

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 114/2021/SIC

Miss. Sankeeta Ankush Korgaonkar,
H. No. 88, Dandoswada, Mandre,
Pernem-Goa 403527

....Appellant

V/s

1. The First Appellate Authority,
VP's Mandre College of Commerce,
Economics and Management,
Mandre-Goa

2. The Public Information Officer,
V. P's Mandre College of Commerce,
Economics and Management,
Mandre-Goa

.....Respondents

Filed on : 26/05/2021
Decided on : 25/03/2022

Relevant dates emerging from appeal:

RTI application filed on	: 11/01/2021
PIO replied on	: Nil
First appeal filed on	: 30/03/2021
FAA order passed on	: Nil
Second appeal received on	: 26/05/2021

ORDER

1. Being aggrieved with non hearing of first appeal by respondent No. 1 First Appellate Authority (FAA) and failure to furnish the information by respondent No. 2 Public Information Officer (PIO), appellant preferred second appeal under section 19(3) of the Right to Information Act, 2005 (for short, the Act). The appeal came before the Commission on 26/05/2021 with prayers such as directions to PIO to furnish information and penalty be imposed on PIO for violations of the provisions of the Act.

2. The brief facts of the matter are that the appellant vide application dated 11/01/2021 sought certain information from the PIO. Upon not receiving any response from the PIO she filed appeal before FAA, Directorate of Higher Education. The

said authority vide letter dated 09/03/2021 informed the appellant that the first appellate authority is the authority of the said college. Accordingly the appellant filed appeal dated 30/03/2021 before FAA, Principal of VP's Mandre College of Commerce, Economics and Management. However the FAA did not hear the matter within the mandatory period and being aggrieved, the appellant preferred second appeal before the Commission.

3. The appeal was registered and the concerned parties were notified. Pursuant to the notice, appellant appeared in person, PIO and FAA were represented by Advocate Prabhakar G. Narulkar, Advocate Abhishek N. Mandrekar and Advocate Chandan C. Parab. PIO filed reply dated 04/08/2021, 01/09/2021 and 04/10/2021; whereas appellant filed rejoinder dated 02/11/2021 and submitted written synopsis of arguments on 02/12/2021. Advocate Prabhakar G. Narulkar argued on behalf of the respondents on 02/11/2021 and Advocate Santosh S. Anurlekar argued for the appellant on 24/02/2022.
4. PIO stated that the Government of Goa on 17/07/2012 granted approval to Vikash Parishad Mandre, for starting the college in Commerce faculty. Subsequently Government revoked the approval on 21/06/2013. Later, on 02/07/2018 the Government granted approval to start B.Com. programme on self financing basis, i.e. without financial aid from the Government. That the Hon'ble High Court of Bombay at Panaji, by order dated 24/02/2017 quashed the communication dated 21/06/2013 regarding revoking the approval. Also the Hon'ble High Court, by judgement pronounced on 16/02/2021, directed the Government to release grant-in-aid to the said college. Subsequently grants were released for the years from 2017-18 to 2020-21.
5. PIO further stated that the Mandre College of Commerce, Economics and Management was not the public authority within the meaning of section 2(h) of the Act at the relevant time when the application was filed. Also, the college was not granted financial assistance, aid or grant by the Government during the time when the appellant worked in the college on contract basis. This being so, the Right to Information Act, 2005 was not applicable to the said college and the respondents were not governed by the provisions of the Act

and therefore the present appeal is misconceived and not maintainable.

6. Appellant stated that the contention of PIO that he is not public authority is false. The Government of Goa granted approval to the B. Com. Course in 2012 and Goa University granted affiliation in 2013. Though the Government in 2013 withdrew administrative approval for the B. Com degree course, the said decision was quashed by the Hon'ble High Court of Bombay. The respondent further succeeded in the legal battle and received government grant for the year 2017-18, 2018-19, 2019-20 and 2020-21. Therefore the college of the respondent is under the control of Goa Government with the approval and affiliation of Goa University, thus the respondent comes under the purview of section 2(h) of the Act and hence being the Public authority, the PIO is required to furnish the information desired by the appellant.
7. Appellant further stated that the PIO and the FAA have shown no respect to the Act by not entertaining the application and the appeal respectively. Thus appellant had to approach before the Commission and it was first time that the respondent responded to the notice. The information sought is general in nature, available in the office of PIO, hence the same needs to be furnished.
8. As the matter was hotly contested, both the sides desired for arguments. Advocate Prabhakar G. Narulkar argued on behalf of the respondents on 02/11/2021 stating that the said college was not getting grant in aid or any other financial assistance from the government on the date of filing the application by appellant and also during the stipulated period. In addition to that, the matter of Government grant was sub-judice in the Hon'ble High Court of Bombay. Therefore the college was not the public authority as defined under section 2(h) of the Act and hence was not bound to answer the RTI query and entertain the appeal.
9. Advocate Santosh S. Anurlekar, while arguing for the appellant on 24/02/2022 stated that Goa University granted affiliation to the College in 2013 and the college has continued its operations, hence the said college is controlled by Goa University and therefore the college is public authority under section 2(h)(d)(i). Also the college was initially receiving

grant-in-aid from the Government, grant was denied for a few years, the said decision of the Government was challenged by the respondents in Hon'ble High Court of Bombay and the High Court ruled in the favour of the respondents and accordingly grant in aid was resumed. Though the matter was sub-judice in the High Court for some time, that does not mean that the college was not a public authority during the period. This being the case, the respondents are required to provide the information.

10. After careful perusal of the documents brought on record and advances from both the sides, the Commission has arrived at following findings:-

- a) Appellant, Miss Sankeeta Ankush Korgaokar, who worked in the respondent's college on contract basis has sought information pertaining to details of her service and payments and also details of other staff of the college. PIO did not respond to the application and FAA did not entertain the appeal presuming their college was not the public authority during the relevant time of the application.
- b) The said college i.e. Mandre College of Commerce, Economics and Management was granted approval for starting the college in Commerce with B. Com. course, by the Government of Goa, vide letter dated 17/07/2012. Subsequently, vide letter dated 21/06/2013 Government of Goa withdrew the administrative approval. Later, vide letter dated 02/07/2018 Government granted approval to continue with the B.Com. Degree course on self financing basis and did not consider request for grant-in-aid. These developments show that the respondents started commerce college with B. Com. Degree course in 2012, on self financing basis, in the absence of Government grant.
- c) The said college vide letter dated 01/06/2021 received Government grant for the academic year 2020-21 and vide letter dated 29/07/2021 received grant for 2017-18, 2018-19, 2019-20 in accordance with judgement of High Court of Bombay pronounced on 16/02/2021. This implies that the college has received Government grants from the academic year 2017-18 till 2020-21.

- d) The Hon'ble High Court of Bombay vide order dated 24/02/2017 announced on 04/04/2017 had quashed and set aside Communication of Government of Goa dated 21/06/2013 regarding withdrawal of the administrative approval.
 - e) The flow of events shows that at the time of the application dated 11/02/2021 the college was not receiving Government grant, however subsequent to the judgment of the High Court, Government of Goa released grant to the college vide letters dated 01/06/2021 and 29/07/2021. This means the college is a public authority under section 2(h) since the academic year 2017-18.
 - f) Although the matter regarding Government grant was sub-judice at the time of the application dated 11/01/2021, in another writ petition, the High Court of Bombay vide order dated 24/02/2017 had already set aside communication of Government of Goa dated 21/06/2013 regarding withdrawal of the administrative approval. Hence the respondents were awaiting the Government grants and were aware that their college comes under definition of public authority.
11. With the findings mentioned above, the Commission conclude that the respondent's college is a public authority as defined under section 2(h) of the Act. However, the Commission observes that the matter of Government grant was sub-judice at the time of the application and the judgement of the High Court of Bombay directing Government to release grant was pronounced on 16/02/2021 after the stipulated period of 30 days and actual grant was released on 01/06/2021 and 29/07/2021, after the second appeal was filed before the Commission. Respondents presumed during this period that their college is not a public authority and did not entertain the application and the appeal. However, the Commission takes a lenient view here since the presumption of the respondents is based on wrong interpretation of section 2(h) of the Act and no prejudice would be caused.
12. With these observations and findings it is now amply clear that the college of the respondents is a public authority

and hence the PIO is required to furnish the information sought by the appellant. However, looking at the application it is seen that the appellant has sought information pertaining to her service as well as service and salary records of other staff. Here, information pertaining to other staff is eligible for exemption under section 8(1)(j) since the same is personal information and the appellant has not shown any public interest in seeking the information the disclosure of which has no relationship to any public activity or interest, rather the appellant has not shown any public interest in seeking the information. The disclosure of the said information would cause unwarranted invasion of the privacy of the concerned staff. Hence the Commission concludes that the appellant has to be furnished the information sought vide application dated 11/01/2021 only pertaining to the appellant.

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

a) The PIO is directed to furnish information sought by the appellant at point no. 1, 4, 5, 6 and 7 of the application dated 11/01/2021, within 15 days from the receipt of this order, free of cost, only with respect to appellant.

b) All other prayers are rejected.

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