

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

Tel No. 0832-2437908/2437208 email: [spio-gsic.goa@nic.in](mailto:spio-gsic.goa@nic.in) website: [www.gsic.goa.gov.in](http://www.gsic.goa.gov.in)

---

**Complaint No. 09/2022/SCIC**

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,  
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.

.....Opponents

**Shri. Vishwas R. Satarkar**

State Chief Information Commissioner

**Filed on: 22/03/2022**

**Decided on: 01/02/2023**

**ORDER**

1. The Complainant, Mr. Damodar Barve, r/o. F-2, A-2, Yashodhan Building, Near Saibaba Temple, Verla Canca, Mapusa-Goa by his application dated 11/10/2021 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought the following information from the Public Information Officer (PIO), Shri. Kamaleshwar High School, Korgao, Pernem-Goa:-

*"The undersigned citizen of India likes to apply for inspection of documents under Section 2(j)(i) of above referred Act in capacity of Indian Citizen, regarding entire documentation in relation to appointment, service, promotions etc of Mr. Ramchandra Mukund Barve.*

*So please do the needful in order to inspect the desired documents in the matter."*

2. Upon the receipt of the above application, contemplating the above information as third party information, the PIO by letter dated 20/10/2021 called upon the third party for his say in the matter. The third party, Shri. Ramchandra Barve by letter dated 27/10/2021 objected to disclose the said information on ground that it is his personal information. Accordingly, the PIO replied to the Complainant on 19/11/2021, that the information was denied, being third party information as exempted under Section 8(1)(j) of the Act.
3. Aggrieved and not satisfied with the response of the PIO, the Complainant preferred a first appeal before the Deputy Director of Education, North Educational Zone, Mapusa Goa being the First Appellate Authority (FAA).
4. The FAA by its order dated 28/12/2021 partly allowed the first appeal and directed the PIO to furnish the available information honouring the privacy of the third party, free of cost within the period of 15 days.
5. Since the PIO failed and neglected to comply the order of the FAA, the Complainant landed before the Commission under Section 18 of the Act, to impose the penalty and to recommend for disciplinary action for denying the information.
6. Notices were issued to the parties, pursuant to which Adv. S.D. Vaigankar appeared for the Complainant, Adv. A. Nasnodkar appeared on behalf of the PIO and placed on record the reply of the PIO. The FAA Shailesh Zingde appeared on 20/04/2022 however, opted not to file any reply in the matter.
7. It is the case of the Complainant that, the FAA was pleased to allow the first appeal on 28/12/2021 and directed the PIO to furnish the information within 15 days. However, the PIO

dishonoured the order of the FAA and thus violated the provisions of the RTI Act and therefore liable for penal action.

8. On the other hand, the PIO contended that, the order of the FAA is vague and ambiguous and therefore he was unable to execute and comply the order of the FAA dated 28/12/2021.
9. Considering the rival contention of the parties, it is necessary to examine the order passed by FAA dated 28/12/2021. The operative part of the said order as follows:-

*"After hearing both the parties and after carefully examining the documents placed before me, I am of the opinion that there was lack of application of mind on part of the SPIO as the SPIO did not indicate to the third party the information he intended to provide to the applicant which is in contravention to Section 11 of the RTI Act, 2005, according to which the SPIO should have communicated to the third party the information that is contemplated to be furnished to the applicant.*

*Whereas the sought information includes non-personal information, the same should have been provided to the applicant and only personal information pertaining to the third party should have not been disclosed. Further, the SPIO should have rendered help to the applicant as per Section 6(1)(b) of the RTI Act.*

*Therefore, SPIO should after proper application of mind provide the information sought that should have been in public domain in accordance with Section 4 of the Act, barring the personal information pertaining to the third party honouring his privacy available in the office free of cost within 15 days of the receipt of this order."*

10. Considering the nature of the information sought for by the Complainant and the direction given by the FAA by its order dated 28/12/2021, it appears that the order passed by the FAA is vague and ambiguous and it does not contain any specific direction and eventually its execution leads to unending process and further litigation.
11. Apart from that, Section 19 of the Act contemplates that, before giving information, the third party has to be given an opportunity of hearing. The High Court of Bombay in the case **Skill Infrastructure Pvt. Ltd. v/s State Information Commissioner, Navi Mumbai (2010 (3) AIR Bom R 522)** has held as under:-

*"7.... We find that neither the First Appellate Authority nor the Second Appellate Authority gave notice of the appeal to the petitioner who is vitally affected by an order passed by it. Any order passed by a quasi-judicial authority affecting the rights of the third party could not have been passed without such third party being a party in the proceeding and/ or party in the proceeding, without being given notice or even if not strictly a formal party without giving a reasonable opportunity. From the reading of Section 11 it must follow, that if any person who seeks information of a third party, in the event the original authority rejects the application will have to add such a third party as party. No appeal without such party can be proceeded with."*

In the present case, the third party by letter dated 27/10/2021 objected to disclose the information being personal information. Admittedly no third party was impleaded as a party in the first appeal proceeding.

12. Considering the above fact, the matter is remanded back to the First Appellate Authority (FAA), to hear the matter afresh by impleading third party in the first appeal and to pass an appropriate order.

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

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner