

**GOA STATE INFORMATION COMMISSION**

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**Appeal No. 284/2019/CIC**

Shri. Prasad V. Surlikar,  
H.No. 653,  
Near Gomantak Printing Press,  
St. Inez, Panaji-Goa.

.....Appellant

V/S

1. Public Information Officer,  
Principal, Sanjay School,  
Porvorim-Goa.

2. The Member Secretary / FAA,  
Sanjay School,  
Porvorim-Goa.

.....Respondents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 05/09/2019**

**Decided on: 22/03/2022**

**FACTS IN BRIEF**

1. The Appellant, Shri. Prasad V. Surlikar, H.No. 653, Near Gomantak Printing Press, St. Inez, Panaji-Goa by his application dated 31/12/2018 filed under section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought information on 4 points from the Public Information Officer (PIO) of Sanjay School, Porvorim, Bardez-Goa.
2. The said application was replied by the PIO on 28/01/2019, stating that information at point No. 1 and 4 is not available, information at appoint No. 2 is not specific and hence cannot be furnished and information at point No. 3 is of personal in nature and therefore exempted from disclosure under the Act.
3. Not satisfied with the reply of PIO, the Appellant filed first appeal under section 19(1) of the Act, before the Member Secretary, of Sanjay Centre for Special Education Goa, Porvorim, Bardez-Goa being the First Appellate Authority (FAA).

4. The FAA by its order dated 19/02/2019 partially allowed the first appeal and directed the PIO to furnish the available information free of cost and with respect to information which is not available, directed the PIO to forward the application to the concerned authority or to inform the Appellant to apply to the authority concern.
5. Since the Appellant did not receive the information, he preferred this second appeal before the Commission under section 19(3) of the Act, with the prayers such as directing the PIO to provide information free of cost, to impose penalty on the PIO and to award compensation to the Appellant.
6. Notice was issued to the parties, pursuant to which PIO, Tatu Kudalkar appeared on 05/11/2019 and filed his reply, FAA Ms. Sheru Shirodkar appeared and filed her reply on 25/11/2019.
7. I have perused the pleadings, reply, scrutinised the documents on record, considered the written submission and judgement relied upon by the parties.
8. On perusal of records, it reveals that during the course of hearing on 15/01/2020, PIO, Tatu Kudalkar submitted that he has complied with the order of FAA and furnished all available information to the Appellant vide letter No. SS/RTI/24/2019-20/448 dated 28/11/2019 and also produced a bunch of documents on record alongwith compliance report.
9. Record indicate that, the public authority previously known as Sanjay School of Special Education is involved in providing education to the special students and said the institution was under the Institute of Public Assistance, Provedoria at Mala, Panaji Goa. However said school is now registered as autonomous society under Indian Societies Act vide Order No. 3-43/09-10/AE-DE dated 26/08/2010 and formed a separate entity i.e Sanjay Centre for Special Education Goa, Porvorim, Bardez -Goa.

10. During the course of arguments, the representative of the Appellant, Shr. Uday Priolkar submitted that he has received the information as regards to information on point No. 1 and 2 and therefore the controversy that remains now is in respect to information on point No. 3 and 4 only.

11. The information sought by the Appellant at point No. 3 is as under:-

“Copies of the earned leave application, Leave Sanction Order to attend classes of Indira Gandhi Open University to complete B.Ed. in Special Education by Tatu Kudalkar and a copy of NOC issued to him to complete the degree course of B. Ed. in Special Education, copies of the Attendance Certificate from 2007 to January 2016.”

A perusal of the above would make it clear that, he is seeking the information in respect of the earned leave of the Headmaster, Shri. Tatu Kudalkar, which was earlier denied by the PIO being exempted from disclosure as personal information. However records reveal that upon the direction of FAA, the PIO has furnished the above information on 15/01/2020 which includes application for earned leave dated 12/09/2007, 19/10/2017, 04/06/2018, 11/09/2018, 29/10/2018, 21/12/2018, 29/03/2019, 30/04/2019 and 30/08/2019 and sanction order from the Member Secretary dated 19/09/2017, 30/10/2017, 22/06/2018, 01/10/2018, 13/12/2018, 03/01/2019, 16/01/2019, 12/04/2019, 27/05/2019 and 19/09/2019.

Subsequently the PIO has also furnished to the Appellant the copy of earned leave application dated 31/05/2011 and 11/05/2012 alongwith order of Member Secretary dated 23/08/2011 and 15/15/2012.

12. The PIO has also produced on record the copy of application seeking permission from the Director of Institute of Public Assistance (Provedoria) dated 27/07/2010 and the order dated 13/08/2020, wherein Shri. Tatu Kudalkar , Special Educator of Sanjay School was granted permission by the Institute of Public Assistance (Provedoria), Mala, Panaji- Goa to pursue higher studies i.e Special B.Ed in hearing Impaired through Indira Gandhi National Open University. He also produced/ furnished the attendance roll/monthly muster book from 2010 to 2014 of Shri. Tatu Kudalkar.
13. With regards to information on point No. 4, the PIO in first instance replied that said information is not available in the records of PIO, however upon the direction of FAA, PIO transferred the said application under section 6(3) of the Act to the PIO of Institute of Public Assistance (Provedoria) on 31/12/2018.

In reply to the same, the PIO of Institute of Public Assistance (Provedoria) Mala, Panaji-Goa, Smt. Sushila L. Naik by letter No. 1-32)/2019/RTI/IPA/296 dated 25/09/2019 replied as under:-

“In this regards, I am to inform you that Sanjay School was the part and parcel of IPA (Provedoria). On 19/11/2010 Sanjay School has been transferred from IPA (Provedoria) and formed a separate society vide order No. 3-43/09-10/AE-De dated 26/08/2010 alongwith its assets and liabilities.

Consequent upon the information as an independent institution all the personal files and files relating to DSC/DPC were forwarded to Sanjay School vide letter No. 8-240-2010/IPA/2139 dated 27/10/2010 and No. 2-16-2013-14/IPA/61 dated 07/04/2014.

Hence information sought at Sr.No. 4 vide your application dated 31/12/2018 is not available with this office.”

14. Since the Sanjay School (public authority) is now controlled by Directorate of Education, the Commission directed the FAA/Member Secretary to procure the same from either Education Department or from the Administrative Section of public authority.

15. In the course of hearing on 21/01/2020, with the consent of both the parties, the Commission fixed the joint inspection of the records in the office of Member Secretary at Porvorim on 22/01/2020 at 10:30 am, in the presence of some staff member and also directed the Appellant to prepare the list of available and non-available records. Record reveals that joint inspection was held on 22/01/2020 and accordingly the list of available and non-available information was prepared by the representative of the Appellant which is placed on the record. The available information has been furnished to the Appellant including the application and Bio data of Tatu Kudalkar, experience certificate, letter of appointment, Joining report, copy of approval of VIth Pay Part 'B' scale, statement of fixation of pay etc.

16. On the list of non-available information the Appellant pointed out that part of the attendant Register, leave sanctioned register and NOC issued to pursue with IGNOU was not available in the records.

Considering the above, even though it is not specifically sought by the Appellant in his original RTI application. The Commission in exercising the powers under Rule 5(1) of Goa State Information Commission (Appeal Procedure) Rules 2006 directed the PIO to file affidavit affirming the non existence of said documents in the records of public authority.

17. Pursuant to the direction, the Affidavit has been filed by the then PIO, Shr. Tatu Kudalkar on 16/03/2021, stating that all the information available with the Sanjay School has been furnished to

the Appellant and categorically mentioned that Appellant has personally inspected all the files and taken copies of all the documents required by him.

The present PIO, Mr. Dilip S. Morajkar also appeared and filed his Affidavit and specifically mentioned that all the information available with the Sanjay Centre has been furnished to the Appellant and no more information is available with office records.

18. The Appellant not satisfied with the contention of the PIO and FAA, argued that the PIO has deliberately and with malafide intention denied the information and insisted for imposition of penalty under section 20 of the Act. To substantiate his case he relied upon the judgement of High Court of Punjab and Haryana in the case of Punjab Public Service Commission v/s Rajiv Kumar Goyal (2008 (1) RTI 133). In the said judgement the Hon'ble Punjab and Haryana High Court has discussed section 4 of the Act, which is the obligation of all public authorities to maintain all its records duly catalogued and indexed in a manner and the form which facilitates the information seeker. The facts and circumstances are different in the instant case, therefore same is not at all relevant here in the present case.

He also relied upon the judgement of High Court of Allahabad in the case of Praveen Verma s/o Sri Triloki Nath Srivastava v/s the Hon'ble Court of Judicature through its Registrar General and Ors. (2008 (1) RTI 137); Judgement of High Court of Bombay at Goa in the case of Kashinath Shetye v/s Public Information Officer and Ors (W.P. No. 1 of 2009); Order of GSIC in the case of Uday Priolkar v/s The State Information Officer (Penalty case No. 29/2010). However all the above judgements are distinguishable and not relevant to the facts and circumstances of the present case.

19. PIO on the receipt of the RTI application dated 31/12/2018 promptly on the same day send a note to his senior officer, the Member Secretary requesting to supply the information, therefore again on 23/01/2019 sent a reminder and upon receiving the information on 24/01/2019 dispatched the information to the Appellant on 28/01/2019 by Registered A/D under section 7(1) of the Act. The PIO is required to dispose the request of the seeker within 30 days. Disposal of request may result in furnishing of information or rejecting the request. However any such exercise has to be completed within 30 days. Here in the case in hand, the PIO replied the RTI application i.e on 28/01/2019 within stipulated time.

The record also reveals that, PIO upon receipt of the order of FAA on 27/08/2019, immediately transferred the RTI application on 29/08/2019 to the PIO of Institute of Public Assistance (Provedoria) Panaji Goa to furnish the information on serial No. 4 and also on the same day transferred the RTI application to the PIO of Goa University, Taleigao Goa to furnish the information at serial No. 2 and 4 of the application. From the above events, it appears that the PIO has taken the reasonable efforts to search and locate the information.

20. Another aspect which is required to be noted that, PIO of the Institute of Public Assistance (Provedoria), Panaji by letter dated 25/08/2019 informed that all the records relating to Sanjay School were forwarded to new authority on 27/10/2010 and on 07/04/2014. However same is a mere general statement, without substantiating anything regarding the transfer of DPC file or file of Recruitment Process. Commission do not find any inventory of documents brought on record while doing the transfer of records by the Institute of Public Assistance (Provedoria) Panaji to Sanjay Centre for Special Education, Porvorim Goa

or any acknowledgement receipt of such file and documents. Unless and until there is cogent and convincing evidence on record to show that said documents were duly transferred to Sanjay Centre for Special Education consequent upon the formation as an independent institution we cannot hold that the said documents are held by the present public authority and that the PIO has malafidely and deliberately withheld the information. As far as the RTI Act is concerned, it can only facilitate in providing information to the citizens in case it is available with the public authority. The then PIO, Tatu Kudalkar and Dilip Morajkar by an affidavit on oath clearly stated that, no such documents are available in the records of public authority.

21. Considering the above facts, the then PIO and present PIO has categorically stated that part information on point No. 4 is not available being not traceable. The question of any direction to furnish such information does not arise.

22. In the above circumstances, I find that the information as available is duly furnished to the Appellant free of cost. I therefore find no ground to impose penalty on PIO or to award the compensation to the Appellant as prayed by the Appellant. The appeal is therefore disposed by following:-

### **ORDER**

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

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner