

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

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Complaint No. 11/2022/SCIC

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

.....Complainant

V/S

1. Smt. Anjali Malik,
Dy. Education Office,
North Educational Zone,
Mapusa-Goa.

2. The Public Information officer,
The Principal,
Shree Kamleshwar Higher Secondary School, Korgao,
Pernem-Goa 403512.

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

.....Opponents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 22/03/2022

Decided on: 10/08/2023

FACTS IN BRIEF

1. The Complainant, Mr. Damodar Barve, r/o. F-2, A-2, Yashodhan Building, Near Saibaba Temple, Verla Canca, Mapusa-Goa vide his application dated 16/09/2021 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer (PIO), Office of Deputy Director of Education, North Educational Zone, Mapusa-Goa:-

"The undersigned citizen of India likes to apply for information under above referred Act in capacity of Indian Citizen, regarding correspondence carried out in connection

with superannuation of Mr. Ramchandra Mukund Barve, Principal, Kamleshwar Higher Secondary School Korgao, Pernem Goa by or with your department, and other issues.

- 1) Period for which Mr. Ramchandra Barve Acted as PIO.*
- 2) Details of cases of RTI and other departmental issues wherein Mr. Ramchandra Barve dishonoured the officers of government, RTI Act or any other law in his service period.*
- 3) The entire correspondence along with documents, received from office of Kamleshwar Higher Secondary school or management of the school in connection with retirement of Mr. Ramchandra Barve.*
- 4) The entire correspondence along with documents, carried out or merely forwarded, by office of North Zone to Director Education or/ and Director Accounts of Government of Goa.*
- 5) Copy of entire file along with marginal remark and noting sheet pertaining to retirement/ superannuation of Mr. Ramchandra Barve.*
- 6) Copy of entire correspondence along with documents received from Director Education, Director Accounts or any other department of Government of Goa in connection with superannuation of above mentioned Mr. Ramchandra Barve.*
- 7) Entire correspondence carried out by office of North Zone of Education in regards to superannuation with Mr. Ramchandra Barve or concern higher secondary or management.*

8) *Date on which Mr. Ramchandra Barve submitted his B.Ed certificate to the school or department. Also furnish copy of the said certificate.*

9) *Details as regards to dates of his service,*

A. Date of Joining as teacher to high school.

B. Date/s of first and subsequent promotions.

C. Date of Joining as teacher/ teacher Gr.I to the Higher Secondary School.

D. Date/s of promotion in Higher Secondary School.

E. Date of Completing B.Ed as per school records.

F. Date on which Mr. Barve submitted his B.Ed certificate to the school/ higher secondary.

G. Date on which school/ higher secondary school accepted the B.Ed certificate of Mr. Barve.

H. Date on which concern school/ higher secondary/ management conveyed/ submitted / forwarded the B.Ed qualification of Mr. Barve to the Department of Education or any other department of Goa Government.”

2. The PIO of the North Educational Zone, Mapusa Goa transferred the said application to the Respondent No. 2, the Principal, Shree Kamleshwar Higher Secondary School, Korgao, Pernem-Goa on 21/09/2021 under Section 6(3) of the Act.

3. Upon the receipt of the above application, contemplating the above information as third party information, the Respondent No. 2 by letter dated 20/10/2021 called upon the third party, Shri. Ramchandra M. Barve for his say in the matter. The third party, Shri. Ramchandra M. Barve by his communication dated 27/10/2021 objected to disclose the information on the ground that it is his personal information.

4. Since the PIO failed and neglected to respond within stipulated time, deeming the same as refusal, the Complainant filed first appeal before the Deputy Director of Education, North Educational Zone, Mapusa-Goa being the First Appellate Authority (FAA).
5. The FAA by its order dated 28/12/2021, partly allowed the first appeal and directed the PIO to furnish the available information except the personal information pertaining to the third party, within 15 days.
6. Since the PIO has failed and neglected to comply with the order of the FAA dated 28/12/2021, the Complainant landed before the Commission under Section 18 of the Act, with the prayer to impose penalty on the PIO and also to recommend disciplinary action for denying the information.
7. Notices were issued to the parties, pursuant to which, Adv. S. D. Vaigankar appeared on behalf of the Complainant, Respondent No. 1, Smt. Anjali Malik appeared on 20/04/2022 and filed her reply. Adv. A. Nasnodkar appeared on behalf of the Respondent No. 2 and placed on record the reply on 20/04/2022, the FAA, Shailesh Zingde appeared on 20/04/2022, however opted not to file any reply in the matter.
8. 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 provide the information within 15 days. However, the PIO failed and neglected to comply with the order of the FAA, thus disobeyed the order of higher authorities and hence liable for penal action.
9. As against this, the Respondent No. 2, PIO through her reply contended that, the information sought by the Complainant is personal information of third party, namely Shri. Ramchandra Barve, being so she forwarded the said application to the third party, who responded back by letter dated 27/10/2021 objecting

to disclose his personal information as it is confidential information and it would cause unwarranted invasion on his privacy.

The Respondent No. 2 further contended that, upon evaluating the objection of the third party she appraised whether said personal information has any relationship to the public activity or public interest. Further, according to the Respondent No. 2, she forms an opinion that the disclosure of information would cause unwarranted invasion of the privacy of individual and accordingly by letter dated 05/11/2021 she conveyed to the Complainant that, his request has been rejected.

The PIO further contended that, the order of the FAA dated 28/12/2021 was vague and unspecific and therefore it was not possible for her to comply the order of the FAA.

10. Considering the rival contention of the parties, it is relevant to go through Section 8(1)(j) of the Act, which reads as under:-

8. Exemption from disclosure of information.

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,___

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person."

From the reading of the above provision it is clear that, even though the right of the citizen is statutorily recognised, the same is not absolute but has a reasonable restrictions. Personal information is exempted from disclosure, however, such information can be disclosed only when it serves larger public interest and secondly, it should not invade the privacy of the individual. In other words, a public authority shall refuse to disclose any record containing personal information when there exists no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual.

11. Undisputedly, the information sought by the Complainant is third party information of Shri. Ramchandra Barve and the third party has vehemently objected to disclose the information being confidential and personal information. It is also a matter of fact that Shri. Ramchandra Barve was the Principal of the public authority and has retired on superannuation two years back and the Complainant is seeking the information relating to his educational qualification, B.Ed. certificate, performance details, promotions, file noting pertaining to his retirement/ superannuation etc.

12. To understand the scope of information which is protected from disclosure under the RTI Act, it is of relevance to identify the nature of information which may be regarded as "personal information". The Act does not put forth a definition of the term personal information. However, personal information has been broadly indicated by the Hon'ble Supreme Court in the case **Central Public Information Officer, Supreme Court of India**

v/s Subhash Chandra Agarwal (C.A. No. 10044/2010) by referring the various judgement of Hon'ble Supreme Court viz **Girish Ramchandra Deshpande v/s Central Information Commissioner ((2013) 1 SCC 212); Canara Bank v/s C.S. Shyam and another ((2018) 11 SCC 426); R.K. Jain v/s Union of India and Another ((2013) 14 SCC 794); Central Board of Secondary Education & Anrs v/s Aditya Bandopadhyaya (Civil Appeal No. 6454 of 2011)**, para No. 59 of the said judgement reads as under:-

*"59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, **professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings**, etc are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive."*

13. The High Court of Bombay in the case of Mr. **Deepak Pandharinath Vaigankar v/s Mr. Suryakant Babu Naik (Writ Petition No. 797/2018)**, para No. 13 of the said judgement has observed as under:-

"13. Therefore, on a bare reading of Section 8(1)(j) read with the proviso, it is apparent that there is an exemption from disclosure of information which relates to the public information of an individual, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual. Therefore, in view of this specific bar, any person would not be entitled to seek the personal information about another, which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual. The contention therefore, of the respondent No.1 that if this information can be furnished to the Parliament or the State Legislature, the same is available to him, cannot at all be countenanced by any stretch of the imagination.

14. A similar view has been taken by the High Court of Delhi in **Union Public Service Commission v/s Mahesh Mangalal (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."

15. A careful perusal of the RTI application and the complaint proceeding, it reveals that, it does not contain even a whisper as to how disclosure of the information is going to serve a larger public interest. No specific reason has been provided by the Complainant which could establish before the Commission that disclosure of personal details such as educational qualification, B. Ed certificate, professional records, performance, promotions, retirement records etc are important for larger public interest. The Complainant also miserably failed to establish that there was dispute or controversy with regards to the appointment of third party as Principal of Kamleshwar Higher Secondary School, Korgao, Pernem-Goa. In the absence of any cogent reason brought on record to establish that disclosure of said information is in public interest, the Commission is not inclined to breach a privacy of a retired public officer. For the aforesaid reason, I find no illegality or perversity in the reply of the PIO.
16. A perusal of the impugned order dated 28/12/2021 indicate that there is much substance in what has been contended on behalf of the PIO, considering the nature of information sought for by the Complainant and order given by the FAA which appears to be vague and ambiguous and it does not contain any specific direction and eventually its execution leads to unending process and further litigation; as such the impugned order cannot be upheld.
17. In the present case, the Complainant is not entitled to seek personal information of the retired public servant, without establishing the element of larger public interest.

Considering the facts and circumstances as discussed above, I find no merit in the complaint proceeding and hence same is disposed off with the following:-

ORDER

- The Complaint proceeding is dismissed.
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner