

GOA STATE INFORMATION COMMISSION

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

Tel No. 0832-2437908/2437208 email: spio-gsic.goa@nic.in website: www.gsic.goa.gov.in

Appeal No. 69/2022/SCIC

Shri. Tukaram Appa Patil,
R/o Sunshine Hill, A5/408,
Jagdamba Bhavan Marg,
Near Bricks Institute,
Pisoli-Pune (M.H) 411060

.....Appellant

V/S

1. The State Public Information Officer,
Office of the Director,
Directorate of Technical Education,
Porvorim, Bardez-Goa 403501.

2. The First Appellate Authority,
The Director of Education,
Directorate of Technical Education,
Porvorim, Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 11/02/2022

Decided on: 12/09/2022

FACTS IN BRIEF

1. The Appellant, Shri. Tukaram Appa Patil r/o Sunshine Hill, A5/408, Jagdamba Bhavan Marg, Near Bricks Institute, Pisoli-Pune, Maharashtra, 411060, by his application dated 09/12/2021 filed under Sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer, the Director of Technical Education, Porvorim, Bardez-Goa:-

"1. Certified copy of the Noting sheet wherein the permission has been granted by Govt. (Chief Minister) to issue speaking order as regards to erroneous Promotion & Excess Pension Fixation of Mr. S.G. Ekawade, Ex-Store Officer, Govt. Polytechnic, Panaji-Goa.

2. Certified copy of the Noting sheet wherein the permission has been granted by Govt. (Chief Minister) to closed the Investigation carried out as against the matter of erroneous Promotion & Excess Pension Fixation of Mr. S.G. Ekawade, Ex-Store Officer, Govt. Polytechnic, Panaji-Goa."

2. The said application was responded by the PIO on 04/01/2022 in the following manner:-

"With reference to your application for information under Right to Information Act, received in this Directorate, the copies of available information submitted by Dy. Director (Administration) of this Directorate is enclosed.

The copies of the noting referred to therein comprises of 05 pages and can be collected upon payment of Rs. 10/- (Rs. 2/- per page) in the Accounts Section of this Directorate. "

3. Feeling aggrieved and dissatisfied by the reply of the PIO, the Appellant preferred first appeal on 14/01/2022 before the Directorate of Technical Education at Porvorim Goa being the First Appellate Authority (FAA).
4. The FAA by its order upheld the reply filed by PIO and dismissed the first appeal on 09/02/2022.
5. Being aggrieved with the order of the FAA, the Appellant through registered post landed before the Commission with this second appeal under section 19(3) of the Act with the prayer to direct the PIO to provide complete and correct information.
6. Parties were notified, pursuant to which the Appellant opted not to remain present for hearings, the PIO Shri. Pradip Kusnur appeared

and filed his reply on 12/04/2022. He also placed on record the reply of the FAA dated 12/04/2022.

7. Perused the pleadings, replies and considered the Memorandum of written statement filed by the Appellant through registered postal services.
8. On perusal of the reply dated 04/01/2022 filed by the PIO to the RTI application, which is reproduced hereinabove at para No. 2, it is seen that the PIO was not unwilling to provide the information however, informed the Appellant to collect the information by paying requisite fee in Accounts Section of the office of public authority. The PIO also produced on record the Inward and Outward register of the public authority to confirm the above fact. On careful reading of the said Inward/Outward Register it is revealed that by letter No. DTE/CAD/SPIO/2007/3317 same was dispatched to the Appellant on 04/01/2022.
9. On going through the order of the FAA dated 09/02/2022 more particularly the operative part of the said order reads as follows:-

"Upon examining the documents, and ascertaining the facts of the matter from the Respondent PIO, the undersigned passes order as below:-

Respondent Public Information Officer has performed his duties under Right to Information Act, in true letter and spirit, within the time limit specified, and conveyed the information to the Appellant, made available by the concerned section in the Directorate.

Respondent PIO in this Directorate has provided the information sought, within the time limit prescribed the RTI. Appellant may collect the copies of information sought, upon payment of the amount, as intimated by the Respondent PIO.

The prayer of the Appellant is not at all justified, in view of the Respondent PIO having furnished the reply within the stipulated time period.

Appeal is accordingly disposed off."

10. During the course of hearing the PIO also pointed out that upon receipt of intimation, the Appellant collected the purported information from the office of PIO by paying requisite fee on 30/03/2022, and also produced on record the copy of letter dated 04/01/2022 which is duly endorsed by the Appellant that "*received 5 pages on 30/03/2022 at 11:45.*" Record shows that Appellant received the information without any protest on 30/03/2022.
11. On going through the information provided by the PIO, it is revealed that on the basis of complaint lodged by the Appellant, the Directorate of Technical Education conducted the Inquiry and on examining the issue of excess pension fixation of Ex-Store Officer of Government Polytechnic Panaji, the Government of Goa was pleased to close the matter and accordingly all such information was provided to the Appellant.
12. While considering the scope of information which can be furnished under the Act, the Hon'ble Supreme Court in the case **Central Board of Secondary Education v/s Aditya Bandopadhyay (Civil Appeal No. 6454/2011)** has observed :-

"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j)

of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant."

13. In the present case, the PIO furnished the information, however the Appellant is not satisfied with the same, as the PIO did not provide the noting sheet which contains specific recommendation recorded by the Director of Technical Education closing the matter of Mr. S.G. Ekawade, Ex-Store Keeper, Government Polytechnic, Panaji.

Here in this case, the matter has been decided by the competent authority, therefore the PIO has rightly communicated the decision. The PIO further cannot justify or provide reason for decision taken by the Directorate of Technical Education.

14. In sum and substance, the PIO has furnished all the available information to the Appellant on 30/03/2022. The PIO can only facilitate in providing information to the Appellant in case the same is available with the public authority. The PIO further cannot justify or provide the reasons or merit or worthiness of the information furnished. Merit of the information is kept out of preview of the Act.

The High Court of Andhra Pradesh in the case of **Divakar S. Natarajan v/s State Information Commissioner (W.P. No. 20182/2008)** has held that:-

"16. Before undertaking further discussion as to the legality or otherwise of the order passed by the respondents, the distinction between „information“ on the one hand and the „reason“ for existence or nonexistence of a particular state of affairs on the other hand, needs to be noticed. The Act has comprehensively defined the word 'information'. It takes in it's fold large variety of source of information, including documents, emails, opinions, press release, models and data materials etc. The common feature of various categories mentioned in the definition is that they exist in one form or the other and the PIO has only to furnish the same, by way of copy or description. In contrast the reasons or basis as to why a particular state of affairs exists or does not exist cannot be treated as a source or item of information."

15. The High Court of Himachal Pradesh in case **State of Himachal Pradesh & Anrs. v/s Archit Sant & Ors. (2017 (4) ALL MR (JOURNAL)35)** has held that:-

"8.The PIO could only supply the material in any form as held by public authority in terms of Section 2(f). The Act does not require the Public Information Officer to deduce some conclusion from the material and supply the conclusion so deduced to the Appellant."

16. In the case in hand, the PIO replied the RTI application on 04/01/2022 i.e within stipulated time, since the available information has been furnished to the Appellant, I find no merit in the appeal. In the result the appeal is disposed off with following:-

ORDER

- The appeal stands dismissed.
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner