

GOA STATE INFORMATION COMMISSION

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

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Shri. Sanjay N. Dhavalikar, State Information Commissioner

Complaint No. 20/2022/SIC

Mr. Damodar Barve,
F-2, A-2, Yashodhan Building,
Near Saibaba Temple,
Verla Canca, Mapusa-Goa 403510.

-----Complainant

v/s

1. The Public Information Officer,
Dy. Education Officer,
North Educational Zone,
Mapusa-Goa.
2. The Public Information Officer,
The Principal,
Shri Kamaleshwar Higher Secondary School,
Korgao, Pernem-Goa.
3. The Public Information Officer,
The Headmaster,
Shree Kamaleshwar High School,
Pettechawada, Korgao, Pernem -Goa 403512.
4. The Public Information Officer,
The Headmaster,
Shree Kamaleshwar High School,
Korgao, Pernem -Goa 403512.
5. The First Appellate Authority,
Shailesh R. Sinai Zingde,
Dy. Director of Education,
North Zone, Mapusa-Goa.
6. The Director,
Directorate of Education,
Porvorim-Goa.

-----Opponents

Relevant dates emerging from the proceeding:

RTI application filed on	: 21/12/2021
Application transferred on	: 11/01/2022
PIO replied on	: 04/02/2022
First appeal filed on	: 01/02/2022
First Appellate authority order passed on	: 07/03/2022
Complaint received on	: 07/06/2022
Decided on	: 29/12/2022

ORDER

1. The complaint filed by the complainant under Section 18 of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') came before the Commission on 07/06/2022. The said complaint has been filed against Opponent no. 1, Public Information Officer (PIO), Dy. Education Officer, North Education Zone, Mapusa, Opponent no. 2,

PIO, Principal, Shri Kamaleshwar Higher Secondary School, Korgao, Pernem, Opponent no. 3, PIO, Headmaster, Shri Kamaleshwar High School, Pethechawada, Korgao, Pernem, Opponent no. 4, PIO, Headmaster, Shri Kamaleshwar High School, Korgao, Pernem, Opponent no. 5, First Appellate Authority (FAA) Dy. Director of Education, North Zone, Mapusa Goa and Opponent no. 6, Director, Directorate of Education.

2. The brief facts of this case, as contended by the complainant are that, he had sought certain information from opponent no. 1, PIO. The said application under Section 6 (3) of the Act was transferred to Opponent no. 2, PIO and Opponent no. 3, PIO. Since information was not received, complainant filed appeal before FAA. Being aggrieved by the order of the FAA, complainant filed the present complaint before the Commission.
3. The concerned parties were notified and the matter was taken up for hearing. Pursuant to the notice, Advocate A.V. Nasnodkar appeared on behalf of Opponent nos. 2, 3 and 4. Advocate A.V. Nasnodkar filed reply dated 06/09/2022 and later, on 21/11/2022 filed Declaration cum Undertaking on behalf of Opponent nos. 1, 2 and 3. Shri. Jaiwant Naik appeared on behalf of Opponent no. 1, PIO, Dy. Education Officer, and Opponent no. 5, FAA. Shri. Shailesh R. Sinai Zingde, Director of Education and Opponent no. 6 appeared in person. Shri. Zingde upon his request was granted exemption from appearance for further proceeding. Advocate Sadanand D. Vaingankar appeared on behalf of the complainant.
4. Complainant stated that, after the receipt of notice of first appeal Opponent no. 2 provided the requested information. Opponent no. 3 was skipped from transferring the application by Opponent no. 1, but subsequently Opponent no. 1 furnished the information. Complainant further stated that, Opponent no. 2 has made a statement on record that since the inception in 1994, Shri Kamaleshwar Higher Secondary School has not been inspected nor audited by Opponent no. 6, Director of Education and FAA has blindly accepted the said statement. Such blind acceptance raise doubts and creates suspicion about the action of the FAA. Complete information as sought is not received by the complainant and that he presses for the remaining information.
5. PIOs at Opponent nos. 2, 3 and 4 submitted vide a common reply filed on their behalf by Advocate A.V. Nasnodkar that, the desired information sought by the complainant was already provided by the

PIOs and the FAA has stated in the order that as the information sought has been already provided, the appeal is dismissed. PIOs further submitted that, the information provided is factual and as per the records available in the office. Hence, there is no merit in the present complaint and the complainant is not entitled for any relief.

6. Advocate Sadanand D. Vaingankar, appearing for the complainant, argued that the contention of the opponents stating that the Directorate of Education has neither conducted audit, nor undertaken inspection of the concerned school since its inception seems to be suspicious, as it cannot be accepted that any higher secondary school in the state remained unaudited and uninspected for a period of 28 years. Hence, the said contention needs to be enquired appropriately.
7. Advocate A. V. Nasnodkar, while arguing on behalf of PIOs, Opponent nos. 2, 3 and 4 stated that complainant cannot raise suspicion on the information furnished by the PIOs unless he has documentary evidence in support of his suspicion. Advocate Nasnodkar further argued that the Commission cannot go into the veracity of the information provided unless the complainant produces evidence to substantiate his contention.
8. Upon careful perusal of the records and submission of both the sides and after hearing the arguments, the Commission registers following observations:-

Complainant vide application dated 21/12/2021 had requested for information pertaining to the audit and inspection carried out since 1987 by the Directorate of Education with respect to Kamaleshwar High School, Korgao, Pernem, Kamaleshwar High School, Pethechawada, Korgao, Pernem and Kamaleshwar Higher Secondary School, Korgao, Pernem. Complainant has stated that he has received information from Opponent nos. 1 and 2 at different stages. However, he is aggrieved by non furnishing of the complete information.

However, the complainant has not brought on record, what information he has received and what part of the information is yet to be furnished by the PIOs. On the other hand, Opponent nos. 2, 3 and 4 have claimed that they have furnished the available information. Similarly, complainant, vide complaint memo have stated that Opponent nos. 1 and 2 have furnished the information. In such a situation, the Commission is unable to find that information on what part of his application is not furnished.

Nevertheless, the present matter being the complaint filed under Section 18 of the Act, the Commission has no jurisdiction to direct PIOs to furnish any information, as per the ratio laid down by the Hon'ble Supreme Court in Chief Information Commissioner & Another v/s. State of Manipur & Another.

9. Another important issue arising out of the instant complaint is that of audit and inspection of the concerned schools being not done by the Directorate of Education. Complainant has raised suspicion over the said fact and also raised doubts about the integrity of FAA for accepting contention of the PIOs. Here, the Commission finds that the PIOs have on record stated that they have furnished the available information and that the remaining information is not available as no audit has been conducted by Directorate of Education since inception of the Higher Secondary School. Complainant's suspicion should have been substantiated by some documents or evidence in any other form. Complainant stated that it cannot be accepted that a higher secondary school remained unaudited for a period of 28 years. However, he has not substantiated his statement with any evidence. Hence, the Commission holds that simple doubt in the mind of the complainant is not sufficient to question the creditability of the statement of respondents, unless supported by some evidence.
10. Further, Opponent nos. 2, 3 and 4 (PIOs) have filed Declaration cum Undertaking before the Commission on 21/11/2022 stating that whatever information provided by them to the complainant in respect of point nos. 1 to 9 of his application dated 21/12/2021 is correct and the said information is provided after verifying the records available in respective school. The Commission, upon perusal of the said Declaration cum Undertaking is of the view that the PIOs have furnished the available information and the issues raised by the complainant are not substantiated, hence cannot be considered.
11. It appears that the complainant is mainly aggrieved with the fact that the Directorate of Education has not conducted audit and inspection of the concerned schools. In such a case, the Commission has no jurisdiction to issue direction to the Directorate of Education to conduct audit and inspection of any school. It is upto the complainant to approach appropriate authority to seek such a relief. Similarly, the Commission cannot go into the veracity of the information furnished or statements made by the respondent PIOs, unless the complainant brings on records the falsity of the information furnished or statements made by the PIOs. Complainant herein, has only raised doubts, without supporting or substantiating the same in any form.

12. In the background of these observations, the Commission finds that the issues raised by the complainant are not supported by any evidence in any form, hence no relief can be granted to the complainant. Similarly, the present matter being the complaint filed under Section 18 of the Act, the Commission cannot direct respondent PIOs to furnish any information. Hence, the complaint is devoid of merit and the same 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