

GOA STATE INFORMATION COMMISSION

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Appeal No. 165/2023/SCIC

Shri. Uday A. Chari Priolkar,
H.No. C-5/55,
Mala, Panaji-Goa,
403001.

----Appellant

V/s

1.The Public Information Officer,
Deputy Director (ADM),
Institute of Psychiatry & Human Behaviour,
Bambolim-Goa.

2.The First Appellate Authority,
Director, Institute of Psychiatry & Human Behaviour,
Bambolim-Goa.

----Respondents

Shri. ARAVIND KUMAR H. NAIR - State Chief Information Commissioner, GSIC

Relevant Facts Emerging from the Appeal

RTI application filed on	- 23-11-2022
PIO replied on	- 09-01-2023
First Appeal filed on	- 06-02-2023
First Appellate order on	- 01-03-2023
Second appeal received on	- 12-05-2023
Decision of the Second Appeal on	- 05-03-2025

Information sought and background of the Appeal

1. Shri. Uday A. Chari Priolkar filed an application dated 23/11/2022 under RTI Act to the PIO, Institute of Psychiatry & Human Behaviour, Goa seeking following information:

- i. *"Copies of the Birth Certificate, Resident Certificate, Employment Card, educational Certificate, Nursing Registration Certificate of all the selected candidate of various categories and copies of application made by selected candidate.*
- ii. *Copies of answer sheet of selected candidates of various posts (category wise) at Institute of Psychiatry & Human Behaviour, Bambolim for the last two years.*
- iii. *Copies of correspondence made to selected candidates of various categories for last two years and their joining letters.*

- iv. *Copies of appointment letters issued to selected candidates of various categories for the last two years.*
- v. *Copies of leave Sanction order to Kiran Kerkar and copy of application of EL, EOL for last two years.*
- vi. *Copies of minutes of meeting for promotion of staff nurse to ward sister of Sandhya Dongrikar, Sidha Pangam, Karishma Waghurmekar and Shilpa Kunkolkar and copies of Roster point maintained for promotion of SC/ST."*

2. In response to the RTI application PIO(Dr. Pooja M. Madkaikar, Deputy Director/Admn. Institute of Psychiatry & Human Behaviour) vide letter dated 09/01/2023 replied as under:

- i. Point No.1- Information amounts to 3rd party. Hence exempted under Section 8(1) (j) of the RTI Act, 2005.
- ii. Point No.2 - Information amounts to 3rd party. Hence exempted under Section 8(1) (j) of the RTI Act, 2005
- iii. Point No.3 - Copies enclosed. Correspondence to Selected Candidate (679 pages). Joining letters (282 pages).
- iv. Point No.4 - Copies enclosed (182 pages).
- v. Point No.5 - Copies enclosed (07 pages).
- vi. Point No.6 - Copies enclosed (07 pages).

3. Prior to the reply dated 09/01/2023, PIO vide letter dated 15/12/2022 communicated the Appellant that "*with reference to your RTI application dated 23/11/2022, you are informed to deposit an amount of Rs. 2,206/- in the Accounts Section of this institute on any working day for collection of the information from APIO, Admn. Section*".

4. Aggrieved by the denial of information to the Point No. i and ii of the RTI application dated 23/11/2022 by the PIO invoking Section 8(1) (j) of RTI Act,2005, Appellant filed first appeal dated 06/02/2023 before the First Appellate Authority stating that information sought at Point No. i and ii of the RTI application is denied by the Respondent PIO but it is not exempted u/s 8(1) (j) of the Act and Appellant is entitled to receive the same. Appellant further submitted that the information sought at Point No. i and ii

is in public interest as the recruitment process adopted by the Department is illegal and not as per the Recruitment Rules.

5. The First Appellate Authority (Director/Dean Institute of Psychiatry & Human Behaviour) vide order dated 01/03/2023 justified the denial of information u/s 8(1) (j) of the RTI Act, 2005 as the information sought by the Appellant at Point No. i and ii of the RTI application amounts to Third party information.
6. Aggrieved by the order passed by the FAA, Appellant preferred Second appeal dated 12/05/2023 before the Commission stating that the Respondent PIO failed to furnish information sought at Point No. i and ii (inspection of answer sheets of the selected candidates) by invoking Section 8(1)(j) of the RTI Act, 2005. Appellant submitted that the information sought by him is in public interest because there is illegality in the recruitment process, which lacked transparency too. According to the Appellant, written examination for the selection of various categories of posts under IPBH, Bambolim, Goa was conducted on 08/08/2021 and the merit list was published on 20/12/2021 but the call letters/offer letters were sent in October 2021 before publishing the merit list/marks of the selected candidates.
7. Appellant further submitted in his Second appeal that he was denied natural justice by the FAA (Respondent No.2) by not giving an opportunity to be heard in the first appeal as he received notice on 22/02/2023 only for the hearing held on 21/02/2023. Appellant stated that Respondent denied the information under Section 8(1)(j) of the Act and claimed that if the information sought at Point No. i and ii pertains to third party, then the Respondent should have issued notices to the third party as per Section 11(1) of the RTI Act. The records however, show that no such notices were issued to the third party.
8. Appellant prayed before the Commission to direct the Respondents to furnish information sought at Point No. i and ii, free of cost, impose penalty on Respondents u/s 20 (1) of the RTI Act, 2005 and compensate u/s 19(8) (b) of the RTI Act, 2005.

Facts Emerging in Course of Hearing

9. Pursuant to the Second appeal filed by the Appellant, parties were notified fixing the matter for hearing on 26/06/2023 for which none present for Appellant and the representative of the PIO, Shri. Seby Dias appeared and placed on record the reply of the PIO and FAA.
10. Respondent No.1 filed written reply dated 26/06/2023 to the present appeal, stating that:
 - a) The Respondent PIO vide letter dated 15/12/2022 informed the Appellant to make payment of Rs. 2,206/- towards the cost of the documents sought.
 - b) The Appellant paid the said amount of Rs. 2,206/- on 03/01/2023 vide receipt No. 28/201 dated 03/01/2023.
 - c) Since the payment was done on 03/01/2023 and due to the process of xeroxing and certifying the 1103 pages, the information issued on 09/01/2023.
 - d) The Respondent PIO vide letter dated 09/01/2023 furnished available information documents at Point No. iii, iv, v and vi and denied information/document sought at Point No. i and ii as exempted from disclosure under Section 8(1) (j) of the RTI Act, 2005 by citing the Judgement of Central Information Commission in Mr. Raj Kumar Chaudhary V/s (PIO, MOIL LTD, Nagpur dated 24/06/2021 and the Judgement of Supreme Court of India in Central Board of Secondary Education and Anr. V/s Aditya Bandopadhyay and Ors. dated 9th August 2011.
11. In the written argument dated 05/09/2023, Appellant submitted that:
 - i. Mere quoting Section 8(1) (j) is not a ground for refusal of information and the Respondent PIO failed to give any reason for refusal of information on Point No. i and ii.
 - ii. Respondents rejected information on Point No. i and ii only to cover up illegalities committed by the Respondents.

- iii. Information sought in public interest as there was no transparency in the selection of the candidates for various categories of posts in the Institute of Psychiatry & Human Behaviour.
 - iv. Offer letters to the Selected Candidates were sent before publishing the marks and merit list of the selected candidates and joining report was accepted before publishing merit list.
 - v. Information sought on Point No. i and ii is not exempted under Section 8 (1) (j) of the RTI Act, 2005 and stated that Appellant is entitled to receive the same by citing various case laws/decided matters like:
 - a. Institute of Chartered Accountants of India V/S. Shaunak H. Satya and Ors. in Civil Appeal No. 7571 of 2011.
 - b. Kashinath Shetye V/s. P.I.O/Superintendent Engineer, Electricity Department, Panaji in Writ Petition No.1/2009.
 - c. U.P Gaitonde V/s. P.I.O/Deputy Director Adm. Water Resources Department Second Appeal No.88/SIC/2015/627.
 - d. Kishanlal Mittal V/s. Nabard Mumbai in Appeal No. CIC/SG/A/2011/002793.
 - e. V.R Sharma V/s. Ministry of Labour and Employment, Government of India in Appeal No.CIC/SG/A/2011/000464.
12. On 12/01/2024, Representative of the PIO filed written argument of the PIO dated 13/11/2023 in which Respondent PIO denied the Appellant's allegation that he was not given an opportunity to place submission/arguments before the FAA. Despite serving notice, Appellant did not present before the FAA forcing the FAA to pass an ex-parte order in the absence of the Appellant.
13. The matter was not heard between March 2024 and September 17th, 2024 as the post of SCIC and SIC remained vacant.
14. When matter resumed on 19/09/2024, none present for Appellant and Mr. Seby Dias appeared on behalf of the Respondent PIO and adjourned the matter to 12/11/2024.

15. In the subsequent hearing, Commission directed the representative of the Respondent PIO to provide inspection of the concerned documents by the Appellant and accordingly Appellant was allowed to inspect the file/documents in the office of the Respondents PIO on 27/01/2025.
16. When the matter was taken up for final hearing on 05/03/2025, representative of the PIO submitted that complying with the oral directives of the Commission, Appellant was allowed to inspect the files/documents mentioned at Point No. i and ii and the same confirmed by the Appellant who, however, sought copies of the documents including answer sheets of the selected candidates of various categories in Institute of Psychiatry & Human Behaviour Bambolim-Goa. Representative of the PIO submitted that information sought by the Appellant, upon inspection is voluminous and hence his office need to divert considerable resources to create large number of copies of documents.

Commission's Observation

- i. Normally, an applicant or an unsuccessful candidate of a competitive examination seeks answer sheet of some or selected/successful candidates but in the present case, Appellant sought the answer sheet and other details of all selected candidates numbering around 350 belonging to various categories.
- ii. In general case, such details of few or some specifically identified selected candidates are sought by an applicant or unsuccessful candidates appeared for a competitive exam meant for selection to jobs by public authorities but in the present matter, Appellant of RTI application is neither an applicant or an unsuccessful candidate to the competition written examination held on 08/08/2021.
- iii. Respondent PIO denied the information sought by the Appellant at Point No. i and ii of his RTI application dated 23/11/2022, u/s 8(1) (j) of the RTI Act, 2005.

- iv. The selection process involves a larger public interest and hence the answer sheets, being also the part of the process, are subject to a public security.
 - v. In response to the Appellant's RTI application dated 23/11/2022, the Respondent PIO vide letter dated 15/12/2023 replied to the Appellant to make payment of Rs. 2206/- being the necessary fees for the 1103 pages of information and to collect the information. It clearly indicates the Respondent PIO promptly acted to the RTI application within the stipulated time and denied certain information on the ground of being personal information of "*Third parties*".
 - vi. On the directions of the Commission, Respondent PIO allowed inspection of the documents/answer sheets of selected candidates of various categories on 27/01/2025 and subsequently sought copies of answer sheets of all selected candidates numbering around 350, which definitely required to engage sufficient resources.
 - vii. Appellant prayed for compensation but Appellant miserably failed to establish the loss or the detriment suffered by him "on account of the denial of such information" by the Respondent PIO.
17. "*The compensation has to be awarded under Section 19(8) (b) of the RTI Act, 2005 is for the loss or detriment suffered "on account of the denial of such information" and not just about any loss or detriment suffered by such person.*"
18. It may be mentioned that Appellant was neither an applicant nor an unsuccessful candidate in the above said competitive written exam conducted by the Public Authority (Institute of Psychiatry & Human Behaviour on 08/08/2021 for the selection of employees for various categories.

DECISION

The Respondent PIO is directed to furnish to the Appellant as per Point No. i and ii of his RTI application dated 23-11-2022 without

disclosing the name and identify of the examiner, Supervisor or any person associated with the process of examination within fifteen days from the receipt of the order.

Since the information to be furnished is voluminous in nature requiring involvement of considerable amount of resources on the part of the public authority, desired information should be provided to the Appellant on payment of prescribed fee.

With the above direction, the Appeal is disposed off.

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.

- Proceeding stands closed.
- Pronounced in open Court.
- Notify the parties.

Sd/-

(ARAVINDKUMAR H. NAIR)
State Chief Information Commissioner, GSIC