

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri M. S. Keny, State Chief Information Commissioner

Appeal No.75/SCIC/2010

Mr. Bhosale Ashok Namdev,
A/P Rajani,
Tal Kavathe Manankal,
Dist. Sangli.

....

Appellant

V/s

1) The Education Director,
Dept . of Education , FAA,
Govt. of Goa,
Panaji - Goa.

....

Respondent No.1

2) The Head Master & Chairman,
Mata Secndry School No. 1, PIO,
Biana, Vasco-da-Gama.

....

Respondent No.2

Appellant present in person.
Respondent No.1 absent.
Respondent No. 2 present.

J U D G E M E N T **(18/06/2010)**

1. The Appellant, Mr. Bhosale Ashok Namdev, has preferred this Appeal.

2. The brief facts leading to this Appeal are as under:-

That the Appellant had sought certain information in connection with his service matter from Education Secretary by letter dated 06/05/2009 under Right to Information Act ('RTI' Act for short). Again another application dated 19/06/2009 addressed to Education Director Department of Education. It appears that one letter dated 31/03/2009 was also sent. It is seen that the said letter were sent by Deputy Director Education to the Head Master Mata Secondary School No. 1 Baina Vasco- Goa under Section 6 (3) of the Right to Information Act. It appears the said requests were duly replied. Being not satisfied the Appellant has preferred this appeal

3. The Respondents were duly served and the reply of Respondent No. 2 is on record. It is the case of the Respondent No. 2 that the letter dated 31/03/2009 before Dy. Director of Education was forwarded to them and the same was replied by letter dated 08/05/2009. That again another letter dated 06/05/2009 under Right to Information Act seeking once again the same information was forwarded to them

...2/-

and the same was replied by letter dated 03/06/2009. That third time letter dated 19/06/2009 under RTI was sent. The same was replied by letter dated 31/07/2009 pointing that requisite information is already furnished to him in earlier two replies. Another letter was forwarded by letter dated 21/07/2009 and reply was furnished on 13/08/2009. According to Respondent No. 2 the Appellant is trying to harass them.

4. Heard the Appellant and the Respondents. During the course of arguments Shri A. Nasnodkar, representative of Respondent No. 1 submitted that no First Appeal was preferred and directly the second Appeal is filed. He also submitted that matter ought to have come before First Appellate Authority.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties.

Appellant admits that he has filed the Appeal here and not before Director of Education/First Appellate Authority. There is one application in due format dated 19/06/2009 addressed to the Education Director however the contents appear to be different and this letter was also sent to the Respondent No. 2 and they have provided the reply. There is no appeal preferred as such.

Section 19 (1) of the RTI Act provides that an appeal, often referred as the First appeal, may be filed before such officer who is senior in rank to the Public Information Officer in the public Authority by any person if:

- (a) He does not receive a decision of Public Information Officer on his application for information; or
- (b) He is aggrieved by the decision of the Public Information Officer.

Appeal against the decision of the Public Information Officer cannot be filed directly with the Commission. The Appellant is required under section 19 (1) to exhaust the recourse to first appeal before filing appeal before the Commission.

6. I have perused some of the rulings of Central Information Commission on this point.

In one case where an appeal is filed with the Commission without giving an opportunity to the First Appellate Authority, the Commission can direct the Appellant to make an Appeal to the First Appellate Authority.

In Shri Om Prakash V/s Artificial Limbs Manufacturing Corporation of India,(Decision No.3398/IC(A)2008,F.No.CIC/MA/C2008/00390 dated 29/10/2008) where CPIO refused to furnish the information under section 8 (1) (i) and complaint was submitted directly to the Commission, the Commission held that Appellant should file his First Appeal to the First Appellate Authority at the earliest and he would be free to approach the Commission, if he is not satisfied with the decision of First Appellate Authority, within 90 days from the date of passing the decision by First Appellate Authority.

I have also perused some rulings in which cases were remanded back.

7. I do agree with the representative of the Respondent No. 1 when he contends that First Appeal ought to have been filed. In my view the appellant ought to have exhausted the recourse to first Appeal before filing appeal before this Commission. Therefore, this a fit case to remand back to the First Appellate Authority/Respondent No. 1 to decide the same on merits.

8. In view of the above, I pass the following order:-

ORDER

The case is remanded to the First Appellate Authority, Director of Education/Respondent No. 1 and the First Appellate Authority to dispose the matter on merits after hearing both the parties.

Parties to appear before the First Appellate Authority on 16/07/2010 at 03.00 p.m.

The Appeal to be disposed off within 30 days from 16/07/2010.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 18th day of June, 2010.

Sd/-
(M. S. Keny)
State Chief Information Commissioner

