

GOA STATE INFORMATION COMMISSION

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Complaint No. 08/2020/

Shri. Stanley Rocque,
S-4, Esteves Apartments,
Merces – Goa.
403005

..... Complainant

v/s

The First Appellate Authority,
Central Education Zone,
Massano de Amorim Building,
Near National Theatre,
Panaji – Goa.

.....Opponent

Filed on : 19/02/2020

Decided on : 29/10/2021

Relevant dates emerging from appeal:

RTI application filed on	: 15/07/2019	10/09/2019
Application transferred	: 22/07/2019	23/09/2019
PIO replied on	: 26/07/2019	16/10/2019
First appeal filed on	: 04/11/2019	06/12/2019
FAA order passed on	: 02/12/2019	23/12/2019
Second appeal received on	: 19/02/2020	19/02/2020

ORDER

1. The Complainant Shri. Stanley J. Rocque, resident of Merces Goa, vide two applications dated 15/07/2019 and 10/09/2019 filed under the Right to Information Act, 2005 (for short, the Act) sought from Public Information Officer (PIO), Directorate of Education, Porvorim certain information as mentioned in the said applications. The PIO transferred the application to the Public Information Officer (PIO), Don Bosco Higher Secondary School, Panaji Goa as the information sought was pertaining to the said school. The PIO, Don Bosco Higher Secondary School replied stating the information sought is personal and not specific and requested complainant to meet the PIO in his office.

2. Treating this reply as deemed denial of the information, complainant preferred appeal before First Appellate Authority (FAA), Deputy Director, Directorate of Education, Central Education Zone, Panaji Goa. The FAA vide orders dated 02/12/2019 and 23/12/2019 disposed the appeals without any relief to the complainant.
3. Complainant preferred complaint under section 18 of the Act against FAA. It is the contention of the complainant that the opponent has disposed first appeals without decision, and passing an order without decision is unacceptable and against the spirit of RTI Act. Complainant prayed for an order against the FAA and penalty on FAA under section 20 (1) and 20 (2) of the Act.
4. The concerned parties were notified and the matter was taken up for hearing. Pursuant to the notice, opponent filed reply dated 29/04/2021 and complainant filed written submission dated 17/08/2021. Later opponent filed another submission dated 30/09/2021.
5. Complainant stated in his submission that he was forced to file first appeal because the information was denied by the PIO. However, FAA, who is the opponent in the present matter, passed order without any decision and without any directions to the PIO. The conduct of FAA is against the spirit of the Act. Also that the opponent did not give sufficient hearing to the complainant before passing order.
6. The opponent stated in his reply that hearing was conducted by the FAA on first appeals, notice of hearing of both the appeals was sent to the complainant. However complainant did not appear for the hearing on 02/12/2020. The PIO also produced a copy of reply sent to the complainant along with the information during the first appeal proceeding and therefore the appeal was disposed.

Opponent further stated in his reply that hearing on other appeal dated 06/12/2019 was scheduled on 23/12/2019, wherein PIO produced a copy of reply sent by him to the complainant. The PIO denied the information on the ground that it pertains to third party and also that the matter is not of larger public interest. Therefore PIO's reply was upheld and the appeal was disposed.

7. The Commission has perused all the submission of both the sides. It is noted that the complainant had filed two applications under section 6 (1) of the Act and the PIO was required to furnish the information sought by the complainant vide both applications. The Opponent/FAA endorsed PIO's claim that he has furnished the information sought vide application dated 15/07/2019. However complainant stated during argument that he is aggrieved with the FAA's order dated 02/12/2019 and not against the PIO's stand. Hence he filed this complaint against the Opponent /FAA.
8. The PIO stated before FAA during the hearing on appeal dated 06/12/2019, that the information is denied as it is third party information. In spite of the fact that the information is denied by the PIO, the complainant has not filed second appeal nor has added PIO as Opponent in the present matter. Moreover, the Commission can neither issue direction to PIO or to FAA under section 18 to furnish information.
9. In various judgements and orders of this Commission, it has been held that if the applicant is aggrieved by the decision of PIO – the course to be adopted is as prescribed under section 19. In the present case the grievance is that the FAA did not pass proper order. The applicant should have approached this Commission under section 19 for it to enable to give directions to PIO and FAA.

10. In the background of above discussion and in view of provisions of the Act, the Complaint is disposed as dismissed and 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