

# GOA STATE INFORMATION COMMISSION

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

**Appeal No. 167/2020**

Shri Kashinath Shetye,  
102, Raj Excellency, Patto,  
Ribandar, Tiswadi Goa

....Appellant

V/s

- 1) Public Information Officer (PIO),  
Directorate of Education, Porvorim – Goa.
- 2) Public Information Officer (PIO),  
Don Bosco High School, Panaji – Goa.
- 3) Public Information Officer (PIO),  
Mary Immaculate Girls High School,  
Panaji – Goa.
- 4) Public Information Officer (PIO),  
People's High School, Panaji – Goa/Cujira, Bambolim Goa.
- 5) Public Information Officer (PIO),  
Mushtifund High School, Cujira, Bambolim–Goa.
- 6) Public Information Officer (PIO),  
Dr. K.G. Hedgewar High School, Panaji – Goa.
- 7) Public Information Officer (PIO),  
Our Lady of the Rosary High School, Dona Paula–Goa.
- 8) First Appellate Authority (FAA)/(Formal Party),  
Deputy. Director of Education,  
Central Education Zone, Panaji – Goa.

....Respondents

Filed on: 14/10/2020

Decided on: 29/04/2022

## **Relevant dates emerging from appeal:**

RTI application filed on	: 27/05/2020
Application transferred on	: 08/06/2020
PIO replied on	: 12/06/2020, 20/06/2020, 20/06/2020, 30/06/2020
First appeal filed on	: 16/07/2020
FAA order passed on	: 14/09/2020
Second appeal received on	: 14/10/2020

## **ORDER**

1. The Second appeal filed under section 19 (3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') by the appellant Shri. Kashinath J. Shetye against Respondent No. 1, Public Information Officer (PIO), Directorate of Education, Respondent No. 2, PIO, Don Bosco High School, Respondent No. 3, PIO, Mary Immaculate Girls High School, Respondent No. 4, PIO, People's High School, Respondent No. 5, PIO, Mushtifund High School, Respondent No. 6, PIO, Dr. K. G. Hedgewar High School,

Respondent No. 7, PIO, our lady of Rosary High School and Respondent No. 8, First Appellate Authority (FAA), Deputy Director of Education came before the Commission on 14/10/2020.

2. The brief facts of this appeal are as under:-  
Appellant vide application dated 27/05/2020 sought certain information from PIOs. Part information was furnished and appellant, aggrieved by the refusal to furnish complete information, filed appeal dated 16/07/2020. FAA vide order dated 14/09/2020 allowed the appeal and directed the PIOs to furnish the complete information. However, PIOs failed to comply the order, hence appellant filed second appeal with prayers such as complete information, compliance of FAA's order, penal action against PIOs and award of compensation.
3. Pursuant to the notice, appellant and his authorised representative appeared before the Commission, filed submission dated 09/08/2021 and furnished arguments on 24/03/2022. Similarly, PIOs and /or their representative appeared and filed reply. FAA submitted his reply dated 15/09/2021.
4. Appellant stated that basically he had sought information on two points, one- list of the teachers working in schools of the PIOs and, two- copies of the residence certificates of the employees of these schools. He sought the said information from Respondent No. 1, PIO, Directorate of Education and being the parent department and controlling authority, the PIO is expected to maintain all relevant records and is required to furnish the information. However, respondent No. 1 PIO did not furnish any information.
5. Appellant further stated that Respondent No. 2, 3, 4, 5, 6 and 7 provided list of the teachers working in their respective schools. However, Respondent No. 2, 3, 6 and 7 have denied the disclosure of residence certificates, whereas Respondent No. 4 has furnished residence certificates of all except three teachers and Respondent No. 5 has furnished residence certificates of some teachers.
6. Appellant also stated that he is seeking the said information in order to expose fraud and corruption involved in the process of recruitment of teachers. Thus the information requested is in larger public interest and the same cannot be denied under the exemption clause of section 8(1)(j) of the Act. Similarly, Respondent PIOs are guilty of not furnishing the complete information inspite of the directions from the FAA.

7. Respondent No. 1 PIO, Directorate of Education submitted that she had transferred the application to the respective schools of Tiswadi Taluka, therefore she ceases to exist as PIO and the PIOs of the concerned schools are liable to furnish the requested information.
8. Fr. Avin Carvalho, PIO, Don Bosco High School, Panaji and Respondent No. 2 stated through his authorised representative Shri. Michael Manuel Louis Serrao that list of teachers has been furnished to the appellant. However, copy of residence certificates cannot be furnished since the said is third party information and the concerned teachers have requested the authority not to disclose their personal details like residential address, as a consequence he is unable to furnish the information on residential certificate.
9. Respondent No. 3, PIO, Headmistress of Mary Immaculate Girls High School, Panaji stated that copy of residence certificate of the teachers cannot be provided as the same contains personal information, as provided under section 8(1)(j) of the Act.
10. Respondent No. 4, PIO, Headmistress of People's High School, Panaji vide two submission dated 16/03/2021 and 22/09/2021 furnished copy of residence certificate of all the teachers employed in her school.
11. Respondent No. 5, PIO, Mushtifund High School, Cujira-Bambolim submitted that the school does not obtain copy of residence certificate of their teachers and this being the case, the authority is unable to furnish the requested information to the appellant.
12. Respondent No. 6, PIO, Dr. K. B. Hedgewar High School, Cujira-Bambolim stated that though initially the information was not furnished to the appellant, subsequently, after the direction from the FAA, entire information was kept ready for the appellant to come and collect and now the same has been furnished to the appellant. Advocate Johanna Collaco appeared on behalf of the PIO and confirmed the submission.
13. Respondent No. 7, PIO, Our Lady of the Rosary High School, Dona Paula provided list of teachers, yet refused to furnish copy of residence certificates of their teachers.
14. Smt. Kavita M. Naik Gaonkar, authorised representative of Respondent No. 8, FAA appeared and filed reply. FAA stated that

vide order dated 14/09/2020 he had directed the PIOs to furnish certified copies of residence certificates of all the teachers, and as per this direction PIOs were required to furnish the information.

15. After perusal of the entire records of this matter, it is seen that the appellant had requested for information on two aspects- one- list of teachers working in the concerned authorities and two- copy of residence certificate of all the teachers working in the respective schools in Tiswadi Taluka. Application was addressed to the PIO of Directorate of Education and PIOs of the respective schools. PIO, Directorate of Education, being the controlling authority of all the schools in Goa must be maintaining the said information and therefore Respondent No. 1, PIO could have furnished the information within the stipulated period. However, instead of setting an example of transparency and efficiency, which is the main aim of the RTI Act, the said PIO transferred the application to the respective schools in order to escape from the responsibility.
16. On the other hand, appellant had simultaneously marked the said application to the respective schools. He received information on first point, i.e. list of teachers. However, initially all PIOs denied the information under point No. 2, i.e. copy of residence certificate. In the considered opinion of the Commission, though the information pertaining to residence certificate appears to be of personal nature, the same comes under public domain since the residence certificate is one of the important certificate submitted for getting employment as teacher in any aided school in Goa. Also, it is important to note that the appellant, as claimed by him, is seeking this information with an intention to unearth fraudulent and corrupt practice adopted by some public authorities while recruiting teachers. Appellant has established that he will be able to serve the wider public cause with the said information.
17. Appellant Shri. Kashinath J. Shetye, while arguing on 24/03/2022 submitted that he insists for the complete information from all the respective authorities. Teachers are selected by some authorities without fulfilling the requirement of residence in Goa. Hence he wishes to pursue the matter in the court of law after getting the complete information. Appellant further stated that during the proceeding of the present appeal he received complete information from Respondent No. 3, 4, 5, 6 and 7, however Respondent No. 2, PIO Don Bosco High School, Panaji has not furnished information regarding residence certificate of their

teachers. With this, the appellant pressed for imposing penalty on Respondent No. 2.

18. It is seen that Respondent No. 3, 4, 5, 6 and 7 have furnished the entire information to the appellant, during the proceeding of this appeal, disclosure of which was objected by them initially. Only Respondent No. 2, PIO, Don Bosco High School, Panaji has denied the information under section 8(1)(j).

19. Residence certificate is one of the important certificate, considered as an essential document while seeking application from the eligible candidate for appointment in the aided schools. If such document is/are not sought from the candidate while doing appointments in the said aided school, the PIO must come clean on this. However, the PIO here has taken a position under 8(1)(J). This implies that the information is available but cannot be furnished.

20. Let us now go through Section 8(1)(j) of the Act:-

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.

21. The said information may appear to be a personal information, especially pertaining to the residential address of the teachers. But it has to be noted that under section 8(1)(j) of the Act, the exemption does not operate merely because the information sought appears to be a personal information, but further the proviso under section makes it clear that the information which cannot be denied to the Parliament or a State Legislature cannot be denied to the applicant. The Commission believes that the said information is eligible to be furnished to the State Legislature, hence there is no way the same can be denied to

the appellant. Moreover, the appellant has already established public interest and therefore meets the criteria that the section stipulates for.

22. Hon'ble High Court of Bombay at Goa in writ petition No. 1004 of 2019 (C. Radhakrishnan V/s Public Information Officer and Ors) has stated in para 27:-

*"27. There cannot be any doubt about the fact that invasion of privacy has to be construed in the facts of each case and, in any case, when it is found that divulging of such information can be said to be in larger public interest, the exemption under Section 8(1) (j) of the said Act, would not be available."*

23. Hon'ble Supreme Court in the case of Central Public Information Officer, Supreme Court V/s Subhash Chandra Agarwal (C.A. No. 10045/2010), has held in para 53 and 59:-

*"53. While clause (j) exempts disclosure of two kinds of information, as noted in paragraph 47 above, that is "personal information" with no relation to public activity or interest and "information" that is exempt from disclosure to prevent unwarranted invasion of privacy, this Court has not underscored, as will be seen below, such distinctiveness and treated personal information to be exempt from disclosure if such disclosure invades on balance the privacy rights, thereby linking the former kind of information with the later kind. This, means that information, which if disclosed could lead to an unwarranted invasion of privacy rights, would mean personal information, that is, which is not having correlation with public information".*

*"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."*

24. The above mentioned judgements have held that even when the information requested appears to be a personal in nature, it can still be divulged if it meets the criteria provided in the section itself, in larger public interest. Subscribing to the said ratio, the Commission concludes that the information regarding copy of residence certificate of teachers is required to be furnished.

25. As per the records of the present matter, Respondent No. 2 to Respondent No. 7 initially furnished information on point No. 1, i.e. list of teachers and denied the information on point No. 2, i.e. copy of residence certificate of all teachers employed in the school. However, during the proceeding of this appeal all PIOs except Respondent No. 2 PIO, Don Bosco High School, Panaji, complied with the direction of the FAA. Yet, PIO, Don Bosco High School refused to honour the provisions of the Act and did not furnish the complete information. The Commission in no way can endorse such an adamant conduct of the said PIO and thus hold that the PIO, Don Bosco High School, Panaji is guilty under section 7(1) of the Act for not furnishing the information and also for not adhering to the direction of the F.A.A. Hence, penal action under section 20 of the Act is required to be initiated against the guilty PIO.

26. In the light of the above discussion, the present appeal is disposed with the following order:-

- a) Respondent No. 2, PIO, Don Bosco High School, Panaji is directed to furnish the complete information sought by the appellant vide application dated 27/05/2020, within 20 days from the receipt of this order, free of cost.

- b) Issue show cause notice to Respondent No. 2, PIO, Don Bosco High School, Panaji, and the PIO is further directed to show cause as to why penalty as provided under section 20(1) and/or 20(2) of the Act, should not be imposed against him.
- c) In case the then PIO is transferred, the present PIO shall serve this notice alongwith the order to the then PIO and produce the acknowledgement before the Commission on or before the next date of hearing, alongwith the full name and present address of the then PIO.
- d) Respondent No. 2, PIO, Don Bosco High School is hereby directed to remain present before the Commission on 03/06/2022 at 10.30 a.m. alongwith the reply to the showcause notice.
- e) The Registry is directed to initiate penalty proceeding against Respondent No. 2, PIO, Don Bosco High School, Panaji.
- f) Respondent No. 3, 4, 5, 6 and 7 are directed to deal with applications received under section 6(1) of the Act, strictly in accordance with the law.

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