

**GOA STATE INFORMATION COMMISSION**

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**Shri. Sanjay N. Dhavalikar**, State Information Commissioner

**Appeal No. 110/2022/SIC**

Mr. John Mascarenhas,  
H.No. 120, Cuxem,  
Corjuem, Aldona,  
Bardez-Goa 403508.

-----Appellant

**v/s**

1. The Principal/ Public Information Officer,  
St. Thomas Higher Secondary School,  
Aldona, Bardez-Goa 403508.

2. The Dy. Director of Education,  
First Appellate Authority,  
North Educational Zone,  
Mapusa, Bardez-Goa 403507.

-----Respondents

**Relevant dates emerging from appeal:**

RTI application filed on	: 17/11/2021
PIO replied on	: 18/12/2021
First appeal filed on	: 14/01/2022
First Appellate Authority order passed on	: 24/02/2022
Second appeal received on	: 13/04/2022
Decided on	: 27/10/2022

**ORDER**

1. Aggrieved by non furnishing of complete information by Respondent No. 1, Public Information Officer (PIO) inspite of clear directions from Respondent No. 2, First Appellate Authority (FAA), the appellant under Section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') filed second appeal, which came before the Commission on 13/04/2022.
2. The brief facts of this appeal, as contended by the appellant are that, vide application dated 17/11/2021 he had sought certain information from the PIO. Not satisfied with the PIO's reply, appellant filed appeal dated 14/01/2022 before the FAA. The said appeal was disposed by FAA with direction to PIO to furnish the requested information within

15 days. That the PIO failed to comply with the said order, hence the appellant appeared before the Commission by way of second appeal.

3. Pursuant to the notice, appellant appeared in person praying for the remaining information. Appellant argued on 18/07/2022 and filed a submission on 04/08/2022. Appellant filed another submission on 26/09/2022. On the other hand, Advocate Dhaval D. Zaveri, Advocate Nehal Govekar and Advocate P. Vaigankar appeared on behalf of PIO. Advocate Dhaval D. Zaveri argued on behalf of PIO on 18/07/2022 and a submission on behalf of PIO was filed on 04/08/2022. Whereas, Shri. Jaiwant Naik, FAA appeared in person.
4. PIO stated that, vide reply dated 18/12/2021 he had furnished the available information. Later, during the hearing of the second appeal he furnished additional information, i.e. copy of the list of names of the duly approved School Managing Committee and also copy of the Hon'ble High Court Order disposing the matter concerning the renewal of Fransalian Education Society.
5. PIO, while relying on Hon'ble Supreme Court in Khanapuram Gandaiah v/s Administrative Officer & Ors. In SLP (c) 34868 of 2009, in C.B.S.C. & Anr. v/s Aditya Bandopadhyay & Ors. in SLP (c) No. 7526 of 2009 stated that information which is in existence and accessible to the authority can be furnished and PIO is not required to give any opinion or advice or guidance to the appellant.
6. Further, PIO has relied on Hon'ble High Court of Bombay in Dr. Celsa Pinto v/s The Goa State Information Commission, (2008 (110) Bom LR 1238), High Court of Madras in the Public Information Officer And Others v/s The Central Information Commission (Writ Petition No. 26781 of 2013 & M.P. No.1 of 2013), High Court of Delhi in Delhi Development Authority v/s Central Information Commission and Another (W.P.(c) 12714/2009). The above mentioned judgments hold

that information as defined under Section 2 (f) has to be furnished, PIO is not required to answer the questions like why, which amounts to asking the reason for a justification for a particular decision.

7. Appellant stated that, the PIO has failed to furnish complete information and that he is deliberately evading the disclosure in order to cover up misdeeds of the Managing Committee. Part of the information furnished by the PIO is false for which he should be held guilty. That the Committee has committed illegalities and the school is receiving Government grants without an approved Managing Committee from 2014 to 2018 and from 2020 till date, which is against rule 46 of the Education Act Rules 1985.
8. Appellant further submitted that, the FAA had directed the PIO to furnish the information within 15 days, however, PIO took more than 21 days to send the reply still, complete information is not provided. Appellant further stated that, Advocate Dhaval D. Zaveri had undertaken before the Commission to furnish the information, yet complete information is not furnished. The PIO has not furnished the information within the stipulated period, then after the direction of the FAA and even after the undertaking given before the Commission, hence penal action should be initiated against him.
9. Advocate Dhaval D. Zaveri, appearing for the PIO, argued stating that, appellant vide his application has raised issues against the PIO and public authority which do not come under the jurisdiction of the Commission. The information as defined under Section 2 (f) of the Act has been furnished by the PIO. Therefore, nothing more remains to be furnished with respect to the application and for other grievances appellant is required to approach other authorities like Directorate of Education.
10. On the other hand, appellant argued that eligible information under Section 2 (f) of the Act is also not furnished by the PIO inspite of

clear direction from the FAA and PIO has to be held responsible for furnishing misleading, false and incomplete information.

11. The Commission has perused the replies, submissions and heard arguments of both the sides. Upon careful perusal, the Commission registers following observations and arrives at certain findings, as mentioned below:-

a) Appellant had sought information on four points and there are sub points under point no. 1, 2 and 3.

i. Under point no. 1 (A), (B), (C), (D), (E) appellant has requested for information pertaining to the Managing Committee prior to Fr. Jerard Sahayaraj going on Extra Ordinary leave. PIO in his reply has said that, the information is not available/ traceable in the school office. However, in the opinion of the Commission, the PIO is required to maintain the said information and he has to furnish the same. PIO has produced a copy of police complaint regarding missing of school Managing Committee Meeting Minutes Book for the year 2018, 2019 and 2020. The information requested under point no. 1 is prior to 2018, hence, the same has to be available and the PIO is mandated to furnish the same.

ii. Under point no.2 (A) to (N) appellant has requested for information pertaining to Managing Committee formed from August 2018. PIO has furnished information on point 2 (A) and stated that the rest of the information is not available/ traceable. The Commission notes that School Managing Committee Meeting Minutes Book for the year 2018, 2019 and 2020 is missing and FIR has been registered, hence information pertaining to Minutes Book is not available, however, information on point no. 2 (C), (D), (E), (G), (H), (I), (J) (M) and (N) does not pertain to the Minutes Book, thus is required to be furnished.

- iii. Under point no. 3 (A) to (G) appellant has requested for information pertaining to Managing Committee formed post termination of Fr. Diago Fernandes and Fr. Valerian Carvalho . PIO has furnished information on point no. 3 (A), (B), (C), (D), (E) and (F), however, information on point no. 3 (G) has to be furnished.
  - iv. Under point no. 4 appellant has requested for information pertaining to copy of fresh renewal of Fransalian Education Society. PIO has replied that the information is not available in office. It is seen that the FAA in his order had directed to furnish the said information. Similarly, the Commission also holds that the said information has to be available in the records of the authority, hence the same is required to be furnished.
- b) Appellant while seeking information under the Act, has narrated some instances of alleged malpractices and alleged irregularities in the functioning of the public authority. The records of the present matter indicate that there is a ongoing tussle between two sides, over having control on the affairs of the school/ authority and both the sides have been making allegations and counter allegations against each other. However, the Commission is not the appropriate authority to decide about the issues raised by the appellant in his application. The jurisdiction of the Commission is limited to ensure free flow of the eligible information.
- c) The Commission, after careful perusal of the records, finds that the PIO has furnished only part of the available information and has failed to furnish the remaining part of the available information.
12. PIO has failed thrice to furnish the available information. He had on three occasions, opportunity to furnish the available information. First, during the stipulated period of 30 days, then, after the disposal

of the first appeal and later, during the proceeding of the second appeal before the Commission. The Commission also notes that the representative of the PIO on 18/07/2022 had undertaken before the Commission to furnish the available information. Information on three points was furnished on 04/08/2022 and the appellant vide submission dated 26/09/2022 have stated that the information received is incomplete.

13. Advocate Dhaval D. Zaveri, while arguing on behalf of PIO have relied on some judgments of Hon'ble Supreme Court and Hon'ble High Courts. The Commission has perused the referred judgments while identifying the information as defined under Section 2 (f) and classifying the information eligible for exemption. The Commission has also considered not traceable / unavailable information with respect to the complaint lodged by the authority in Mapusa Police Station.
14. After careful perusal of the records and the judgments of Hon'ble Supreme Court and Hon'ble High Court, the Commission as mentioned in Para 11, concludes that PIO is required to furnish the information on point no. 1 (A), (B), (C), (D), (E), point no. 2 (C), (D), (E), (G), (H), (I), (J), (M), (N) , point no. 3 (G) and point no. 4. The PIO is reminded that the Act is enacted in order to ensure smoother, greater and more effective access to information available with public authorities. The object of the Act is to ensure maximum disclosure of information and minimum exemption from disclosure. Hence, the information once created and registered in the records of the authority, and not eligible for exemption has to be in the public domain and the PIO is required to furnish the same.
15. In the light of above discussion, the present appeal is disposed with the following order:-
  - a) PIO is directed to furnish the information sought by the appellant under point no. 1 (A), (B), (C), (D), (E), point no. 2

(C), (D), (E), (G), (H), (I), (J), (M), (N) , point no. 3 (G) and point no. 4., vide application dated 17/11/2021, within 30 days from the receipt of this order, free of cost.

b) PIO is directed hereafter to respond to applications received under Section 6 (1) of the Act, within the stipulated period and furnish the information to the appellant.

Proceeding 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

