

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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Appeal No. 11/2022/SCIC

Navin Shirodkar,
CS1, Mystical Rose Apartment,
Dicarpali-Davorlim, Salcete-Goa 403707.

.....Appellant

V/S

1. The Public Information Officer,
Directorate of Art and Culture,
Panaji-Goa 403001.

2. The First Appellate Authority,
Directorate of Art and Culture,
Panaji-Goa 403001.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 07/01/2022

Decided on: 14/07/2022

FACTS IN BRIEF

1. The Appellant, Navin Shirodkar, r/o. CS1, Mystical Rose Apartment, Dicarpali-Davorlim, Salcete-Goa by his application dated 06/10/2021 filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), Directorate of Art and Culture, Panaji-Goa.
2. The said application was responded by the PIO on 05/11/2021 in the following manner:-

“Information sought under Right to Information Act, 2005.

Sr. No.	Particular	Information sought
1	Copy of advertisement of Art & Culture advertisement date 06/08/2019 Adv No. DAC/5/Admn/02/Newposts/2019/2405	Copy of advertisement is enclosed.
2	Copy of selected list for the posts of accompanists advertisement date 06/08/2019	The selected list is enclosed.

3	Copy of mar list for the post of accompanists advertisement date 06/08/2019	The details are enclosed.
4	Copy of answer sheet of all selected candidates applied for the post of accompanists	Seeking such information would lead to divert substantial resources.
5	Copy of sitting arrangement list published for the accompanists advertisement date 06/08/2019	The details are enclosed.
6	Inspection of documents of the candidates applied for the post of accompanists	Inspection of documents may be done during office hours i.e morning session from 09 th to 12 th , November 2021 (any one day) giving prior intimation to this office.

3. Feeling aggrieved and dissatisfied with the reply of the PIO, the Appellant preferred first appeal under section 19(1) of the Act, before the Director, Directorate of Art and Culture at Panaji-Goa being the First Appellate Authority (FAA).
4. Since the FAA failed to hear and dispose the first appeal within stipulated time, the Appellant preferred this second appeal before the Commission under section 19(3) of the Act with the prayer to direct the PIO to furnish the information, to impose the penalty for causing delay in providing the information and to award compensation.
5. Notice was issued to the parties, pursuant to which the PIO, Shri. Ashok Parab appeared and filed his reply on 22/02/2022, the representative of the FAA, Shri. Ridesh Dabholkar appeared and placed on record the reply of the FAA dated 22/02/2022.
6. Perused the pleadings, replies, rejoinder and scrutinised the documents on record.

7. It is admitted fact that, the Appellant by affecting the requisite fee on 08/11/2021 collected the information provided by the PIO, he also carried out the inspection of documents on 09/11/2021. According to Appellant, he received the information with regards to point No. 1,2,3,5 and 6, therefore the controversy remains only with regards to the information at point No. 4.
8. The information on point No. 4 of the RTI application reads as under:-

"Copy of answer sheet of all selected candidates applied for the post of Accompanists."

The same was replied by the PIO as under:-

"seeking such information would lead to divert substantial resources."

9. It is a matter of fact that, the Appellant was not candidate for the said post, however he is stranger to the examination, interview and recruitment process. It is admitted that the Appellant has received the details of the candidates who are selected for the post of Accompanists alongwith their category and discipline. The record also reveals that the Appellant also provided with the marks obtained by all the candidates in the written test as well as in the skill test. However the grievance of the Appellant that he has not been provided the copy of the answer sheet of all the selected candidates.

No doubt, the Right to Information Act is an effective device, which if utilised judiciously and properly, would help the citizen to become more informed, even though the applicant need not to disclose the reasons as to why he is seeking the information. However indiscriminate efforts to secure information just for the

sake of it, and without there being any useful purpose to serve/ public interest would only put enormous pressure on the limited human resources that are available. Diversion of such resources for this task would obviously be at the cost of ordinary functioning.

10. Apart from that, providing the copy of the answer sheet of all selected candidates cannot be blankly provided to the Appellant as it relates to personal information and same is exempted under section 8(1)(j) of the Act which reads as under:-

“ 8. Exemption from disclosure of information.

_____ (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,_____

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.”

From the bare reading of the above provision make it clear that, if one were to ask information about a third party and if it were invade the privacy of the individual the information can be denied.

11. To understand the scope of information which is protected from disclosure under the RTI Act, it is relevant to identify the nature of information which may be termed as personal

information, as the Act does not put forth the definition of term personal information. However the personal information has been broadly indicate by the Hon'ble Supreme Court in the case of **Central Public Information Officer, Supreme Court of India v/s Subhash Chandra Agarwal (C. A. No. 10044/2010)** in the following manner:-

*"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. On the other hand, if one were to seek the information about himself or his own case, the question of evasion of privacy of his own self does not arise. Therefore, when a citizen seek information about his own case and as long as the information sought is not exempt in terms of other provisions of the Act, the information cannot be denied.

13. Hon'ble Supreme Court in the case **Kerala Public Service Commission & Ors. v/s State Information Commission & Anrs (2016 (3) SCC 417)** has been held that:-

"9. In the present case the request of the information seeker about the information of his answer sheets and details of the interview marks can be and should be provided to him. It is not something which a public authority keeps it under a fiduciary capacity. Even disclosing the marks and the answer sheets to the candidates will ensure that the candidates have been given marks according to their performance in the exam. This practise will ensure a fair play in this competitive environment, where candidate puts his time in preparing for the competitive exams."

14. Undisputedly in the present case the information seeker is a stranger to the examination process, however he is seeking the answer sheet of all the selected candidates. On perusal of appeal memo, it does not contain even a whisper as to how disclosure of information is going to serve a larger public interest. It is pertinent to mention at the outset that no specific allegation have been levelled by the Appellant with regards to element of bias or illegality in examination process. The Appellant has miserably failed to establish that there was larger public interest involve.
15. Another aspect which is to be considered that, examination process can never satisfy everyone. If there is no confidentiality attached to the system, then there will be no end to the process. In the name of transparency, one cannot allow a system to collapse. The system of examination as adopted is a time tested one and the same is working quite well. If the answer sheets of all the candidates are allowed to be disclosed and if the identity of the examiners become known, may lead to serious consequences.

16. The full bench of decision of Central Information Commission in the case **Rakesh Kumar Singh & Ors. v/s Lok Sabha Secretariat, Delhi Jal Board (Appeal No. CIC/WB/A/2006/00469)** has observed that:-

"42..... The proceeding of the Departmental Promotion Committee or its Minutes are not covered by any of the exemption provided under section 8(1) and therefore, such proceeding and minutes are to be disclosed. If a written examination is held for the purpose of selection or promotion, the concerned candidate may ask for a copy of the evaluated answer sheet from authority conducting such test/examination. The right to get an evaluated answer sheet does not, however extend to claiming inspection of or getting a copy of the evaluated answer sheet concerning other person in any case..... "

The reason for not allowing the answer sheet of all candidates is that it would cause unwarranted invasion of the privacy of those individual and might cause embarrassment to them.

17. The Hon'ble Supreme Court in the case of **Central Board of Secondary Education and Another v/s Aditya Bandopadhyay and others (C. A. No. 6454/2011)** in para No. 33, observed as under:-

"33. Some High Courts have held that section 8 of RTI Act is in the nature of an exception to section 3 which empowers the citizens with the right to information, which is a derivative from the freedom of speech; and that therefore section 8 should be construed strictly, literally and narrowly. This may not be the correct

approach. The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. One is to bring about transparency and accountability by providing access to information under the control of public authorities. The other is to ensure that the revelation of information, in actual practice, does not conflict with other public interests which include efficient operation of the governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information."

Moreover it is pertinent to note that the Hon'ble Supreme Court allowed only examinees to have inspection of their answer books.

18. Another grievance of the Appellant with respect to furnishing of incomplete information is that, the PIO did not provide him the copy of application form, educational qualification, employment card, caste certificate of selected candidates.

On perusal of the RTI application dated 06/10/2021 it reveals that he has not sought the information with respect to information such as educational qualification, employment card or caste certificate etc. The Commission finds that the demand of the Appellant at the appellate stage is beyond his application.

Under normal circumstances, the Appellant has no authority to request for further information at the level of appeal, but he is free to move a fresh application under section 6 of the Act to obtain the same. The above view is fortified by the Delhi High Court in case **Vandana Mital v/s Central Information Commission & Ors ((LNIND) 2009 DEL 4510)** and held that,

the Commission being quasi-judicial appellate authority expected to deal with grounds urged before it and cannot embark on what transpired during the course of hearing.

19. In the light of above legal position and considering the facts and circumstances as discussed above, I find no merit in the appeal and consequently, I am not inclined to impose penalty as prayed by the Appellant. Therefore, I dispose the appeal with the following:-

ORDER

- The appeal is dismissed.
- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner