

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Complaint 20/2019/CIC

Shri Prakash Matonkar,
H. No. 79, Seraulim,
Salcete Goa, 403708.

.... Complainant

V/s

1. Public Information Officer,
Planning Section, Directorate of Education,
Porvorim-Goa.
2. First Appellate Authority,
Directorate of Education,
Porvorim – Goa, 403001

..... Respondent/Opponent

Filed on : 22/02/2019

Decided on : 20/08/2021

Relevant dates emerging from appeal:

RTI application filed on	: 06/08/2018
PIO replied on	: nil
First appeal filed on	: 20/09/2018
FAA order passed on	: Nil
Second Appeal/Complaint received on	: 22/02/2019

ORDER

1. The Complainant Shri. Prakash Matonkar R/o. Seraulim, Salcete, vide application dated 06/08/2018 under section 6(1) of the RTI Act, 2005 (RTI Act, 2005) had sought from Public Information Officer (PIO), Directorate of Education, Porvorim-Goa, information regarding appointment of Head Masters of some High Schools and Principals of some Higher Secondary Schools. The said application was transferred on 09/08/2018 by the PIO, Assistant Director of Education (Acad) to the Opponent No. 1 PIO, Planning Section, Directorate of Education, Porvorim-Goa.

2. It is the contention of the Complainant that he did not receive reply from the PIO within 30 days as mandated by the RTI Act and hence, the Complainant filed first Appeal dated 20/09/2018 before the Opponent No. 2, First Appellate Authority. However, the FAA did not pass any order on the first Appeal. Being aggrieved, the Complainant filed Second Appeal/Complaint dated 22/02/2019 praying for information, penalty upon PIO u/s 20 and cost of the Appeal.
3. Notice was issued to the concerned parties and matter was taken up for hearing on 15/03/2019 before the then Chief Information Commissioner. During the hearing dated 29/04/2019, present proceedings being a Complaint under section 18, the Complainant was asked to file on record the name and address of the concerned PIO. However, inspite of several opportunities given to the Complainant the details of PIO were not filed before the Commission.
4. Meanwhile, the then Chief Information Commissioner, demitted the Office and the matter was adjourned and later was transferred to the State Information Commissioner. Further the then State Information Commissioner demitted the Office and the matter was kept in abeyance. The proceedings of this Complaint resumed on 17/03/2021 upon joining of new State Information Commissioner. Neither the Complainant nor the Opponents attended the hearing despite service of notice. Later it was seen from the records that the PIO Shri. Cajetan Fernandes had filed the reply alongwith enclosures of the information sought by the Complainant, received in the Registry dated 01/10/2020. Copy of the reply could not be furnished to the Complainant on account of his absence. Even otherwise, the present proceedings being a Complaint, this Commission has no jurisdiction to direct furnishing of the information under section 18 of the Act, which is also the ratio laid

down by the Hon'ble Supreme Court in Civil Appeal Nos. 10787/10788 of 2011 (Chief Information Commissioner and another V/s State of Manipur and another).

5. As per section 7(1) of RTI Act, 2005 the PIO is bound to reply the RTI application within 30 days from the date of application. In this case as per the records it is clear that the PIO did not bother to reply within 30 days. The PIO is hereby reminded that the Right to Information Act, 2005 goes to an extent of making a Government Officer personally and financially liable for not providing information that has been asked by the citizen. Considering the fact that no detail of the then PIO were filed by the Complainant and later the present PIO Shri. Cajetan Fernandes attended the hearing and made attempt to compile and furnish the information, the Commission has taken lenient view on the initial violations committed by the PIO
6. The FAA did not entertain the first Appeal when tendered by the Complainant. It is observed from records that inspite of due service of notice of this Complaint, the FAA has not filed any say disputing the said issue raised by the Complainant. Section 19(1) of the RTI Act, 2005 provides filing of the first appeal before the FAA. Right to file first Appeal is a statutory right and seeker cannot be deprived of the same. Practice of refusal to entertain the first Appeal is not in conformity with the provisions of the RTI Act. However, there is no provision under the RTI Act, 2005 conferring powers to the Commission to impose penalty or initiate disciplinary proceedings against the FAA.
7. In the light of above discussion, the Commission passes the following order:-
 - (a) PIO is directed to be more diligent and responsible while dealing with the RTI applications.

(b) The FAA is directed to ensure that the first Appeal are dealt as per the provisions of the Act.

(c) The Director of Directorate of Education, is directed to depute all PIOs and FAAs of various sections of the Directorate for training on the provisions of the RTI Act and obligations of the Public Authority under the said Act. The Registry is directed to send a copy of this Order to the Director, Directorate of Education, for Compliance

8) Hence the Complaint is disposed accordingly and proceedings stands 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