

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. Attendant,
People's Higher Secondary School,
Rua de Ourem,
Panaji - Goa

.... Appellant

V/s.

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

.... Respondent No. 1.

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

.... Respondent No.2.

Appellant in person.

Adv. Smt. Harsha Naik for Respondent No. 1.

Shri D. Chaudiker, representative of Respondent No. 2.

J U D G M E N T **(01.02.2012)**

1. By Judgment and Order dated 14.01.2011 this Commission ordered as under:-

"The Appeal is allowed and the Respondent No. 1 is hereby directed to provide the said documents, within fifteen days from the receipt of this Order, after taking a thorough search of the same and report compliance on 25.02.2011."

On 11.03.2011 the Appellant filed an application stating that Respondent No. 1 failed to comply the Order. The Respondent No. 1 filed the compliance report dated 22.07.2011. As per the same letter dated 13.04.1988 is not traced or is not available. The other information being furnished.

2. Normally under R.T.I. Act the information is which is not 'held' cannot be provided under Section 2(j) of the R.T.I. Act.

I have also perused some of the rulings of Central Information Commission:

(i) In Birendra Singh Malla *v/s.* Tehri Hydro Development Corporation Ltd. Rishikesh (F. No. CIC/AT/A/2006/00058, dated 27-06-2006) the Commission directed the Public Authority to hold an in-house inquiry about the loss of the 'original' of the so called report of the Committee No. 1 which should be completed within three weeks. At the conclusion of the inquiry, if it is formally established that the original is untraceable. The Appellant may be suitably advised.

(ii) In V.R. Sharma *v/s.* Ministry of Defence (Sett.) New Delhi (F.No. CIC/AT/A/2006/00073 dated 04.07.2006) where information regarding equivalent status of Defence Accounts Staff/Civilian Govt. employees and army officers sought despite diligent search, the desired information could not be traced, the Commission observed that the information as requested by the Complainant is "untraceable" rather than 'non-existent'. Therefore no orders regarding responsibility for delays or imposition of any penalty passed.

(iii) In Shri B. S. Rajput *v/s.* Council of Scientific & Industrial Research (CSIR), (F.No.CIC/AT/A/2008/00464 dated 15.09.2008) where respondent pointed out that all information barring one information (corresponding to Appellant's R.T.I. request dated 13.06.2007) had been provided, the Commission held that it has no reason to disbelieve the categorical assertion of respondent and the document in question missing is more than 20 years old. Thus document being untraceable cannot be physically disclosed and resultantly there is no disclosure obligation on the respondent.

3. In spite of being aware that information was not traceable this Commission with a view to ascertain as Appellant was insisting that the said document is there, passed the following 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.”

The Dy. Director of Education (Adult)/Inquiry Authority has filed the report dated 22.07.2011. As per the Inquiry Report, as per the records available in the office it has been found that only eight complaints have been received from Chemistry Department against Shri Vithal K. Naik and there is no other complaint reported by the Chemistry Department. So the question of fixing responsibilities for misplacement/missing documents does not arise.

4. The Appellant has filed an application dated 28.09.2011 praying that nature of punishment be specified and imposed on the delinquent officer/officials or in the alternative the Appellant be ordered to be issued non-compliance certificate to enable this Appellant to approach the Hon'ble High Court.

5. Heard both sides i.e. the Appellant and Shri D. Chaudiker, representative of Inquiry Authority.

According to the Appellant inquiry is not held properly. That Guard File, Inward and Outward register are not there.

According to Shri D. Chaudiker, Inward Outward are lost and that Guard file was checked. According to him the said document is not traceable.

Though Appellant states so he too does not have any copy as such. As pointed above the said document is not traceable. Inquiry report also states so. Therefore, the question of furnishing the same does not arise. As pointed above under R.T.I. only available information is to be furnished.

It is to be noted here that R.T.I. is not a redressal forum. In case the Appellant has any grievance he has to approach the appropriate forum.

6. In view of this I pass the following Order:-

ORDER

The proceedings are dropped in view of report furnished.

The proceedings are accordingly disposed off.

Pronounced in the Commission on this 1st day of February, 2012.

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