

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No. 153/SCIC/2010/

Mr. Mahesh D. Vaingankar,
304, Madhalawada, Harmal,
Pernem –Goa 403524.

... Appellant

V/s

1) Public Information Officer,
Headmaster, Harmal Panchakroshi High School,
Harmal Pedne –Goa.

... Respondent No.1.

2) First Appellate authority,
The Director,
Dte. Of Education,
Panaji –Goa.

... Respondent No.2

Appellant absent. Shri Sadanand Vainganker for Appellant present.

Respondent No. 1 and 2 absent.

Adv. S. Parab for Respondent No.1.

J U D G E M E N T
(14/10/2010)

1. The Appellant, Mahesh D. Vaingankar has preferred this appeal praying that appeal to be allowed; Respondent No. 1 to be directed to furnish the information as per order of the First Appellate Authority; That Respondent may be directed to pay fine and that Respondent No. 1 be recommended for disciplinary action.

2. The brief facts leading to the present appeal are as under:-

That the Appellant made application dated 13/08/2009 seeking certain information from State Public Information Officer (SPIO)/Respondent No.1 under Right to Information Act 2005 ('RTI' Act for short). That the Appellant received letter dated 11//09/2009 from Respondent No. 1 mentioning about returning of information. It is the case of the Appellant that on 23/09/2009 the Appellant filed First Appeal before the First Appellate Authority (FAA/Respondent No.2). That on 07/10/2009, during the hearing of the First Appeal, Respondent No. 1 accepted the application and furnished letter dated 07/10/2009. That on 02/11/2009 the First Appellate Authority

...2/-

passed the order directing Respondent No. 1 to provide the information to the Appellant within 15 days from the date of order by obtaining the same from Panchakroshi Shikshan Mandal from point No. 1 to 4. That the Public Information Officer/Respondent No.1 by letter dated 21/11/2009 informed the Appellant his inability for furnishing information as per order of the First Appellate Authority. It is, further the case of the Appellant that no information has been furnished. Regarding point No. 1, 2, 4 and 5 that information furnished to point No. 1 is not proper and to point No. 2 is incomplete. That there is delay of 60 days for supply of information as regard to point No. 3 of the application and that point No. 5(1) has been wrongly answered. Being aggrieved the Appellant has preferred the present appeal.

3. The Respondent resist the appeal and their replies are on record.

It is the case of the Respondent No. 1 that the present appeal filed by the Appellant is just to harass the Respondent No. 1. That the application dated 13/08/2009 has been very well substantially answered that full information is furnished as has been furnished on receipt of the notice of the First Appellate Authority. That counter reply filed by the Appellant on 12/10/2009 before the First Appellate Authority asked for more information with the help of more documents. The same appeal is not allowed. That by letter dated 21/11/2009 the Respondent No. 1 mentioned that all the information which was available and sought by the Appellant was already furnished to him. It is further the case of Respondent No. 1 that from the record it is crystal clear that all the information sought by the Appellant is already given to him by Respondent No. 1 and also the Respondent No. 2. It is the case of the Respondent No. 2 that Respondent No. 1 admitted his mistake and agreed to accept the letter dated 07/10/2009 and also submitted requisite information to be given to the Appellant. During second Appeal the Appellant submitted that he was not happy with the information provided in respect of point No. 1, 2, 4 and 5. It is further the case of Respondent No. 2 that by letter

dated 02/11/2009 appeal filed by the Appellant was allowed and Public Information Officer was directed to provide information within 15 days as mentioned in the said order.

4. Heard the arguments, Shri Sadanand D. Vaigankar representative of the Appellant argued on the behalf of the Appellant and Adv. Shri Sagar Parab argued on behalf of Respondent No. 1. Representative of Appellant submitted that application dated 13/08/2009 and reply dated 07/12/2009 he elaborately submitted that question No. 2 is not answered in detail and in respect of question at Sr. No. 4 to 5 false answers have been given. In short what he want to suggest is the information furnished is incomplete, incorrect and false. He next submitted that there is a delay of 60 days in furnishing answer to question No. 3. According, to him necessary action be taken and his prayers be granted.

During the course of his arguments Adv. S. Parab referred to the case in detail. According to him appellant very well knew that information is with the Chairman and that he does not ask information from the chairman and that the same is sought from Respondent No. 1. He referred to the records and pointed out that all information has been furnished. According to him Appellant ought not to have any grievance.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the relief prayed are to be granted or not. It is seen that Appellant vide his letter dated 13/08/2009 sought certain information from Public Information Officer/Respondent No. 1. By letter dated 11/09/2009 the Respondent No. 1 informed the Appellant that information asked pertains to Harmal Panchakroshi Shikshan Mandal – Harmal the society which runs Harmal Panchakrosh Shikshan Higher Secondary school and other institutions and that being Head of the school it is beyond his jurisdiction to furnish information and therefore the application is

returned back. It appears that Appellant preferred the First Appeal before the Director of Education/FAA. It appears that during hearing the Respondent No. 1 admitted his mistake and accepted the letter and also furnished the information. It is not in dispute that First Appellate Authority passed the order directing Respondent No. 1 to furnish the information. Since information was not furnished the Appellant landed in this Commission. Looking at the factual backdrop of this case this appeal appears to be for non-execution of the order of First Appellate Authority. Apparently, the Appellant has no grievance against F.A.A. However, I need not refer to this aspect as Appellant submitted that all the information has been furnished his only grievance is about delay and false information to which I shall refer herein after.

6. It is now to be seen whether there is any delay. Apparently, there is delay in furnishing the information as contented by the Appellant. According to the Adv. of the Respondent No. 1 there is absolutely no delay. In any case to my mind Public Information Officer should be given an opportunity to explain about the same.

7. The Appellant contends that information in respect of item at Sr. No. 2, 4 and 5 are incomplete, incorrect and false. This is disputed by the Adv. for the Respondent No. 1. According, to him information furnished is correct.

It is to be noted that purpose of Right to Information Act is per se to furnish information. Of course, Appellant has a right to establish information furnished to him is false, incorrect, misleading etc. But, the Appellant has to prove it by some sort of concrete evidence to counter Respondents No.1's claim. The information seeker must seek true and correct information otherwise purpose of Right to Information Act will be defeated. It is pertinent to note that mandate of Right to Information Act is to provide information – information correct to the core and it is for the Appellant to establish that what he has received is incorrect and incomplete. The approach of the Commission is to attenuate the area of secrecy as much as possible. With this view in mind I am of the opinion that the appellant may be given

an opportunity to substantiate that the information given to him is incomplete, incorrect, misleading etc as provided in section 18(1) (e) of the Right to Information Act.

8. In view of the above the information is already furnished. Since there is delay the Respondent No. 1 is to be heard on the same. The Appellant should be given an opportunity to prove that the information is incomplete, incorrect misleading etc. Hence I pass the following order:-

O R D E R

The appeal is partly allowed. Since, information is furnished no interference of this Commission is required.

Issue notice under section 20(1) of the Right to Information Act to Respondent No.1/Public Information Officer why penalty action should not be taken against him for causing delay for furnishing information.

The explanation, if any, should reach the Commission on or before 16/11/2010, Public Information Officer/Respondent No.1 shall appear for hearing.

The Appellant to prove that the information furnished is false, incorrect, misleading etc. further, inquiry posted on 16/11/2010.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 14th day of October, 2010.

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

