

**GOA STATE INFORMATION COMMISSION**

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**Complaint No. 15/2022/SCIC**

Minal Manohar Shirodkar,  
R/o. H.No. 232, Manshi Wada,  
Korgao, Pernem-Goa 403512.

.....Complainant

V/S

The Registrar,  
Deemed Public Information Officer,  
Goa Nursing Council,  
Bambolim-Goa.

.....Opponent

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 05/05/2022**

**Decided on: 29/11/2022**

**ORDER**

1. The Complainant, Minal Manohar Shirodkar r/o. H.No. 232, Manshi Wada, Korgao, Pernem-Goa, by her application dated 15/02/2022 filed under Sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer (PIO), Goa Nursing Council, Institute of Nursing Education, Bambolim-Goa:-

*"Kindly provide copies of application for registration with respect to the candidates, a list of which is enclosed herewith."*

2. The said application was responded by the Registrar, Goa Nursing Council on 28/02/2022 in the following manner:-

*"With reference to your RTI letter received on 15-02-2022, the information is withheld under RTI Act 2005, **Clause j of Section 8(1)** of the RTI Act, as the information asked regarding applications for registration with respect to the candidates is personal in nature to the applicants."*

3. Not satisfied with the reply of the Registrar, the Complainant preferred first appeal on 04/03/2022 under Section 19(1) of the Act, before the First Appellate Authority (FAA) of Goa Nursing Council at Bambolim-Goa.
4. The Registrar by its communication dated 11/03/2022 informed the Complainant that, the Goa Nursing Council is an autonomous body constituted by Government of Goa under 2012 Act. As per the said Act, there is no provision for appointment of PIO or an Appellate Authority to decide and dispose of applications and appeals filed under RTI Act.
5. Being aggrieved and dissatisfied with the reply of the Registrar, the Complainant landed before the Commission with this second appeal under Section 19(3) of the Act with the prayer to impose penalty on the Respondent, to direct the Respondent to furnish the information, to initiate disciplinary proceeding against the Respondent and to compensate the Complainant towards expenses incurred by her in pursuing the matter.
6. Notice was issued to the parties, Flosy R. Menezes, the Registrar of the Goa Nursing Council appeared and filed her reply on 20/06/2022. Adv. Tushar Shirodkar put appearance on behalf of the Complainant.
7. I have perused the pleadings, reply, rejoinder, sur-rejoinder, scrutinised the documents on the record and heard the arguments advanced by the learned counsel Adv. T. Shirodkar on behalf of Complainant and learned counsel, Adv. Akshata Bhat on behalf of the Respondent.
8. It is a matter of fact that, the present proceeding is filed under Section 18 of the Act as such at the outset, the prayer (b) of the Complainant is not tenable in view of criteria laid down by the

Hon'ble Supreme Court in the case **Chief Information Commission & Anrs. v/s State of Manipur (2012 (1) ALL MR 948 (SC))** which reads as under:-

*"30. It has been contended before us by the respondent that under [Section 18](#) of the Act the Central Information Commission or the State Information Commission has no power to provide access to the information which has been requested for by any person but which has been denied to him. The only order which can be passed by the Central Information Commission or the State Information Commission, as the case may be, under [Section 18](#) is an order of penalty provided under [Section 20](#). However, before such order is passed the Commissioner must be satisfied that the conduct of the Information Officer was not bona fide.*

*31. We uphold the said contention and do not find any error in the impugned judgment of the High court whereby it has been held that the Commissioner while entertaining a complaint under [Section 18](#) of the said Act **has no jurisdiction to pass an order providing for access to the information.**"*

From the above, it is clear that, in the complaint proceeding filed under Section 18 of the Act, the Commission cannot grant relief for providing access to information.

9. Learned counsel Adv. Tushar Shirodkar appearing on behalf of the Complainant submitted that Complainant is one of the candidate for recruitment to the post of Multi Purpose Health Worker and Auxiliary Nurse and Midwife in the Department of Health and that she is apprehending the entire selection process was tainted with

fraud, malpractice, favouritism and bias and being so, to know the truth in the matter, she filed RTI application before the Goa Nursing Council, Bambolim and sought copies of application for registration with respect to the candidates. However, same is rejected by the Respondent and informed that no PIO has been appointed and notified by the concerned authority. According to Adv. Shirodkar, the Goa Nursing Council Act, 2012 has been passed by the Goa Legislative Assembly and therefore it becomes a public authority and falls within the purview of the Act. In order to support his case he also produced on record the copy of the Goa Nursing Council Act, 2012.

Further, according to him, the reply of the Respondent Registrar is inconsistent with the RTI Act and therefore she failed to discharge her duty under the Act.

10. As against this, learned counsel, Adv. Akshata Bhat appearing for the Registrar of Goa Nursing Council submitted that, the Registrar of the Council was not the designated PIO at the relevant time and therefore she is not obliged to furnish the information. She further contended that being the Registrar and the executive head of the Goa Nursing Council, Bambolim, any and every correspondence is directed to Registrar and as a goodwill gesture she voluntarily replied to the RTI application of the Complainant, however, she cannot be held responsible for in any way.
11. On going through the record, particularly the reply dated 11/03/2022 furnished to the Complainant by the Respondent it manifest that, the Respondent, Registrar of public authority took a defence that the Goa Nursing Council is an autonomous body and there is no provision for appointment of the PIO/FAA under the Right to Information Act. And since no PIO/FAA has been appointed by concerned authority, she is unable to take any decision in the matter.

12. Considering the contention of the rival parties, it may be relevant to go through Section 2(h) of the Act, which reads as under:-

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

*(h) "public authority" means any authority or body or institution of self- government established or constituted*

*(a) by or under the Constitution;*

*(b) by any other law made by Parliament;*

*(c) by any other law made by State Legislature;*

*(d) by notification issued or order made by the appropriate Government, and includes any*

*(i) body owned, controlled or substantially financed;*

*(ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;"*

On plain reading, it reveals that the term public authority has been given very wide meaning, by bringing in its ambit various constitutional authorities, bodies or institutions self Government organisations, which are established or constituted by any other law by the Parliament or State Legislature or by the notification issued or order made by the appropriate Government. It also includes body owned, controlled or Non-Governmental organisation, substantially financed by the Governments.

13. The High Court of Delhi in the case **Delhi Sikh Gurudwara Management v/s Mohinder Singh Mathura (AIR 2010 (NOC) 1109 Deh)** has held that:-

*"16. The fact that the legislature has enacted [Section 2\(h\)](#) in the manner it has, clearly indicates that a whole range of public authorities are sought to be brought within the ambit of [RTI Act](#). It hardly needs mention that there are a large number of bodies that are constituted by enactments both of the Parliament as well as the State Legislatures. Once it is shown that a body has been constituted by an enactment by Parliament or State Legislature, then nothing more need be shown in order to demonstrate that such a body is a public authority within the meaning of [Section 2\(h\)](#) (b) or (c) of the [RTI Act](#)."*

14. It is plain that Section 2(h)(c) applies in the instant case. The Goa Nursing Council Act, 2012 is a law made by the Goa Legislative Assembly to regulate and maintain uniform standards in nursing education and to provide for the registration and enlistment of Nursing personnel in the State of Goa. The Goa Nursing Council is a body constituted under Section 3 of the Goa Nursing Council Act, 2012. The same is owned, controlled and substantially financed by Government of Goa. Therefore, Goa Nursing Council squarely falls within the ambit of public authority as defined under the RTI Act.
15. The RTI Act casts important obligations on public authorities so as to facilitate the citizens of the Country to access the information held under their control. The obligation of the public authority are basically the obligations of the head of the authority, who should ensure that these are met in right earnest.

Therefore being the Goa Nursing Council, is a public authority under the Act, certain obligations are reposed on it under Section 4,5,6,7 and 19(1) of the Act. Such obligations of the public authority are as follows:-

**"Obligations of a public authority:-**

- a) Compliance with section 4 of the Act, which would require the public authority to maintain all its records duly catalogued and indexed in a manner to facilitate RTI as provided in clause (a) of sub-section (1) of section 4 and publishing information suo motu as provided in clause (b) of Sub-section (1) of Section 4 and compliance of provisions given in clause (c) and (d) of sub-section (1) of section 4.*
- b) Designate forthwith, a Public Information Officer from among its officers who shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information, seeking the assistance of any other officer as Public Information Officer considers necessary for the proper discharge of duties.*
- c) Provide such information, as may be sought by any person in accordance with Section 6 and 7 of the Act save that information which is exempt from disclosure under section 8(1).*
- d) Designate an appellate authority within the public authority to hear first appeal under section 19(1)."*

16. Now, question arises that whether this Commission has power to direct the public authority to appoint Public Information

Officer. Therefore it is relevant to go through the Section 19(8)(a)(ii) of the Act, which 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\_\_*

*(ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;"*

From the reading of the above provision it is clear that while deciding an appeal, the Commission is empowered to take such steps as may be necessary to secure compliance with the provisions of the Act including to direct the public authority to appoint the Public Information Officer (PIO) and First Appellate Authority (FAA) under Section 5(1) and 19(1) of the Act respectively.

17. As mentioned earlier, that the Goa Nursing Council Act, 2012 is a creature of statute. The Goa Nursing Council is having independent entity as public authority. Section 5(1) of the Act casts an obligation on each public authority to designate its Public Information Officer whose duty would be to provide information to those who ask for it. The basic idea behind the appointment of the PIO in an institution is the public facilitation and smooth flow of information to the information seeker. The Registrar being the



Secretary and Executive Head of Goa Nursing Council is empowered to appoint the PIO/FAA of the Goa Nursing Council.

18. Therefore under Section 19(8)(a) of the Act, the Commission hereby directs the Registrar, the Goa Nursing Council, Bambolim-Goa to designate Public Information Officer and the First Appellate Authority within the period of 30 days from today, intimating compliance to this Commission, within a week from issue of the order.

19. Considering the fact that, the Registrar of the public authority was not designated as the PIO at the relevant time, Registrar of the Goa Nursing Council, Goa cannot be held responsible for the lapsed if any, in providing the information, therefore, I cannot grant prayer No. (a), (c) and (d) of the complaint. However, leave is granted to the Complainant to seek the information by filing a fresh application as and when the public authority designates its PIO/FAA.

20. In the light of above fact and circumstances the complaint proceeding is disposed off.

- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner