

GOA STATE INFORMATION COMMISSION

"Kamat Towers" 7th Floor, Patto Plaza, Panaji, Goa – 403 001

Tel: 0832 2437208, 2437908 E-mail: spio-gsic.goa@nic.in Website: www.gsic.goa.gov.in

Shri. Sanjay N. Dhavalikar, State Information Commissioner

Appeal No. 300/2021/SIC

Shri Jawaharlal T. Shetye,
H.No. 35/A, Ward No. 11, Khorlim,
Mapusa-Goa, 403507

..... Appellant

v/s

1. The Public Information Officer (PIO),
Headmistress,
G. S. Amonkar Vidhya Mandir, Mapusa,
Bardez-Goa 403507
2. The First Appellate Authority (FAA),
Dy. Director of Education
(North Zone),
Mapusa, Bardez-Goa 403507

..... Respondents

Filed on : 21/12/2021

Decided on : 25/02/2022

Relevant dates emerging from appeal:

RTI application filed on	: 14/10/2021
PIO replied on	: 26/10/2021
First appeal filed on	: 12/11/2021
FAA order passed on	: 30/11/2021
Second appeal received on	: 21/12/2021

ORDER

1. The second appeal filed by the appellant under section 19(1) of the Right to Information Act, 2005 (for short, the Act) against respondent No. 1 Public Information Officer (PIO) and respondent No. 2 First Appellate Authority (FAA) came before the Commission on 21/12/2021. The appellant prayed for setting aside the order of the FAA, complete information and directions to PIO to implement section 4(1)(a) and 4(1) (b) of the Act.
2. The brief facts of the appeal, as contended by the appellant are that vide application dated 14/10/2021 he sought some information pertaining Smt. Shubhangi Vaigankar. The PIO vide reply dated 26/10/2021 denied the information under section

8(1)(j) of the Act. Being aggrieved, appellant preferred appeal dated 12/11/2021 before the FAA. The FAA disposed the appeal vide order dated 30/11/2021 directing the PIO to furnish the copy of General Register. Not satisfied with the said order, the appellant filed second appeal before the Commission.

3. Notice was issued to the concerned parties, pursuant to which appellant appeared in person. Shri. Sanjay S. Usgaonkar appeared on behalf of PIO under letter of authority. Shri. Usgaonkar argued on 20/01/2022 and filed a submission dated 08/02/2022. Appellant Shri. Jawaharlal T. Shetye filed reply cum arguments dated 08/02/2022.
4. The PIO stated that clause (j) of section 8(1) of the Act exempts from disclosure of the information that relates to personal information which has no relationship to any public interest. The information sought is pertaining to 'verification' made by Smt. Shubhangi Vaigankar, alumina of G. S. Amonkar Vidya Mandir, i.e. the Public authority, wherein the said Smt. Vaigankar has stated her educational qualification as 'S.S.C. fail.' The said information is more than 20 years old and is not available in the records of PIO's office, and PIO is not under obligation to furnish the same under section 8 (3) of the Act. Further assuming that the same is available, disclosure of the same would not have any relationship to any public activity or public interest.
5. Shri. Sanjay S. Usgaonkar, while arguing on behalf of the PIO stated that the appellant has sought information pertaining to said Smt. Vaigankar such as mark sheet of S.S.C. examination, which is maintained by the Goa Board of Secondary School Education. Further, documents such as School Leaving Certificate, Character Certificate, Bonafide certificate are in a common format and, no public interest will be served in disclosing the said information. Other details sought by the appellant are available in the General Register of Admissions and the same has been sent by registered post by the PIO to the appellant as per the directions of the FAA.
6. On the other side, the appellant argued that section 8(3) does not give liberty to PIO of not maintaining the documents which are more than 20 years old. Section 8(3) provides that information relating to any occurrence, event, or matters which has taken place and occurred or happened twenty years before the date on which any request is made under section 6, shall be provided to any person making a request. This means where any information is

required to be maintained and preserved for a period beyond twenty years under the rules and the public authority, is exempted from disclosure under any of the provisions of section 8(1) of the Act then notwithstanding such exemption, access to such information shall have to be provided by disclosure thereof after the period of twenty years except where they relate to information falling under clauses (a), (c) and (i) of section 8(1).

7. The appellant further argued that the PIO's office, G. S. Amonkar Vidya Mandir is a government aided school and the appellant has sought information regarding the ex-student of the said School. The authority is required to maintain the said information and the same is not qualified for exemption under section 8(1)(j) of the Act. Hence the appellant desires the complete information.
8. The appellant relied on the order of this Commission in Appeal No. 47/SCIC/2016, decided on 04/01/2017, Shri. Sudesh Tivrekar V/s PIO, Head Master, Dattaram Matravadi High School, Mapusa and another order in Appeal No. CIC/SG/A/2011/002936, decided by the Central Information Commission in Smt. Sunita Sharma V/s PIO, Chief Manager, Oriental Bank of Commerce, Patiala.
9. The PIO placed reliance on Hon'ble Supreme Court in Girish Ramchandra Deshpande V/s Central Information Officer, 2013 (2) Mh. L. J. 560, Hon'ble Supreme Court in Subhash V/s Registrar, Supreme Court, (2018) 11 SCC 634, Hon'ble Supreme Court in Union Public Service Commission V/s Gourhari, (2014)13SCC653 and Hon'ble Supreme Court in Canara Bank V/s C. S. Shyam, (2018)11SCC 426; High Court of Bombay in Shailesh V/s Central Information Commissioner, 2015 (5) Mh. L.J. 291, Kunche Durga V/s Public Information Officer, AIR 2010 Andhra Pradesh 105, Hardev V/s Chief Manager (Public Information Officer), AIR 2013 Rajasthan 97, Shrikant V/s State of M. P., AIR 2011 Madhya Pradesh 14, Syndicate Bank V/s Smt. Jaylaxmi, AIR Karnataka 165.
10. The Commission observes in the present matter that the appellant has sought information pertaining to Smt. Shubhangi Vaigankar and the PIO has denied the information under section 8(1)(j) and further claims that the information requested is more than 20 years old and therefore exempted under section 8(3) of the Act.

11. It is admitted fact that G. S. Amonkar Vidya Mandir is a public authority under the Act. Therefore the controversy lies on two aspects, one, whether the information sought by the appellant is personal information and two, whether the information can be rejected under section 8 (3).

12. Perusal of the application indicates that the applicant has mentioned the background of the matter before seeking the information. This refers to the affidavit filed by Smt. Vaigankar during election. The information sought is with respect to;

- (i) Copy of the mark sheet of SSC Examination
- (II) Copy of the SSC failed certificate
- (iii) Copy of the School leaving Certificate
- (iv) Copy of the report card of Std. VIII and IX

Apart from above, the applicant has also sought information with respect to exact date and year of taking admission and date and year of leaving the school along with the certified copy of admission form submitted by parents of Smt. Vaigankar. The applicant has also sought copy of character and bonafide certificate of Smt. Vaigankar.

Presumption of the appellant that the Public authority is having this information is based on the affidavit of Smt. Vaigankar which states that she is SSC fail, her school name, Board name and year.

The PIO initially denied the information under section 8 (1) (j), contending that the information does not serve any public interest. Further PIO also sought umbrella under section 8 (3) without specifically mentioning it.

A bare reading of the information sought by the appellant would make it clear that the information sought is very much a personal since the appellant has not disclosed any public interest in the matter. Mere mention of the phrase 'in larger public interest' in the subject of the application letter is not sufficient ground to disclose this information. Infact, section 8(1) (j) would squarely apply in such cases where the appellant has not disclosed such 'larger public interest' as well as locus standi. This is more relevant

because of the judgements relied upon by the appellant to advance his point, which are detailed below:

Let us now discuss the judgments cited by the appellant. In the appeal No.47/SCIC/2016 before this Commission, the point of contention was with respect to criteria followed by the public authority, i.e. private aided school for the purpose of deciding the eligibility of admission vis a vis the appellant and other students. And the Commission held that the process of admission to a public authority should be transparent and also subject of scrutiny by public.

The appeal decided by the Central Information Commission was on a different context altogether, wherein the appellant was seeking the Annual Confidential Reports/ Appraisal Reports of other employees, generated in the public authority which was allowed by the Commission.

In both the above orders relied by the Appellant, commonality is that both the appellants were interested parties in the matter. The Orders discuss certain criteria followed in the admission or assessment in which the respective appellant had common interest and the arbitrariness and non-divulgence would affect the legitimate interest of the appellant. The facts and circumstances therefore, cannot be related to the present case. Whereas, in the present matter the appellant has not shown any such ground as well as failed to show the prejudice that would be caused to him in view of the claim in the affidavit of Smt. Vaigankar. In sum, appellant has not brought on record any larger public interest and not even public interest, in seeking the personal information of Smt. Vaigankar. Even written arguments do not indicate why the appellant should be allowed the access to this information under the exemption proviso of 8(1) (j).

The authorities relied by the PIO highlight in their judgement one common principle that the personal information, disclosure of which is not necessarily in public interest may be exempted from disclosure under section 8(1)(j).

13. Hon'ble Supreme Court, in the matter of Central Information Officer, S.C. 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."

14. The above mentioned judgement discusses the issue of 'personal information' and its disclosure. The Hon'ble Apex Court mentions that personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied.

15. The aim of the Act is to promote transparency and accountability in the working of every public authority by maximum

disclosure of information to citizen. However, the responsibility is bestowed upon citizen to ensure that the beneficial provisions of this Act are used to serve public interest and not to implement their personal vendetta.

16. The Hon'ble Supreme Court, in civil Appeal No. 6454 of 2011, Central Board of Secondary Education and Anr. V/s Aditya Bandopadhyaya and Others., has elaborated on a similar issue in para 37.

Para 37 of the said judgment reads:-

"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information, (that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of

discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."

17. The ratio laid down by the Apex Court in the above mentioned Judgement and also in the Subhash Chandra Agarwal (Supra) case is very clear on the duties and responsibilities of the PIO regarding disclosure of information of personal nature vis-a-vis public interest. On this background the Commission is of the opinion that the information sought by the appellant squarely comes under the purview of personal information and would not qualify for divulging. Considering this, the Commission is not inclined to interfere with the decision of PIO as well as FAA.
18. In the light of above discussion, the appeal is disposed as dismissed and the 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