

GOA STATE INFORMATION COMMISSION
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Appeal No. 281/2022/SCIC

The SPIO/Headmaster,
 Al-Madina High School,
 Verna, Cortalim Goa.
 v/s

.....Appellant

1. The First Appellate Authority,
 Dy. Director of Education,
 South Education Zone,
 Margao – Goa.

2. Mr. Karim Mulla,
 H. No. 217, H.B. Colony,
 Near Last Bus Stop,
 New Vaddem, Vasco Goa.

.....Respondents

Shri Aravind Kumar H. Nair-State Chief Information Commissioner

Relevant Facts Emerging from Appeal

RTI application filed on	- 12-08-2022
PIO replied on	- 10-09-2022
First Appealed filed on	- 16-09-2022
First Appellate Authority Order passed on	- 21-10-2022
Second Appeal received by this Commission	- 04-11-2022
Date of Decision	- 28-11-2024

Information sought and Background of the Appeal

1. The RTI applicant, Respondent No. 2 in this appeal filed an RTI application dated 12/08/2022 seeking information from the PIO, Al-Madina High School (Appellant in the matter) on following points in the larger public interest:-

“Kindly provide the.....

- i. *Number of staff working (Teaching and Non-Teaching)*
- ii. *Copy of all educational qualification certificates, academic records in respect of Computer Teachers.*
- iii. *Copy of professional degree or other technical certificates of Computer Teachers.*
- iv. *Copy of experience certificate of Computer Teachers.*

v. *Copy of Residence certificate of Computers Teachers issued by local authority."*

2. The PIO vide letter dated 12/08/2022 replied that the *"information sought under Section 6(1) of the RTI Act, 2005 cannot be provided to a third party as information pertains to school staff which are exempted under Section 8(1)(j) of the RTI Act, 2005. Furnishing of said information would cause unwarranted invasion to the privacy of this school teaching and non-teaching staff. While seeking personal information, RTI applicant failed to show larger public interest"*.

3. Dissatisfied with the reply received from the PIO, Respondent No. 2 filed first appeal dated 16/09/2022. The FAA vide order dated 21/10/2022 stated as under:-

"Al-Madina High School, Verna Goa is an Aided Educational Institution recognised under the provision of Goa School Education Act, 1984, and it is a "Public authority" as defined in Section 2(h) of the RTI Act, 2005 as it receives grant-in-aid from the Government of Goa. Therefore, documents submitted by Computer Teachers is pursuance of his/her appointment to public office falls in public domain. Hence the information cannot be considered as personal information and therefore exemption as provided under Section 8(1)(j) of the Act is not applicable."

4. "Relying upon the judgement passed by the Goa State Information Commission towards Appeal No. 162/2020/586 in respect of Shri. Mohammad Hussain Shaikh V/s Shri. Cajetan Fernandes, SPIO, D.O.E. & Others and Appeal No. 105/2022/SCIC/706 in respect of Shri. John Fernandes, Majorda-Goa V/s The PIO/Headmistress, Government High School Baina, Vasco-Goa, the PIO/ Headmaster Al-Madina High School, Verna is hereby directed to provide the information sought in respect to point No. (2) to (5) to the appellant free of cost within 7 days from the receipt of this order".

5. Instead of comply with the order dated 21/10/2022 issued by the FAA, the PIO/ Headmaster, Al-Madina High School approached the Commission with Second Appeal No. 281/2022/SCIC dated 04/11/2022 with FAA (Dy. Director of Education, South Educational Zone) and Mr. Karim A. Mulla (RTI applicant) as Respondent No. 1 and 2 respectively, in the appeal.
6. Main prayers of the appellant are:-
 - a) The Hon'ble Commission be pleased to pass appropriate order quashing and setting aside impugned order dated 21/10/2022 passed by the First Appellate Authority i.e. Respondent No. 1.
 - b) Pending hearing and final disposal of the appeal, the Hon'ble Commission be pleased to stay the implementation of impugned order dated 21/10/2022.

Facts emerging in course of hearing

7. The Concerned parties to the appeal were notified and pursuant to the notice, Advocate for the appellant and Respondent No. 2 (RTI applicant) appeared in person regularly. Neither Respondent No. 1 nor his representative attended the hearing. The Appellant never turned up for the hearing which prompted the Commission to issue notice to the appellant to attend in person for the hearing fixed for arguments/order on 28/11/2024.

During the course of hearing, Commission observed the following:-

- (i) The PIO of the Al-Madina High School (public authority in this appeal) is not a regular staff of the school and he is a retired officer (ADEI) of Department of Education, Government of Goa. A retired hand working on temporary contractual basis cannot be appointed as PIO as it will create administrative as well as practical difficulties with regard to the penalty and recovery of penalty amongst from the PIO in the event of

penalty imposed on such PIO by the Commission under the provision of RTI Act, 2005.

- (ii) Reply to the RTI applicant with regard to his RTI application dated 12/08/2022 was sent by the PIO on a plain paper, instead of public authority (Al-Madina High School) letter head, that too, without mentioning the name and designation of the PIO.
- (iii) On an earlier occasion, same RTI applicant's, RTI application dated 16/08/2021 was replied by the Chairman of the Managing Committee of Al-Madina High School, Cortalim-Goa and not the PIO.
- (iv) Incumbent PIO, Mr. Uttam K. Pal, Retired Officer of Education Department, Government of Goa and Manager of the public authority (Al-Madina High School) was appointed as the PIO by the Managing Committee of the Mormugao Sunni Muslim Federation, Makhdoom Ashraf Nagar, Cortalim, Goa in its meeting held on 12/07/2020. Since Mormugao Sunni Muslim Federation is not a public authority, it has no authority to appoint a PIO and that too a retired hand, who is functioning as Manager of the Al-Madina High School after his retirement as Assistant District Education Inspector (ADEI).
- (v) The FAA (Dy. Director of Education) had fixed the first appeal of the RTI applicant, Mr. Karim Mulla dated 16/09/2022 for hearing on 10/09/2022 but FAA's notice to the parties is dated as 26/09/2022.
- (vi) This lapse on the part of the FAA was brought to his notice by the Manager, Al-Madina High School (not PIO) stating that he received notice on 28/09/2022 only.

- (vii) After hearing the first appeal dated 16/09/2022 on 10/10/2022, FAA issued an order dated 21/10/2022 as -
- "In the circumstances mentioned herein above, the PIO/ Headmaster, Al-Madina High School, Verna, Cortalim-Goa is hereby directed to provide information sought in respect of point No. (2) to (5) to the Respondent within 7 days from the receipt of this order free of cost".*
- (viii) In the first appeal, RTI applicant, Mr. Karim Mulla is the Appellant and the PIO/Headmaster, Al-Madina High School is Respondent. But as per the order, FAA directs the Respondent PIO to provide information to the Respondent (instead of Appellant) within 7 days from the receipt of the order.
- (ix) The RTI applicant, Mr. Karim Mulla in his complaint dated 15/09/2022 to the Director, Education, Government of Goa, Porvorim, Goa informed that Al-Madina High School has not complied with the provision of Section 5 of the RTI Act, 2005 by not designating and not notifying the mandated PIO. However, continuance of Mr. Uttam K. Pal, retired Education Officer as PIO shows that no action was initiated by the Directorate of Education on the complaint of the RTI applicant.
- (x) As far as the appointment of the PIO, there is serious breach of provisions of RTI Act by the Al-Madina High School.

DECISION

- i. On the basis of the perusal of records/ written submissions by the parties to the appeal and proceedings during the hearing, Commission has come to the conclusion that this second appeal filed by the PIO/ Headmaster, Al-Madina High School, Verna, Cortalim praying for quashing and setting

aside order dated 21/10/2022 passed by the FAA (Dy. Director of Education) has no maintainability and appeal stands dismissed.

- ii. Incumbent Headmaster of Al-Madina High School is hereby directed to file an explanation as to why a regular employee of the school is not appointed as PIO of your public authority and on what ground a retired education officer has been appointed by the Mormugao Sunni Muslim Federation, which is not at all a public authority.
- iii. Appoint new PIO of your public authority within 15 days from the receipt of this order and intimate the name and designation of new PIO to the FAA, with a copy to this Commission.
- iv. Comply with the order passed by the FAA dated 21/10/2022 within 10 days of appointing new PIO. FAA 's order directs the PIO/Headmaster, Al-Madina High School to provide information of point No. 2 to 5 to the RTI applicant. Accordingly, file a compliance report to this Commission.
- v. FAA being a Senior Officer (Dy. Director, Education) shall pay due care and attention while issuing notice to the parties concerned and preparing order. In this case, Respondent was served with a delayed notice having wrong date causing denial of opportunity to him to attend hearing on first appeal. Moreover, FAA's order directs the Respondent to provide information to Respondent. This kind of casual approach while sending the notice and preparing order may harm the principle of natural justice to the parties to the appeal.

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.

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

Sd/-

(Aravind Kumar H. Nair)
State Chief Information Commissioner

Copy to:

The Director of Education for perusal and necessary action.