

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 188/SCIC/2010

Dr. G. C. Pradhan,
F-1, Ashoka-II, Gasudha Colony,
Alto-St.Cruz, PO: Bambolim Complex,
Goa 403202.

... Appellant

V/s

1) The Public Information Officer(PIO),
Nirmala Institute of Education (NIE),
Panaji-Goa.

... Respondent No.1.

2) The Principal & First Appellate Authority,
Nirmala Institute of Education(NIE),
Panaji-Goa.

... Respondent No.2.

J U D G E M E N T

(15/11/2010)

1. The Appellant, Dr. G. C. Pradhan, has filed the present appeal praying to quash and set aside the impugned orders/letters of the Public Information Officer, NIE dated 29/07/2010 and of the First Appellate Authority NIE dated 04/08/2010, to direct the PIO NIE to either provide the certified copies of the rules as requested or transfer his application to the concerned public authority as per section 6 (3) (ii), or to state clearly whether such rules exist or not with respect to point Nos.1, 2, 3 & 4 of his application; to provide correct information with respect to point No.5 and to impose penalty on the PIO and FAA under section 20(1) of the R.T.I Act.

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

That the Appellant, vide his application dated 27/07/2010 sought certain information under Right to Information Act ('RTI' Act for short) from the Public Information Officer, Nirmala Institute of Education. That by reply dated 29/07/2010 the PIO did not provide the information with respect to point No.1, 2,3 and 4 and provided false information in respect of point No.5. That the Appellant preferred First appeal. That without any hearing the F.A.A. informed him by letter dated 04/08/2010 that the information provided by the PIO is correct. Being aggrieved the appellant has

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preferred the present appeal on the grounds as mentioned in the memo of appeal.

3. The Respondents resist the appeal and their reply is on record. It is the case of the Respondent that the information sought by the Appellant vide application dated 27/07/2010 cannot be termed as 'Information' under RTI Act and that the same is in the nature of queries, explanations, legal propositions, explanations and inferences. That the orders made by PIO and the Appellate Authority are correct and legal and need no interference. That the Respondent refers to section 2(f) of the RTI Act and submits that appellant has not claimed available information. It is the case of respondent that by letter dated 08/07/2010 addressed by Nirmala Institute of Education to the Under Secretary in reference to order No. 9/35/97-HE/1651 dated 06/07/2010 submitted at the college office by Dr. S. K. Pradhan alongwith the joining report, the Institute has conveyed their say or reply in the matter. That the information is sought regarding the statements made in the said letter and the proof or law relating the said statements. That this is not permissible nor available under the Right to Information Act and that appeal is liable to be rejected. That the Appellant under the garb of information attempts to seek explanation to the acts and actions of N.I.E. That the appellant also seeks certified copies of rules, actions of N.I.E. That the appellant also seeks certified copies of rules, and service rules. In short according to respondent information sought does not come within the meaning of section 2(f) of Right to Information Act.

4. Reply in re-joinder is filed by the Appellant. The Appellant objects for one reply on behalf of Respondent No.1 and Respondent No.2. That the stands are contradictory and misleading. It is the case of the Appellant that he had asked for copies of rules, orders, notifications etc. the Appellant denies the contents of the reply which are contrary to and inconsistent with what is stated in the memo of Appeal.

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5. Heard the arguments. The Appellant argued in person and Adv. V. R. Parseker argued on behalf of the Respondents.

Appellant referred to the facts of the case and argued on lines with memo of appeal and rejoinder.

Adv. for Respondent also referred to the facts of the case. He submitted that information sought is on the basis of letter dated 08/07/2010. He referred in detail to the meaning of information and points 1, 2 etc in detail. He next referred to the order of the High Court. According to him queries, explanations cannot be sought as information.

6. 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 is to be granted or not?

It is seen that the appellant, vide his letter dated 27/07/2010 sought certain information from Respondent No.1. This information is in relation to letter dated 08/07/2010. The information consists of five points. The same refers to rules and service rule and certified copy of rule/order. By reply dated 29/07/2010 the respondent No. 1 informed the appellant that information in respect of 1 to 5 as not available and regarding 6 copies of Goa University statute and letter given. It is seen that Appellant preferred the Appeal, however the same was dismissed.

7. It would not be out of place to mention about the definition of Information. Under section 2(f) "Information" means any material in any form, including records, documents. E-mails, opinions, advices press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force. In an old case (AIR 1957 Punj 226) the Punjab High Court explained information as synonymous with knowledge or awareness in contradistinction to apprehension, suspicion or misgiving.

It is to be noted here that term 'record' for the purpose has been defined widely to include any document, manuscript, file, etc. Under clause 2(j) "Right to Information" means the right to information accessible under this act which is held by or under control of any public authority and powers under the Act include the right to: (a) inspect works, documents, records of any public authority; (b) take notes extracts or certified copies of documents or records; (c) take certified samples of material and (d) obtain information of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print outs where such information is stored in a computer or any other device.

A combine reading of section 2(f), 2(i) and 2(j) of the RTI Act would show that a citizen is entitled for disclosure of information which is in material form with a public authority and "information" and the right to seek do not include opinions, explanations etc.

8. Coming to the case at hand the information sought is on the basis of a letter dated 08/07/2010 I have perused the said letter produced by Respondent. The said letter was to under Secretary, Directorate of Higher Education in pursuance of order dated 06/07/2010 produced or shown by Dr. S. K. Pradhan alongwith joining report. In the said letter the Principal has stated about her opinion, Justification etc. the information asked is as under:-

1. At point No. 2 4th sentence of the above letter it is stated "their services were permanently and irrevocably transferred" In this context kindly provide the certified copy of the rule/order which states that services of Dr. G. C. Pradhan and Dr. S. K. Pradhan were permanently and irrevocably transferred after their re-deployment to work at SIE.

Point 2, 3 and 4 are in similar vein.

The answer provided to item No. 1, 2, 3 and 4 are as "Not available"

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Item 5 is regarding copy of rule/order. From the record it is seen that the same has been furnished. I have perused the contentions of the Appellant at para 7 of the Memo of Appeal. What has been held has been provided. The veracity or otherwise, interpretation of Acts, rules instructions and so on is to be tested before appropriate forum and not before this Commission. Whatever information held is to be provided as held by the Public authority.

It is now to be seen whether item No. 1 to 4 constitutes information. It is to be noted here that in the guise of information seeking explanation about the nature and action of public authority need not be raised for answers. Looking at the above queries it cannot be said that the same fall under section 2(f) of RTI Act. Apart from that what is sought are the rules based on the reply letter. It is not open to the information seeker to engage the Public Authority in a dialogue regarding interpretation of Acts, Rules, instructions and so on.

9. I have perused some of the rulings of the Central Information Commissioner on the point. They are as under:-

(i) In R. K. Mirg V/s Ministry of Home Affairs (F.No. CIC/AT/(A)/2006/00154 dated 03/11/2006) it is observed as under:-

"Section 2(f) of the RTI Act allows an appellant access to information "held" by a public authority. Since Rules and Acts were already in the public domain, these were freely accessible to anyone who wanted to have them, and hence should not be said to be "held" by any public Authority. It is, therefore, not open to the appellant to seek "interpretation" of a law or rule from the public authority disguised as seeking information.

In overall consideration of the matter before the Commission, it is held that there is no responsibility cast on the respondents to "interpret" any law or rule for the Appellant. The appeal is rejected".

(ii) In K.M. Naregal V/s Department of Personal & Training (Appeal NO.CIC/WB/A/2007/00825 decided on 2/03/2009) it was observed that interpretation of Laws, rules and orders is not within the purview of the RTI Act. it was also observed that this is a matter of legal opinion required to be agitated before the competent court.

(iii) In Aisha Maqbool V/s Municipal Corporation of Delhi (Appeal No. CIC/WB/A/2008/01329/SG dated 24/12/2008) it is observed as under:-

“ The Appellant is not happy with the reply and wants the PIO to give specific provision of the law which would apply to his property. He is effectively seeking an interpretation of the law from the PIO which is not information as defined under the Act”

(iv) In Major (Retd.) P.G. Deval V/s Central Excise & Custom Department (Decision No. F.No. CIC/AT/A/2008/00424 dated 28/07/2008) it was held that RTI Act cannot be invoked to demand and obtain from a public Authority explanations, reasons, justifications and so on in respect of decision made.

There are also some other decisions on this point. In short information sought at point No.1 to 4 does not fall within the category of information as defined under section 2(f). The Appellant has adequate forum to question the same if aggrieved.

10. It was contended that the stand of Respondent No.1 is contradictory and reasons for the same have been given in the replies.

No doubt PIO has simply said 'Not available' without referring to the particular section. To my mind this is not fatal to the case of Respondent No.1. However, PIO has to state the same properly,

11. Another objection was that the same advocate cannot appear to both the Respondents. I do agree with this submission. However, in the instant case the stands are not contradictory and Advocate's presence can be taken on behalf of PIO. However in future the Advocate should take note of this. ...7/-

12. It was contended that no hearing was given by FAA. Normally the First Appellate Authority should give a fair hearing to the parties. Principles of natural justice also require the same.

13. Coming to the prayers in the appeal; prayers (a) and (c) cannot be granted in view of the above.

Regarding penalty. It is seen that application is dated 27/07/2010 and reply is dated 29/07/2010. The reply is in time.

It is to be noted here that information in cases concerning "Life and Liberty of a person" shall be provided within 48 hours. Life and liberty are two of the most important facets of our existence. RTI Act envisages that information pertaining to life and liberty of a person should be disclosed urgently. This has to be applied only in exceptional cases and the question as to whether information sought concerns life and liberty of a person has to be carefully scrutinized in proper prospective and imminent danger has to be substantially proved.

12. In view of all the above no fault can be found with the order passed. Hence I pass the following order:-

O R D E R

The Appeal is dismissed.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 15th day of November, 2010.

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

