

GOA STATE INFORMATION COMMISSION
AT PANAJI

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

Appeal No.159/SCIC/2010

Shri Vithal K. Naik,
Lab. Attendent,
Peoples Higher Secondary School,
Rua de Ourem, Panaji

… Appellant.

V/s

1) The Public Information Officer,
Principal,
People's Higher Secondary School,
Rua-de-Ourem, Mala,
Panaji-Goa

… Respondent No.1.

2) First Appellate Authority,
Director of Education,
18th June Road,
Panaji-Goa

… Respondent No.2.

Adv. J. Naik for Appellant
Adv Smt. Harsha Respondent no.1
Adv. D. Chudikar Respondent no.2

ORDER
(07-06-2011)

1. By judgment and order dated 14/01/2011, this appeal was disposed off and was posted for compliance on 25/02/2011.

That on 25/02/2011, the Respondent No.1 and his Adv. Shir N. Kamat filed an application stating that one report/ complaint of Chemistry Department has not been traced despite making diligent efforts, thereby filing the compliance report .

2. That on 11/03/2011, the Appellant filed an application stating that P.I.O./Respondent No.1 failed to furnish the information and /or comply the order and further prayed that penalty be imposed on the Respondent/P.I.O Notice of this application was given to the Respondent/P.I.O. and he has filed the detail reply which is on record.

The Respondent No.1/P.I.O. has mentioned in the reply about efforts made to trace the record, however, the same could not be traced. Reply on records mentions the same and as such I need not reproduce the same.

3. I have heard Adv. J. Naik for Appellant and Adv. Smt. H. Naik for Respondent No.1/P.I.O.

It is seen that Xerox copy of letter dated 14/03/1988 is furnished only one report/complaint of Chemistry Department is not traceable. The case of the Respondent No.1 from the very beginning is that said report/Complaint is not traceable. The said complaint/report letter appears to be of 23 December, 1998 as can be seen from letter dated 04/01/1999. Therefore this is the only report/Complaint that is not traceable.

It is seen that the same is old and not traceable. I do agree with the contention of the Adv. for the Appellant that if the contention is accepted that information cannot be furnished as the same is not traceable then it would be impossible to implement R.T.I. Act. However, it is also fact that information that is not available cannot be furnished. I have perused some of the rulings of the Central Information Commission on the point. The rule of Law now crystallized by these rulings is that information/documents that is not available cannot be furnished. The Right to Information Act can be invoked only for access to permissible information.

4. According to Adv. for the Appellant such report must be there.

In my view the authorities should hold proper inquiry to find out the same.

5. In view of the above, I pass the following order.

ORDER

The Director of Education, Panaji to appoint an officer to conduct an inquiry regarding the said documents/report/complaint and to fix responsibility for misplacement/missing of the said document/Complaint/report and initiate action against the delinquent officer/officials and/or be suitably penalized as per law. The inquiry to be completed as early as possible preferably within 45 days from the date of order/appointment of Officer to conduct inquiry and report compliance.

Pronounced in the Commission on this 7th day of June, 2011.

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

