

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No.265/SIC/2010

Shri Sadanand D. Vaingankar
R/o.Madhalawada, Harmal,
Pernem, Goa 403524

... Appellant.

V/s.

1. Mr. G.P. Bhat, Public Information Officer
O/o.Dy. Director of Education (Academic),
Directorate of Education, Panaji, Goa
 2. Mr. Uday D. Govekar, PIO (So called)
O/o.Head Master, Harmal Panchakroshi High School ,
Harmal, Pernem, Goa
 3. Mr. Y. P. Dhore,
Dy. Director of Education,
North Zone Education, Mapusa-Goa
 4. Dr. Celsa Pinto, F.A.A.
Directorate of Education,
Panaji-Goa
- ... Respondents

Appellant absent.

Respondent No.1, 3 and 4 absent.

Respondent No.2 present.

Representative of Respondent No.4, Shri D. Chaudikar present

J U D G M E N T
(25/01/2012)

1. The Appellant, Shri Sadanand D. Vaingankar, has filed the present appeal praying that the appeal be allowed; that respondent No.1 be directed to pay appropriate fine as applicable and may be recommended for disciplinary action under service rules applicable; that the respondent No.1 be directed to transfer the application to the appropriate person, holding/deemed to be the P.I.O./A.P.I.O. of the office of Head Master, Harmal Panchakroshi High School, Harmal, Pernem in order to furnish complete and proper information; that respondent No.2 be directed not to interfere in the

R.T.I. matters as suggested by respondent No.4; that respondent No.2 be directed to refund the fee charged of Rs.44/- from the appellant; that respondent No.2 be recommended for disciplinary action; that respondent No.3 be directed to refund the fee charged of Rs.124/- from the appellant; that the respondent No.3 and 4 may be recommended for disciplinary action under the service rules and that costs be awarded to the appellant.

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

That the appellant, vide an application dated 12/05/2010, sought certain information under Right to Information Act, 2005 ('R.T.I.' Act' for short). That on 20/05/2010 the respondent No.1 requested respondent No.2 and 3 to furnish the information by two separate letters. That by letter dated 22/6/2010 the respondent No.3 informed the appellant to collect information by paying Rs.124/- and that appellant paid the amount on 25/6/2010. That by letter dated 24/6/2010 the respondent No.2 informed the appellant to collect the information after paying Rs.44 and the appellant paid the same on 26/6/2010. That the information was furnished. However being not satisfied the appellant preferred the appeal before First Appellate Authority/Respondent No.4. That by order dated 17/8/2010 the F.A.A. directed respondent No.2 and 3 to furnish the information within 5 days of the pronouncement of the order. That by letter dated 20/8/2010, the respondent No.3 furnished the information which is 65 days delayed after expiry of prescribed period. That by letter dated 3/9/2010 the respondent No.2 furnished final information comprising of 19 pages which is 79 days delayed after expiry of prescribed period and 10 days after expiry of time allotted by respondent No.4. It is the case of the appellant that information furnished by respondent No.2 is unauthorized as respondent No.4 in first Appeal No.34/2010 prohibited respondent No.2 to act as P.I.O. That till date information as regards to point (ii) (c) of the application is incomplete as agreement in connection with 2 other buildings not furnished. That the respondent No.1 not transferred the application within time limit causing further delay for furnishing

the information. In short it is the case of the appellant that respondent No.2 furnished incomplete information after expiry of the prescribed period. That respondent No.4 did not dispose the appeal within time limit.

3. The respondents resist the appeal and the reply of respondent No.1 and 2 are on record.

It is the case of respondent No.1 that the appeal is bad in law and the same is not maintainable. That the application dated 12/5/2010 was received from Shri Sadanand D. Vaingankar under R.T.I. Act by their office and the same was transferred U/sec.6(3) of the R.T.I. Act to the P.I.O. Headmaster of Harmal Panchakroshi High School, Harmal Pedne-Goa vide letter dated 20/5/2010 with a request to furnish information and also to the Dy. Director of Education, North Education Zone. That the appellant has already been furnished information sought by the appellant. That since information is furnished the appeal is not maintainable and deserves to be dismissed.

It is the case of the respondent No.2 that the information was submitted immediately even without the written order from the First Appellate Authority was received. As to the authority to submit the information under R.T.I. Act, it is brought to the kind consideration that respondent No.2's appointment as "Head Master" is done by the Chairman of Harmal Panchakroshi Shikshan Mandal and till date all correspondence to the Department is channeled through the same Head-Master. That till date the position as Headmaster stands undisturbed. That as Headmaster, respondent No.2, by virtue of post stands as P.I.O. That the order attached is with error. That in respect of point (ii) (c) of the application, it is clearly mentioned in the information provided that the only records available are sent and no other document was

available at the record. That the fees are rightly charged and collected before First Appeal. According to the respondent No.2 the information provided is complete and proper and has complied to the order of the First Appellate Authority.

4. Initially the appellant remained present thereafter he did not remain present. In any case, I am proceeding on the basis of record.

Heard the arguments of respondent No.2 and Shri D. Chaudikar representative of respondent No.4.

Respondent No.2 also submitted that by virtue of the post he is the P.I.O. According to him full information that is available is furnished.

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 is to be granted or not ?

It is seen that by application / letter dated 12/5/2010, the appellant sought certain information from the P.I.O. Directorate of Education, Panaji-Goa. By letter dated 20/5/2010, the P.I.O. Directorate of Education transferred the request under 6(3) of R.T.I. Act to the Headmaster, Harmal Panchakroshi High School with intimation to the appellant. The information in respect of point No.(ii) (b) and (c) were transferred to the Headmaster of Harmal Panchakroshi High School. By another letter dated 20/5/2010 the request in so far as item No.(i) (ii) and (a) were transferred to the Dy. Director of Education, North Education Zone, Mapusa-Goa.

By reply dated 22/6/2010 the respondent No.3 requested the appellant to pay the charges/fees of Rs.124/-. The appellant paid the amount on 25/6/2010 and information was furnished.

By reply dated 24/6/2010 the Headmaster, Harmal Panchakroshi High School informed the appellant to pay Rs.44/- towards 22 copies to be submitted in the form of information. The appellant paid the amount on 26/6/2010 and received the information which was furnished by P.I.O.

Being not satisfied with the information the appellant preferred the appeal before First Appellate Authority/respondent No.4. This appeal was filed on 28/6/2010. The appeal was filed on the ground that there was no covering letter, pages are not numbered and pages are not signed and regarding Harmal School point (ii) (c) not furnished. After hearing the parties the F.A.A./respondent No.4 passed the order dated 17/8/2010 observing as under:-

“ I have gone through the relevant papers placed before me and I find that the information given by the P.I.O.’s is not in accordance with the provisions of R.T.I. Act. It is admitted fact that in the absence of a covering letter, it would not be possible for the appellant to know exactly which information pertains to which point. I therefore, pass the following order:-

“Appeal filed by the appellant is allowed with the direction to both the P.I.O.’s to provide proper information within 5 days from to-day.”

It is seen that by letter dated 20/8/2010 the respondent No.3 furnished the information. Considering the request of appellant, the date of transfer payment made and information furnished the same appears to be in time.

It is seen that respondent No.2 received the order on 27/7/2010(27-8-2010) and by letter dated 3/9/2010 the respondent No.2 furnished the information. The request of the appellant is dated 12/5/2010. The same was transferred on 20/5/2010 to the Head-Master, Harmal School. By letter dated 24/6/2010 the said Head Master requested the appellant to pay Rs.44/-. The appellant paid on 26/6/2010 and information was furnished. Now considering the letter dated 20/5/2010 i.e. request

transferred it may take 2/3 days to reach the Head Master. Therefore the same is in time and there is no delay as such. After First Appellate Authority order the information sent is on 3/9/2010. It appears that order was received on 27/8/2010. If this is considered the same is within time. However from the order it appears “..... five days from to-day”. If this is considered there is about 10/11 days of delay. In any case the same appears to be out of non-appreciation of the order. The same cannot be considered as intentional or deliberate delay. Even otherwise initial information was furnished in time. In any case delay if any is liable to be condoned.

6. The contention of the appellant is that information as regards point No.(ii) (c) of the application is incomplete as agreement in connection with two other buildings not furnished.

The reply of the P.I.O./respondent No.2 is as under:-

“C. It is brought to your notice that the copy of contract as mentioned at point (ii) (c) of the application, the available copies attached and no other copy is at the record.(Exhbt.C)”

From the above it is clear that the available information is furnished. It is also stated that there is no other copy on record. Under R.T.I. Act only available information is to be furnished, There is no obligation to furnish non-existent information. In view of this it cannot be said incomplete information. The appellant also could not point out about the same. In any case since information is not available the same cannot be furnished.

7. It is contended that information furnished by respondent No.2 is unauthorized. It is to be noted here that respondent No.2 is the Head-Master and by virtue of this he is the P.I.O. It is not disputed that he was not the Head-Master. I have perused the order of the F.A.A. relied by the appellant. Under R.T.I. it is the P.I.O. who has to furnish the information. The appellant did not

satisfactorily show that respondent No.2 was not the Head Master at the relevant date.

8. Regarding refund of fees. This was not the issue before F.A.A. In any case initial information was furnished in time. So the question of refund does not arise.

9. Regarding disposal of First Appeal. Under R.T.I. the same is to be disposed within 30 days or by extended period of 15 days but it should be with reasons. In the instant case the delay is of 3/4 days. In any case the F.A.A. to take note of the same.

10. In view of all the above, information is furnished. Since information is furnished no intervention of this Commission is required. Hence I pass the following order.

ORDER

No intervention of this Commission is required, since information is furnished. Appeal is disposed off.

The appeal is accordingly disposed off.

Pronounced in the Commission on this 25th day of January, 2012.

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