 2 First Appellate Authority (FAA), Superintendent of Police (HQ) Police Head Quarters, Panaji Goa. The FAA upheld the say of PIO and dismissed the appeal. Subsequently, the Appellant filed second appeal before this Commission with prayers that complete information be furnished free of cost and penalty be imposed on PIO for knowingly refusing the information.
3. The concerned parties were notified and the matter was taken up for hearing. Pursuant to the notice Appellant and PIO appeared before the Commission, PIO filed reply dated 05/08/2021 and filed another submission dated 05/10/2021. Appellant submitted written submission on 25/08/2021.
4. The PIO contended vide reply and written submission that information pertaining to the Appellant has been furnished to her within the stipulated period of 30 days, and information regarding other police personnel was rejected under section 8 (1) (j) as it is personal information of other persons. Also as far as information regarding copy of minutes of meetings of all the DPC held from 2005 till date (01/09/2020) in respect of promotion from the rank of PSI to PI, either ad-hoc or regular is concerned, the information pertaining to Appellant has been furnished and information related to other police personnel was rejected as the information regarding DPC is exempted under section 8 (1) (e) and 8 (1) (j) of the Act.
5. The PIO placed reliance on Hon'ble High Court of Delhi (THDC India Ltd. v/s R.K. Raturi) and (THDC India Ltd. v/s T. Chandra Biswas), Hon'ble High Court Bombay at Goa (Deepak Pandharinath Vaingankar v/s Suryakant Babu Naik & Anr.), Hon'ble Supreme

Court (Girish Ramchandra Deshpande v/s Central Information Commission and others) and (Canara Bank v/s C.S. Shyam and Anr.)

6. The PIO also relied on Hon'ble High Court of Bombay at Goa (Shri A.A. Parulekar v/s Goa State Information Commission and others) and Hon'ble High Court of Delhi (Col. Rajendra Singh v/s Central Information Commissioner and others) with a prayer that penalty not be imposed on PIO as he has furnished information pertaining to the Appellant within the stipulated time.
7. The Appellant stated that the rules governing service matters, information of public servants cannot be called as personal information, whereas the service matters are quasi judicial in nature and thus the rejection of this information is discriminative. That the disciplinary actions or complaints against a public servant cannot fall under private domain. That the orders or minutes of the meeting discussed by the officials, are the routine working modules falling under public activity and cannot be termed as personal information.
8. The Appellant alleged corruption and malpractices in the process of promotions of police personnel, and claimed the working module of promotional board is discriminative, hence she needs this information to seek justice.
9. On perusal of submissions it is seen that the Appellant, who is an employee of the Police Department has sought information such as minutes of DPC meetings, recruitment and promotion rules, details of departmental enquiries/criminal cases under investigation or pending trial or convicted, minutes of meetings of suspension review committee, status of criminal case registered against her etc. The Appellant is aggrieved and believes that she has been denied the promotion while some other colleagues are awarded the promotion. The PIO did furnish information but pertaining only to her.

10. The Hon'ble High Court of Bombay at Goa in **Kashinath Shetye v/s Public Information officer and Ors. (W.P. No. 1/2009)** has held in para No. 7 as under:

"7. The first thing that needs to be taken into consideration is that the petitioner is a public servant. When one becomes a public servant, he in strict sense becomes a public servant and as such, every member of public, gets a right to know about his working, his honesty, integrity and devotion to duty. In fact, nothing remains personal while as far as the discharging of duty. A public servant continues to be a public servant for all 24 hours. Therefore, any conduct/ misconduct of a public servant even in private, ceases to be private. When, therefore, a member of a public, demands an information as to how many leaves were availed by the public servant, such information though personal, has to be supplied and there is no question of privacy at all. Such supply of information, at the most, may disclose how sincere or insincere the public servant is in discharge of his duty and the public has a right to know."

11. The PIO has relied upon some Judgments of Hon'ble High Court and the Apex Court. However referring the case of Girish Ramchandra Deshpande v/s Central Information Commission and others, Canara Bank V/s C.S. Shyam and Anr., R.K. Jain v/s Union of India, C.B.S.C. and Anr. v/s Aditya Bandopadhaya and others, the Hon' Supreme Court in Central Public Information Officer, SC of India v/s Subhash Chandra Agarwal (C.A. No. 10045/ 2010) in para 59 has held:-

"59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status,

marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive.”

12. In the backdrop of above discussion and subscribing to the ratio laid down by the Apex Court, it is the considered opinion of this Commission that the PIO is required to furnish the information sought by the Appellant except in the matters which are under enquiry/ investigation. However considering the fact that the PIO has furnished part information within the stipulated period, levy of penalty on PIO is not warranted.
13. In view of the above finding the appeal is disposed with the following order:-
 - a) The appeal is partly allowed.
 - b) The PIO is directed to furnish remaining information sought by the Appellant vide application dated 18/12/2020, except the matters which are currently under enquiry/investigation. The PIO shall furnish this information within 15 days from the date of receipt of this order, free of cost.
 - c) Prayer for penalty against PIO is rejected.

Proceeding 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

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