

GOA STATE INFORMATION COMMISSION

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

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Appeal No. 121/2022/SCIC

Shri. Ramchandra M. Barve,
H.No. 622, Bhatwadi,
Korgao, Pernem-Goa.

.....Appellant

V/S

1. The Director of Accounts/
First Appellate Authority,
Directorate of Accounts,
Panaji-Goa.

2. The Public Information Officer,
Dy. Director of Accounts,
Directorate of Accounts,
Panaji-Goa.

3. The Dy. Director of Accounts,
Directorate of Accounts,
PA-I Section,
Panaji-Goa.

4. Shri. Damodar Barve,
F-2, A-2, Yashodhan Building,
Near Saibaba Temple,
Verla-Canca, Mapusa-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 28/04/2022

Decided on: 10/11/2022

ORDER

1. The Appellant, Shri. Ramchandra M. Barve r/o. H.No. 622, Bhatwadi, Korgao, Pernem-Goa filed his objection letter being third party application before the designated Public Information Officer (PIO), Deputy Director of Accounts, Directorate of Accounts, Panaji-Goa on 03/01/2022 requesting not to furnish the information as the information sought by the applicant such as the documents pertaining to pension noting sheet etc is personal information and said information is exempted from disclosure under Section 8(1)(j)

of the Right to Information Act, 2005 (hereinafter to be referred as 'Act'). In the said third party application the Appellant also contended that, information sought has no nexus with any public interest or public authority therefore the Appellant has strong objection to divulge the personal information.

2. Pursuant to the above objection letter, the Respondent No. 2, the PIO, Deputy Director of Accounts by letter dated 18/01/2022 informed the original applicant i.e. Respondent No. 4 that information sought for could not be furnished due to objection of the third party and also being said information was exempted from disclosure under Section 8(1)(j) of the Act.
3. Aggrieved with the reply of the Respondent No. 2, the Respondent No. 4 preferred first appeal on 12/01/2022 before the Directorate of Accounts at Panaji Goa being the First Appellate Authority (FAA).
4. The FAA by its order dated 02/11/2022 allowed the first appeal and directed the PIO (Respondent No. 2) to provide copies of the documents with regards to point No. 1,3 and 4 except which contains personal information of Appellant, Shri. Ramchadra Barve.
5. Aggrieved and dissatisfied with the order of the FAA, the Appellant landed before the Commission with this third party appeal under Section 19 of the Act, with the prayer to quash and set-aside the order of the FAA dated 02/11/2022.
6. Notices were issued to the parties, pursuant to which Ms. Siddha Kurtikar appeared on behalf of Respondent No. 1, FAA, the PIO, Shri. Dilip Kaskar appeared in person, Smt. Cherly D'souza present on behalf of Respondent No. 3 and placed on record the reply of Respondent No. 1,2 and 3. Notice issued to the Respondent No. 4 through postal speed post returned back with the endorsement "Unclaimed Return to Sender".

7. Admittedly, inspite of the order of the FAA dated 02/11/2022, the PIO did not release the information and issue has kept in abeyance till the disposal of this second appeal.
8. The main grievance of the Appellant in this third party appeal is that, he has not given reasonable opportunity of being heard by the FAA prior to arrival of the decision in first appeal proceeding.
9. A perusal of the impugned order indicate that there is much substance in what has been contended on behalf of the Appellant. It is also admitted by all the Respondents in reply dated 21/07/2022 at para No. 8 which reads as under:-

"VIII. It is agreed that Shri. Ramchandra Barve was not called for the hearing at the First Appeal, the same was unintentional and not to defer him of his right but was more due to inadvertence."

From the above, it is clear that, inspite of the objection filed by the third party from releasing his personal information, no reasonable opportunity was granted to the Appellant. The FAA thus violated the provision provided under Section 19(4) of the Act.

10. Under Section 19(1) of the Act, the first appeal is preferred to an officer who is senior in rank to the PIO. Deciding the first appeal under the Act is a quasi-judicial function. It is settled preposition of law that, the adjudicatory process essentially has to be in consonance with the principles of natural justice. It is not expected, the FAA to breach this principle. The Courts, Tribunals or any Commissions even made compliance to the principle of rule of natural justice obligatory, even in the class of administrative matters as well.
11. On perusal of record it can be seen that, information sought pertains to the pension case of the Appellant. The FAA has directed

the PIO to disclose the information belonging to the third party, such information cannot be disclosed without complying with mandatory requirement of Section 11 of the Act. The third party must have an opportunity of being heard and this could be done only in the event that such a party is made a party to the proceeding before the First Appellate Authority.

12. All these material aspect have been overlooked by the FAA. Considering the above fact, the matter is remanded back to the First Appellate Authority (FAA), which after hearing the Appellant on being made a party before it, to pass an appropriate order within 45 days which it thinks fit and proper according to law.

- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner