

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.201/SIC/2011

Shri Srikant Naik,
R/o.H. No.174,
Simpale Sancoale,
P.O. Cortalim-Goa

... Appellant.

V/s.

1. The Public Information Officer,
The Principal,
Shantadurga Higher Secondary School,
Sancoale, Goa
 2. The First Appellate Authority,
Director of Education,
Porvorim, Bardez-Goa
- ... Respondents

1. Shri Mario Diniz
R/o.Aquem – Baixo,
Navelim
- Applicant/3rd Party

Appellant in person.

Shri U. Naik representative of appellant

Respondent in person. Advocate Nasnodkar for resp. No.1

Respondent No.2 absent.

Adv. S. G. Naik for third party

J U D G M E N T
(13/01/2012)

1. The Appellant, Shri Shrikant Naik, has filed the present appeal praying that the information as requested by the appellant in his application dated 08/06/2011 be furnished to him correctly and fully without reserving any information to save any person; that action be taken on P.I.O. Principal, Shantadurga Higher Secondary School, Sancoale, Goa for not providing full information inspection of records within stipulated time period of 30 days; that the penalty be imposed on P.I.O. for not providing information as per Sec.20 of the R.T.I. Act; that disciplinary action be initiated against P.I.O.; that compensation may be granted for harassing the

appellant and that the information be provided free of charge in terms of Sec.7(6) 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 8/6/2011, sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer(P.I.O.)/respondent No.1. That the application dated 8/6/2011 was complete in all respect. That the appellant received unsatisfactory reply from the P.I.O./Respondent No.1 from the letter dated 1/07/2011 stating that the said reply is very vague, inconclusive and evasive and thus the respondent No.1 has miserably failed to meet the object of R.T.I. Act by not providing complete and correct information as per the application. Being not satisfied with the said reply, the appellant preferred first appeal before the First Appellate Authority(F.A.A.)/respondent No.2. By judgement and order dated 23/8/2011, the F.A.A./respondent No.2 directed the respondent No.1 to furnish the required information as per their application dated 8/6/2011. That the respondent No.1 has not complied with the orders of the F.A.A. to provide the information within 15 days from the receipt of the order passed in the first appeal. That the respondent No.1 has been denying the information even after order passed by F.A.A. Being aggrieved the appellant has preferred the appeal on various grounds as set out in the memo of Appeal.

3. The respondents resist the application and the reply of respondent No.1 is on record. It is the case of the respondent No.1 that the appellant sought information pertaining to the educational qualification of the applicant and others. That pursuant to the request of the appellant, respondent No.1 asked verbally the consent of the concerned parties for furnishing the information, However they refused to give consent raising plea that information sought relates to the personal information which has no relationship to any public interest or activity. That the applicant also stated that the educational certificates if furnished appellant

may misuse it for other purpose. That the respondent also relied on the judgement of the Commission in appeal No.318/2008 filed vide Shri Uday A. Chari V/s. P.I.O., Executive Engineer, W.D. III, P.W.D., Panaji, Goa. That in the said appeal, Goa State Commission held that the certificates of educational qualification are personal information not having any relation to the public activity. That relying on the said judgement, the respondent No.1 rejected the request U/s.8(1)(j) of the R.T.I. Act. That the information sought relates to the 3rd party ie the applicant herein as well as other teachers of the school. The respondent No.1 also states that no notice was issued to the third party.

During the course of proceedings, applicant Shri Mario Diniz filed an application praying that his application be allowed and he be permitted to argue his case before the commission. Accordingly opportunity was given to him and Adv. S. G. Naik appeared on his behalf. Reply of the appellant in respect of application of the applicant is also on record.

4. Heard the arguments. Shri U. Naik Dessai argued on behalf of the appellant. Advocate Shri Avinash Nasnodkar argued on behalf of the respondent No.1 and Advocate Shri S. G. Naik argued on behalf of the applicant/3rd party, Mario Diniz. All the parties advanced elaborate argument.

Shri Naik, representative of the appellant referred to the facts of the case in detail. According to him application was filed on 8/6/2011 and reply is dated 1/7/2011. He referred to Sec.8(1)(j). He also referred to the order passed by the F.A.A. According to him, respondent No.1 is bound to furnish the information. According to him, the school is aided school and Public Authority under the Act. He also referred to the preamble of the Act and transparency and accountability and according to him the appellant is liable for the information sought.

Ld. Adv. Shri A. Nasnodkar submitted that the information is of the 3rd party. He next submitted that appellant is not a guardian nor parent of any student. According to him, the information being of 3rd party the concern teachers objected. He also submitted that if certificates are given there is possibility of the same being misused. It would not be proper to give the information sought. He also submitted that concerned teachers were not heard. According to him matter is to be remanded.

Advocate of the applicant Shri Naik submitted that he adopted arguments of Advocate Shri Nasnodkar. He submitted that third parties are not heard. According to him since information relates to 3rd party, it was required that they be heard. He relied on Section 11 of the R.T.I. Act and also judgement of Reliance Industry Ltd. V/s. Gujrat State Information Commission. He also produced xerox copy of the judgement which is on record.

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 by application dated 8/6/2011 the appellant sought certain information. The information consisted of 2 items, Sr. No.1 and 2. The information was in relation to the principal and certain teachers i.e. third parties. Regarding month and year of passing of post graduation and BED and name of University and copies of mark sheets of Post Graduate and B.E.D. By reply dated 8/7/2011 the P.I.O. informed the appellant that the information sought at Sr. No.1 and 2 cannot be furnished in view of certain judgement passed by C.I.C. and also Goa State Information Commission. Being aggrieved the appellant preferred an appeal before the First Appellate Authority. The appeal was disposed off by order dated 23/8/2011. It is seen that staff members had objected to disclose the information. The F.A.A. ordered as under :-

“After going through the case papers and considering the arguments advanced by the parties, I have come to the conclusion that information sought shall be provided by the respondents within 15 days free of cost and if the appellant still remained dissatisfied he is at liberty to proceed to the State Commission. In view of the above, the appeal is disposed off.”

It is seen that say of the teachers was taken, however, they were not made parties. The F.A.A. also did not try to implead them. Shri Mario Diniz intervened before this Commission. In any case the order is passed by F.A.A and the same is not challenged by P.I.O. or any other person. The appellant has filed the present appeal. Normally under Sec.19(3) a second appeal can be filed against the decision of the F.A.A. However in the instant case this appeal appears to be for non-execution of the order. Since this order is not challenged the same stands.

Adv. Shri S. Naik has relied on the decision of the Gujrat High Court in case of Reliance Industries. I have gone through the same. However as observed above the order of F.A.A. stands and it would not be proper for this Commission to set it aside in the present appeal which is essentially for non compliance of the order. Looking at the order no intervention of this Commission is required.

7. Adv. Shri Nasnodkar contends that information is of third party and the third party had objected the disclosure. According to him matter be remanded back. In the factual backdrop of this case it is not possible to remand. If the third party had challenged the order of the F.A.A. perhaps it could have been done so. In any case the order of the F.A.A. stands and the respondent No.1 to comply the said order.

8. It was contended by Shri Naik that there is delay in complying with the order. This is disputed by the respondent No.1

in any case to mind the P.I.O. should be given an opportunity to explain about the same in the factual matrix of this case.

9. In view of all the above no intervention of this Commission is required and the respondent No.1/P.I.O. to comply with the order of the F.A.A. dated 23/8/2011. The respondent No.1/P.I.O. is to be heard on the aspect of delay. Hence I pass the following order :-

ORDER

The appeal is allowed. The respondent No.1/P.I.O. is hereby directed to comply the order of F.A.A. dated 23/8/2011 passed in First Appeal No.40/2011 and the information be provided to the appellant as sought by him vide his application dated 8/6/2011 within 20 days from the date of receipt of this order.

Issue notice U/s. 20(1) of R.T.I. Act to the respondent No.1/Public Information Officer to show cause why penalty action should not be taken against him for not complying the order of F.A.A. and furnishing the information. The explanation if any should reach the Commission on or before **09/03/2012**. The P.I.O./respondent No.1 shall appear for hearing.

Further inquiry posted on **09/03/2012 at 10.30 a.m.**

The appeal is accordingly disposed off.

Pronounced in the Commission on this 13th day of January, 2012.

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