

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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Complaint No. 18/2021/SCIC

Mr. Mohammed Hussain Shaikh,
Bldg No.CF-3,
Rehabilitation Board, GRB Colony,
Headland Sada. 403804.

.....Complainant

V/S

Mr. Cajetan Fernandes,
Public Information Officer,
Officer of Dy. Director (Planning),
Directorate of Education,
Porvorim-Goa.

.....Opponent

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 20/10/2021

Decided on: 27/04/2022

ORDER

1. While disposing the appeal No. 162/2020 by order dated 08/09/2021, this Commission had directed the Public Information Officer (PIO), Deputy Director of Education, Planning Section, Porvorim Goa to furnish the information to the Complainant free of cost within 15 days from the date of receipt of the order.
2. According to the Complainant, since the PIO failed to comply with the order of the Commission, he preferred this complaint under section 18 of the Act, with the prayer to take penal action against the PIO, to recommend disciplinary proceeding and to award compensation.
3. Notice was issued to the parties, pursuant to which the PIO, Mr. Cajetan Fernandes appeared and filed his reply on 07/12/2021 and representative of Complainant, Mr. Karim Mulla appeared. The PIO raised the doubt on credentials and identity of the Complainant. The Commission therefore directed the Complainant to appear personally on next date of hearing, accordingly the

Complainant appeared personally on 14/01/2022 at 10:30 am alongwith original copy of Aadhar Card and driving licence to the satisfaction of this forum.

4. According to the Complainant, the PIO miserably failed to comply with the order of the Commission and provided only 02 number of copies as information i.e (i) copy of Bachelor of Computer Application degree certificate and (ii) copy of Residential Certificate (single page). Complainant further submitted that, PIO has mislead and furnished incomplete, uncertified copies and alleged that the PIO deliberately and with malafide intention did not provide the complete qualification certificate and instead provided only final degree qualification of the candidate. He pray that the PIO be penalised for providing incomplete information.
5. On the other hand, the PIO submitted that upon receipt of the order of the Commission, pro-actively and promptly he dispatched the relevant document to the Complainant via Registered A/D post vide letter No. DE/Plg/RTI/21-22/894 dated 07/10/2021 and he produced on record a copy of the outward register of the Directorate of Education duly certified by the Department of Post to support his contention.

Further according to him, as directed by the Commission he provided full and complete information to the Complainant as per his RTI application dated 10/07/2020, and also offered him the inspection of relevant file.

Further according to him, the complaint filed by the Complainant is devoid of any merit and solely intended to harass the public authority as well as the PIO and produced on record the Recruitment rules of Computer Teacher.

6. On perusal of Recruitment rule of the Computer Teacher provided under Goa, Daman and Diu Education Act 1984 and Rules 1986, the Essential qualification for Computer Teacher is as under:-

"12. Computer Teacher	40 years	Essential:- (1) Graduate in any Discipline/Degree or Diploma in Electrical or Computer Engineering from recognized University/Institution.	N.A. Rs. 9300-34800+ Grade Pay Rs. 4200]
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(2) At least three (03) years experience in the field of imparting computer training/education.

Note: In case of candidates having qualifications other than BCA, MCA/Diploma or Degree in Computer Engineering from a recognised University/Institution, such candidate shall have to complete Post Graduate Diploma in Computer Education and Training (PGDCET) within 05 years of their appointment/engagement.

(3) Knowledge of Konkani.

Desirable:- Knowledge of Marathi."

A bare reading of the above Recruitment Rules (RR) indicates that the public authority has to ensure that the candidate so appointed to the post, as mentioned above, must be graduate in any discipline. Bachelor of Computer Application from recognised University is one of the degrees. The PIO has furnished copy of the

degree certificate to the Complainant. Therefore for the purpose of recruitment of the Computer Teacher the public authority is not bound to collect and maintain all the academic record as claimed by Complainant.

7. The Apex court in the case of **Central Board of Secondary Education & Anrs v/s Aditya Bandopadhyay & Ors (C.A. No. 6454/2011)** particularly in para No. 35 as observed as under:-

“35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information’ and ‘right to information’ under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions.”

In view of foregoing observation, the Apex Court has clarified the scope of RTI Act and the condition to which information should be furnished.

8. In the present case, the PIO has promptly complied with the order of the Commission and furnished the information available in the records to the Complainant by Registered A/D, therefore I am of the opinion that there is no wilful default from the PIO to impose the penalty or to recommend disciplinary action against the PIO as prayed by the Complainant.

Considering the fact and circumstances and the principles established by the judiciary, I find that complaint is devoid of any merit and therefore the complaint is dismissed.

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

Sd/-

(Vishwas R. Satarkar)
State Chief Information Commissioner