

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

Tel No. 0832-2437908/2437208 email: spio-gsic.goa@nic.in website: www.gsic.goa.gov.in

Appeal No. 147/2022/SCIC

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

.....Appellant

V/S

1. The Public Information Officer,
The Headmaster,
Shree Kamaleshwar High School,
Korgao, Pernem-Goa 403512.

2. The First Appellate Authority,
Shailesh R. Zingde,
Dy. Director of Education,
North Educational Zone, Mapusa-Goa.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 03/06/2022

Decided on: 03/05/2023

FACTS IN BRIEF

1. The Appellant, Mr. Damodar Barve, r/o. F-2, A-2, Yashodhan Building, Near Saibaba Temple, Verla, Canca, Mapusa-Goa vide his application dated 15/12/2021 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought certain information from the Public Information Officer (PIO), Shri. Kamaleshwar High School, Korgao, Pernem-Goa.
2. The said application was responded by the PIO on 19/01/2022, thereby furnishing information at point No. 1 and 2 and information with regards to point No. 3,4 and 5 has been rejected being third party information.
3. Being aggrieved and not satisfied with the reply of the PIO, the Appellant preferred first appeal before the Deputy Director of Education, North Educational Zone, Mapusa-Goa being the First Appellate Authority (FAA).

4. The FAA vide its order dated 04/03/2022 allowed the first appeal and directed the PIO to furnish the documents like approval granted by Directorate of Education , as available in school records.
5. Since the PIO failed and neglected to comply the order of the FAA, the Appellant landed before the Commission with this second appeal under Section 19(3) of the Act, with the prayer to direct the PIO to furnish the information.
6. Notices were issued to the parties, pursuant to which the representative of the Appellant Adv. S.D. Vaigankar appeared on 11/07/2022, Adv. Avinash Nasnodkar appeared and placed on record the reply of the PIO on 11/07/2022. The FAA Shri. Jaiwant Naik appeared on 11/07/2022, however chose not to file any reply in the matter.
7. It is a case of the Appellant that, by his application dated 15/12/2021, he sought details of the Headmaster of Kamaleshwar High School, Corgao, Pernem-Goa. However, the PIO by reply dated 19/01/2022 furnished partial information and denied the information at point No. 3, 4 and 5.

Further according to him, the order of the FAA is without any judicious reasoning and prayed that the PIO be directed to furnish complete information.

8. As against this, the PIO through his reply dated 11/07/2022, contended that legally permissible information has been furnished to the Appellant and rest of the information sought was pertaining to personal information of the PIO himself therefore rejected.
9. Perused the pleadings, reply, written arguments, scrutinised the documents on record, considered the oral submissions and judgement relied upon by the rival parties.

10. It is not in dispute that, Appellant has received the name of the Headmaster of the public authority alongwith his educational qualification and his date of appointment as a Headmaster. The basic controversy remains with regards to information at point No. 3,4 and 5 of the RTI application, which reads as under:-

"3. Details along with documents regarding the training courses, orientation and lectures, completed and/or attended in connection with RTI Act, since appointment or prior to appointment, till date.

4. Copy of the Service Book.

5. Details like approval for post for appointment advertisement for interview, application for post along with documents and certificates, minutes of interview, appointment letter, joining letter as regards to initial appointment as untrained teacher/under graduate teacher/ assistant teacher/ grade I teacher/ any other type of teacher, of the Head Master of Kamaleshwar High School as mentioned at point No. 1 of this application. "

11. As regards to information at point No. 3, it cannot be furnished as the said information is not part of the records of public authority, besides, such information is not required to be maintained under any law or rules of public authority. The RTI Act provides access to all information that is available and existing.

12. In so far as information at point No. 4 is concerned, the Appellant is seeking the copy of service Book of the public servant. The service book is the most vital document of public servant and all data related with service of employee is recorded in service book like his joining, promotion, transfer, Annual Confidential

report, leave, deductions , family nominations etc. Such information that is personal in nature and every public servant has right to guard the same.

13. Hon'ble High Court of Madhya Pradesh in the case **Shrikant Pandya v/s State of MP (W.P. No. 13646/2009)** has held as under:-

"16. In the case at hand the certified copy of personal record as well as service book of third party, which was being sought by the petitioner would contain annual confidential reports and other information like details of family and nomination thereof. These information are personal in nature and a Government servant has a right to guard the same. These information have no relationship to any public activity and if parted with will certainly lead to the unwarranted invasion of the privacy of a Government servant."

Considering the above ratio, the Appellant is not entitled for the said information at point No. 4.

14. Insofar as the information at point No. 2 (part) and point No. 5 is concerned, the Appellant has sought personal information of the Headmaster of Shri. Kamaleshwar High School, with regards to his academic qualification and other documents. This information is ordinarily barred from disclosure under Section 8(1)(j) and can be disclosed only in the larger public interest. The Appellant is not entitled to seek personal information concerning the public servant without establishing the element of larger public interest.

15. The High Court of Delhi in **Union Public Service Commission v/s Mahesh Mangalat (2015 Law Suit (Del) 1372)** in which it is held that:-

"19. It is a settled law that for seeking personal information regarding any employee of the public authority the applicant must disclose a "sustainable public interest". Even Section 8(1) (j) of the RTI Act was enacted to ensure that all information furnished to public authorities including personal information is not given free access to. As per this Section unless the CPIO or the State PIO or the appellate authority, as the case may be, is satisfied that the larger public interest justifies, the disclosure of any such information that invades the privacy of an individual is not permissible."

16. In another judgement the High Court of Karnataka at Bangalore in the case **H.E. Rajashekarappa v/s State Public Information Officer and Another (W.P. No. 10663/2006)** has held that:-

"5. The object of the Act is to provide right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. In view of the above provisions excerpted, it cannot be said that Section 2(f) of the Act encompasses the personal information of the officials of the public authority. The intention of the legislation is to provide right to information to a citizen pertaining to public affairs of the public authority. Therefore, the respondent No. 3 had no right under the Act to seek personal information of the petitioner. The respondent No. 2 / appellate authority has erred in

directing the petitioner to furnish the information as sought for by the respondent No. 3. As the

respondent's application is vexatious and it is an attempt made to settle scores with the petitioner."

In the case in hand, the Appellant is seeking the private information of the official of the public authority instead of the public affairs of the public authority.

17. Usually, private information cannot be put in public domain. The Commission also cannot be oblivious to the fact that the personal information, when allowed to be accessed by third parties has the potential to expose the owner of such information to mischief, harassment, intimidation, defamation and worse. Right to Information cannot be interpreted as to allow poaching the third parties in to personal domain. Therefore, protection of personal information, especially of a third party, is a valuable privilege which should not be lightly done away with or diluted.
18. Nevertheless, considering the nature of rest of the information sought by the Appellant at point No. 5, same does not constitute personal information and the Appellant is entitled for the said documents viz (i) Copy of approval letter received from the Department of Education to fill up the post of Headmaster of the authority. (ii) Advertisement published in Newspapers (iii) Minutes of interview (iv) Appointment letter (v) Joining letter.
19. Considering the facts and circumstances, the appeal is partly allowed. The Commission hereby direct the PIO to furnish the information to the Appellant within **FIFTEEN DAYS**, as elaborated hereinabove at paragraph No. 18 of the order. Proceedings closed. Pronounced in the open court. Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner