

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

Tel No. 0832-2437880/2437208
website: www.gsic.goa.gov.in

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Complaint No. 46/2023/SIC

John Nazareth,
R/o. H.No. 71,
Gaunchem Bhat, Opp.Goa State Co-Operative Bank,
Merces-IIhas Goa 403005. **Complainant**

V/s

1.Roy C.D'Souza,
Public Information Officer,
Goa College of Architecture,
Altinho, Panaji-Goa 403001.

2.Ashish K. Rege,
Principal, Goa College of Architecture,
Altinho, Panaji-Goa 403001.

3.Edlina Maria Da Silva,
Jr.Stenographer /PA to Principal,
Goa College of Architecture,
Altinho, Panaji-Goa 403001.

..... **Opponents**

Shri. Atmaram R. Barve

State Information Commissioner

Filed on: 25/10/2024
Decided on: 16/12/2024

ORDER

1. In the instant matter, the Complainant Shri. John Nazareth vide his application dated 11/05/2023 Sought information from the Public Information Officer (PIO) of Goa College Architecture Panaji.
2. The PIO on the very next day transferred the said application made under the Right to Information (RTI) Act to various sections in his organization.
3. Within 30 days of the Complainant making the said application, the PIO i.e. Opponent No. 1 in this matter

issued a letter to the Complainant to make a payment of Rs. 990/-(Rs. Nine Hundred and Ninety Only) and collect the said information, however, he also informed the Complainant that information pertaining to point numbers 4, 8, 10, 11, 12, 14 and 16 of his original application has not been received by him and as such Opponent No. 1 informed the Complainant to prefer an Appeal before the First Appellate Authority (FAA) i.e. Principal of Goa College of Architecture.

4. The Complainant herein accordingly made the payment of Rs. 990/- and collected the said information on 22/06/2023.
5. Thereafter, the Complainant filed an Appeal dated 30/06/2023 before the First Appellate Authority (FAA) ie. The principal of Goa College of Architecture.
6. It has been noticed that the Principal of Goa College of Architecture Shri. Ashish K. Rege has remained absent, throughout the course of hearing of this Complaint proceedings except on 21/12/2023.
7. After issuance of repeated notices the said Ashish K. Rege issued a letter to this Commission, dated 29/10/2024 stating that he has retired from service since end of March 2024 and that he should be dropped from the list of Opponents.
8. In so far as Opponent No. 3 is concerned, Smt. Edlina Maria Desilva is the Personal Assistant to the Principal of Goa College of Architecture and the Opponent No. 1 Shri. Roy D'Souza had sought information from

Opponent No. 3 in response to the original RTI application filed by the Complainant herein.

9. Showcause notice was issued to the Opponent No. 3 for failure to file reply to the notice dated 09/10/2024.
10. Opponent No. 3 filed a written arguments and also replied to the said showcause notice and contended that, she was not in possession of the keys of cupboards in the office of the Principal and as such she is not in the possession to provide any information.
11. It is also her contention that Opponent No. 2 is solely responsible for not giving the information and for not allowing her to discharge her duty in terms of furnishing the required information.
12. The Complainant, Opponent No. 1 and Opponent No. 3 have proceeded with their arguments by way of written submissions and upon perusing the matter thoroughly this Commission is of the considered opinion as under.
 - a) The chronology of the instant matter is clearly indicative of the fact that there was intentional non disclosure of the information in terms of providing requisite information to the information seeker.
 - b) Opponent No. 1 has not been able to furnish the complete information as sought by the Complainant herein. However, the Opponent No. 1 has taken due efforts to receive the shortfall of information from Opponent No. 2 and 3 respectively.

- c) The aspect of collusion between Opponent No. 2 and 3 cannot be ruled out and the reasons for non-disclosure of information appears to be inherently malafide in nature.
 - d) The conduct of the Opponent No. 2 in terms of the non disclosure of information, withholding of keys of the cupboard as alleged by Opponent No. 3, not deciding the appeal in the capacity of FAA in the appeal filed by the Complainant non appearance before this Commission till completion of his tenure as the Principle of Goa college of Architecture and subsequently claiming the refuge of having retired from service are nothing but a clear case of mischief on the part of Opponent No. 2
13. It is made clear that Opponent No. 2 herein is a party in this matter not in the capacity of FAA but instead in the capacity of being Principle of the institution and custodian of documentary records of the said institution in the normal course.
14. The Commission has taken a serious note of the fact that there is gross failure on the part of Opponent No. 2 in not even hearing first appeal filed by the Complainant under section 19(1) of the RTI Act.
15. It is further noted that the responsibility of compliance under section 7(1) of the RTI Act, lies on the Public Information Officer solely and the Acts of shifting the onus onto the senior authority or subordinate Officers cannot be taken as a valid defense.

16. In the light of the above the present Complaint is disposed with the following orders:-

- a) Shri. Roy C. D'Souza the PIO of Goa College of Architecture is directed to furnish the balance information to the Complainant herein on or before 7th January 2025 free of cost and if need be, take the assistance of the current PIO. Incase Shri. Roy C. D'Souza is no more functioning as the PIO of Goa college of Architecture and the current PIO to render all the possible assistance in this matter.
- b) Opponent No. 3 to assist Opponent No. 1 in the process of tracing as well as the issuance of the requisite information.
- c) The Directorate of Technical Education shall relook in to the matter of determining the PIO, APIO, as well as FAA pertaining to Educational institutions under their domain, because, as evident from this instant matter having the Principal as the FAA might prove to be a case of conflict of interest.
- d) The present Principal of the Goa College of Architecture is also directed to rendere all the possible assistance to Opponent No. 1 and 3 in this matter while complying to this instant order.
- e) Opponent No. 1 and 3 to remain present before this Commission and submit a compliance report in terms of this order on or before 9/01/2025.

- f) Opponent No. 2 has been found in gross negligence of his duties in terms of non-disclosure and withholding information and as such a maximum penalty of Rs. 25000/- (Rs. Twenty five thousand only) is imposed upon him and the Directorate of Technical Education to ensure that the said amount is recovered from Opponent No. 2.
- g) Registry is directed to send the copy of this order to the parties herein and also to the Director-Directorate of Technical Education Govt. of Goa for appropriate action.
- h) The Registry is further directed to initiate penalty proceedings against Opponent No. 1 and Opponent No. 3 in case of failure to comply with the orders herein.

17. Proceeding stands closed. Accordingly matter stands disposed off.

Pronounced in the open court.

Notify the parties.

Authenticated copies of the Order should be given to the parties free of cost.

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.

Sd/-

(Atmaram R. Barve)
State Information Commissioner

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..... Opponents

CORRIGENDUM

On the First page of the order passed in this Complaint after the cause title 'Filed on 25/10/2024' shall be read as '24/10/2023'.

And in the 13th paragraph word 'Principle' may be read as 'Principal'

Rest contents of the Order remains the same.

Sd/-

(Shri. Atmaram R. Barve)

State Information Commissioner
Goa State Information Commission
Panaji-Goa

Date:- 02/01/2025

Place:- Panaji-Goa