

GOA STATE INFORMATION COMMISSION

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Appeal No. 191/2020

Shri. Rama Kankonkar,
H. No. 231, Molebhat,
Curca, Bambolim, Tiswadi-Goa.

-----Appellant

v/s

1. The Public Information Officer,
Government Polytechnic,
Altinho, Panaji-Goa.

2. The First Appellate Authority,
The Principal,
Government Polytechnic,
Altinho, Panaji-Goa.

-----Respondents

Shri Vishwas Satarkar

State Chief Information Commissioner

Filed on:- 12/11/2020

Decided on: 25/11/2022

FACTS IN BRIEF

1. The Appellant, Shri. Rama Kankonkar, r/o. H.No. 231, Molebhat, Curca, Bambolim, Goa by his application dated 20/05/2020 filed under Section 6 (1) of the Right to Information Act, 2005 (hereinafter to be referred as Act) sought information on 11 points from the Public Information Officer (PIO), Government Polytechnic, at Panaji Goa.
2. The said application was responded by the PIO on 27/05/2020 in the following manner:-

"This has reference to your RTI application dated 20/05/2020 received by the undersigned on 22/05/2020 pertaining to 11 points, most of the data pertaining to the year 2015 to 2020.

Most of the information sought by you is not readily available in the format you desire. Information can be supplied only in the form it is readily available and as it

is not expected to compile the information in the format the applicant desires you are requested to first inspect the relevant files and make a list of the documents you desire, and after payment for the cost of information the same would be supplied to you.

This is to also inform you that as per instructions from the Government of Goa this institute is under Covid-19 lockdown from 23/03/2020 and the same which is extended upto 31/05/2020 for all technical institutes in the State of Goa.

In view of the above you are requested to visit this office on 18/06/2020 at 10.00 a.m. tentatively subject to Government not extending the lockdown for a further period."

3. Upon receipt of the reply from the PIO, the appellant visited the office of the Public authority at Altinho, Panaji Goa on 18/06/2020. However, the appellant noticed that, information sought for was not readily available with the PIO and therefore not provided to him.
4. Aggrieved with the response of the PIO, the appellant filed first appeal before the Principal, Government Polytechnic, Panaji at Altinho, Panaji-Goa, being the First Appellate Authority (FAA).
5. The FAA by its order dated 09/09/2020 partly allowed the first appeal and directed the PIO to comply the Para No. 10 and 11 of his order.
6. Aggrieved and dissatisfied with the order of FAA dated 09/09/2020, the appellant landed before the Commission with this second appeal under Section 19 (3) of the Act, with the prayer to direct the PIO to furnish the information free of cost and to impose penalty on the PIO for denying the information.

7. Notices were issued to the parties , pursuant to which the PIO, Mr. Allvin Facho appeared and filed his reply on 24/03/2021, the FAA Principal of Government Polytechnic Panaji, Mr. L.R. Fernandes appeared however opted not to file any reply in the matter.
8. Admittedly by paying the requisite fee, the appellant collected the part of the information on 06/07/2020.
9. Adv. Bavina Kukalekar, learned counsel appearing for the appellant submitted that the FAA failed to conduct a thorough investigation in to the matter and furnish the information sought for by the appellant.

Further, according to her, the reply of the PIO is improper and unsatisfactory and alleged that the PIO intentionally, withheld the information.

10. As against this, the PIO, Mr. Allvin Facho submitted that, as the information sought by the appellant is voluminous and was not readily available as it contains data of the year 2015 to 2020.

Further, according to PIO he offered an opportunity to the appellant to inspect the record and make a list of the same to be issued, which was rejected by the appellant. He also submitted that intention of the appellant is not to obtain the information but to harass the PIO and Public authority with ulterior motive.

11. On going through the impugned order of the FAA dated 09/09/2020, more particularly the operative part it is noticed that FAA directed the PIO to comply to the direction at Para No. 10 and 11 of the order. The FAA in Para No. 10 and 11 of the order opined as follows:-

"10. Regarding question No. 7 on rules applicable regarding teaching duties of Principal, Government Polytechnic Panaji the reply to this by Respondent is that the rules are available in public domain on AICTE website. Staff of Technical Education is governed by AICTE rules

which are available in public domain. Regarding teaching duty of Principal Government Polytechnic Panaji the PIO is directed to transfer this question to DTE since they are appointing / controlling authority.

11. *Regarding question No. 8, the time table copy of the Principal is duly issued to the Appellant, the records of the attendance sheet are not supplied to the Appellant. The Respondent / PIO argued that the attendance sheets contain student attendance record as well as their performance in the said subject. The student attend classes in a Fiduciary relationship and put their trust in their teacher that the teacher would keep their performance record confidential and that their performance can only be shown to their parents or guardians who are interested parties in the academic affairs of the student and the same is not to be put in public domain. The respondent /PIO also argued that in the past student have suicided on getting less or unexpected marks , exposing the list of students in a batch, their attendance and their performance in public domain can have a far reaching consequences hence no copies of the same can be issued. However, an extract of the Lecturers conducted by the teacher may be given. I therefore direct the PIO /Respondent to give an extract of the number of lectures practical's conducted by the Principal as desired by the Appellant.*

12. *XXX XXX XXX*

13. *XXX XXX XXX*

In view of the above I pass the following order:

1. Prayer at Sr. No. 1, 2 and 5 is allowed. The Respondent to duly comply to direction at para 10 and 11.

2. Prayer at 3 and 4 is disallowed.”

12. Considering the above observation of the FAA, the Commission directed the PIO to comply the order of FAA at first instance and matter was posted for compliance. Accordingly on date of hearing dated 08/06/2022 and on 18/08/2022 the PIO, Mr. Allvin Facho furnished the information to the advocate appearing for the Appellant.

13. It is worth to mention here that, since the appellant was not satisfied with the information provided to him, the Commission directed the PIO to come alongwith respective files before the Commission on 10/11/2021 at 3.00 p.m. for joint inspection and to sort out the matter amicably.

Accordingly, the PIO appeared before the Commission alongwith Prof. R. Kamble from Examination Section, Shri. Prasadnanand Narvekar from Gymkhana Section and produced multiple files for inspection. However, the appellant refused to take inspection on a irrational and unpalatable ground that he had not asked for inspection of record in his RTI application filed under Section 6 (1) of the Act.

15. The Act confers on all citizens a right to access information and this right has been defined under Section 2 (j) of the Act, which reads as under:-

*2. **Definitions.** – In this Act, unless the context otherwise requires, --*

(j) "right to information" means the right to information accessible under this Act which is held

by or under the control of any public authority and includes the right to__

(i) inspection of work, documents, records;

(ii) taking notes extracts or certified copies of documents or records;

(iii) xx xxxx xxxx xx

(iv) xx xxxx xxxx xx

The above definition also makes clear that the Right to Information includes that right to inspection of documents and records. Inspections of records are not barred under the Act. Generally, when the information is voluminous by nature, applicant is advised to inspect the records to minimize and prioritize the requirement as it would save disproportionate diversion of resources.

16. Under provision of Section 19 (8) (a) of the Act, it reads as under:-

19. Appeal.__

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to__

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including__

From the above it is clear that, while deciding an appeal, the Commission is empowered to take any such steps as may be necessary to secure compliance with the provisions of the Act.

17. It is consistent stand of the PIO that since the information sought was voluminous, he offered for inspection of the records, the Commission also tried to sort out the issue amicably by offering the

inspection of all files in the open hearing. However, the Appellant refused to carry out inspection or identify the required documents.

18. The another contention of the Appellant that, the public authority is conducting the examination for last several years for the Government of Goa and therefore the PIO is bound to keep the records and alleged that the PIO has denied the information with malafide intention.

As against this, the PIO, Mr. Allvin Facho submitted that, contentions which were raised by the Appellant were beyond the scope of the Act. According to him the Government Polytechnic Panaji is only providing infrastructure and other resources to conduct the examination. Moment the examination process is over, the public authority hands over entire data to the concerned department and that they are assisting the Government to conduct the examination. According to him, neither such information is in the custody of the public authority nor such information was required to be maintained by any law or rules, therefore, it is not possible for the PIO to provide such information.

19. It is a matter of fact that Government Polytechnic Panaji is an educational institution situated at Panaji Goa, with its main function to impart training, research and working for development of technical education. Said institution is affiliated to All India Council for Technical Education (AICTE) and provides full time diploma courses in Engineering. Since the premises of the institution have good infrastructural facility and being situated in the city of Panaji and only for convenience of the examinees, the Government of Goa is conducting its regular written examination at Government Polytechnic at Panaji-Goa.

The RTI Act provides access to all the information that is available and existing but where the information is not the part of

the records of a public authority and where such information is not required to be maintained under and law, the Act does not cast an obligation upon the public authority to provide such information.

20. On meticulous reading of the application filed by the Appellant, under Section 6(1) of the Act, particularly at point No. 6 and 9 which reads as under:-

"6. The total amount of all monies paid yearly to the Principal, Government Polytechnic Panaji other than his own salary from 2015 to 2020 from all sources.

9. The total amount of monies received yearly by the Government Polytechnic Panaji from any sources other than Government of Goa from 2015 to 2020."

It appears that, in the guise of seeking information, the Appellant want to disgrace and dishonor the decency and decorum of the Principal of Government Polytechnic Panaji and/or a public authority, which is unfair and against the spirit of RTI Act. The Act should not be allowed to be misused or abused to become a tool to obstruct or destroy the peace, tranquilly and harmony among the citizens. The right conferred by the Act should be exercised carefully and responsibly. The High Court of Rajasthan in **Hardev Arya v/s Chief Manager (PIO) & Ors. (W.P. No. 10828/2012)** has fortified above view in following manner:-

"11. It is true that Parliament has enacted the Right to Information Act for transparency in administration, so also affairs of the state so as to strengthen the faith and trust of the people in the governance of the Country. Therefore, the Act is a vital weapon in the hands of the citizens. At the same time, however, this may not be lost sight of that no law shall be allowed to wielded unlawfully so as to put it to abuse or misuse...."

21. The High Court of Andhra Pradesh in **Divakar S. Natarajan v/s State of Information Commissioner A.P. (AIR 2009 (NOC) 1362 (AP))** has held that:-

"26. The Act is an effective device, which if utilized judiciously and properly, would help the citizen to become more informed. It no doubt relieves an applicant from the obligation to disclose the reason as to why he wants the information. However, indiscriminate efforts to secure information just for the sake of it, and without there being any useful purpose to serve, would only put enormous pressure on the limited human resources, that are available. Diversion of such resources, for this task would obviously, be, at the cost of ordinary functioning. Beyond a point, it may even become harassment for the concerned agencies. Much needs to be done in this direction to impart a sense of responsibility on those, who want to derive benefit under the Act, to be more practical and realistic."

22. In the present case, the PIO has furnished all the available information to the Appellant. The nature of information sought by the Appellant is vague, non-specific and would disproportionately divert the resources of the public authority. If the Appellant was really interested in securing access to the information, he should have chosen a proactive role by inspecting the record and obtain the information as directed by the FAA. In any case the reason cited by the Appellant is not convincing and therefore devoid of merits.
23. In the background of above precedent and fact and circumstances discussed hereinabove, the Commission is of the view that, it is not the case where the PIO was unwilling to provide the information. The PIO has furnished all the available information to the Appellant.

He also offered for inspection of records, complied the order of the FAA dated 09/09/2020 by collecting the information from the Directorate of Technical Education, Alto, Porvorim-Goa, therefore I am not inclined to impose penalty against the PIO as prayed by the Appellant. Therefore I dispose the appeal with the following:

ORDER

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

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner