

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Appeal No. 163/SIC/2011**

Dr. G. C. Pradhan,  
F-1, Ashoka-II, Vasudha Colony,  
Alto-St. Cruz,  
P.O. Bambolim Complex,  
Goa – 403 202 ..... Appellant.

V/s.

- 1) Public Information Officer,  
Nirmala Institute of Education (N.I.E.),  
Altinho,  
Panaji – Goa ..... Respondent No. 1.
- 2) Principal,  
First Appellate Authority,  
Nirmala Institute of Education (N.I.E.),  
Altinho,  
Panaji – Goa ..... Respondent No. 2.

**Appellant in person.**

**Respondent No. 1 alongwith Adv. V. Parsekar.**

**J U D G M E N T**  
**(10.04.2012)**

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, N.I.E. dated 21.02.2011 and of the F.A.A., NIE dated 02.05.2011; that the PIO be directed to provide the correct and complete information as requested in his application dated 18.12.2010 and that appropriate penalty be imposed on the P.I.O./NIE for providing partial, misleading, incorrect and distorted information.

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

That the Appellant, vide his application dated 18.12.2010, sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Respondent No. 1/Public Information Officer ('P.I.O.').

That the P.I.O., vide letter dated 19.01.2011 asked the Appellant to pay Rs.8/- and collect the information after 05.02.2011. That after the Appellant made necessary payment the P.I.O. by his letter dated 21.02.2011 asked the Appellant to collect information on 02.03.2011. That the information provided by the P.I.O. is incomplete, distorted and misleading. That the P.I.O. in both the letters stated that he has no right to the records of Nirmala Education Society. Being not satisfied the Appellant preferred an appeal before the First Appellate Authority ('F.A.A.)/Respondent No. 2. That the Respondent No. 2 without any hearing, vide letter dated 02.05.2011, informed that P.I.O. has already furnished the relevant information and also stated that he has no right to get such information. That the statement of the P.I.O. that he has no right to get such information is not correct. That P.I.O. provided the minutes of only two meetings but whatever given does not appear to be minutes. Being aggrieved the Appellant has filed the present Appeal.

3. The Respondents resist the Appeal and the reply of the Respondent No. 1 is on record. In short it is the case of the Respondent No. 1 that the Appellant is a chronic litigant and has filed various appeals before this Commission on flimsy grounds. That all such appeals are dismissed. That the present appeal appears to be in the same sequel. That the sole motive of the Appellant appears to be to harass the Respondents by filing flimsy and vexatious applications with oblique motives. That the Appeal is devoid of substance and the same be dismissed. That the Appellant has sought the minutes of all the meetings of the Nirmala Education Society (N.E.S). That the Appellant is not entitled to the alleged information sought. That the Nirmala Education Society is a society registered under Societies Registration Act, 1860 and was registered on 03.03.1978. In para 4, 5, 6 and 7 the Respondent No. 1 has stated about N.E.S. etc. in detail. It is the case of the Respondent No. 1 that there exists a distinction between Nirmala Education Society and Nirmala Institute of Educaiton. That all grants, salary and non-salary for the running of the Nirmala Institute of Education are issued in the name of the Institute. That the Appellant is not entitled to seek information sought by him. That the Nirmala Education Society is not covered under the Right to Information Act, 2005. That even in the Order dated 21.07.2006 under No. 9/138/2005/HE/RTI-Act/1325 the Directorate of

Higher Education the NES has not been listed as coming under R.T.I. That the orders made by P.I.O. and the Appellate Authority are correct, legal, proper and need no interference. Besides, matter is sub-judice.

4. The reply-in-Rejoinder of the Appellant is on record.

5. Heard the arguments. Appellant argued in person and the learned Adv. Shri V. Parsekar argued on behalf of Respondent No. 1.

Appellant referred to the facts of the case in detail. According to him application seeking information is dated 18.12.2010 and reply is dated 21.02.2011. He next referred to First Appeal Order. According to the Appellant whatever given is not relevant and what is given is incomplete. He submitted that he should have been given whatever was asked by him. He also referred to the reply of the Opponent.

During the course of his arguments Advocate for Respondent No. 1 referred to the facts of the case, earlier applications, etc. He submitted that Appellant is not entitled to seek information of the Society from the N.I.E. He next submitted that whatever available has been furnished. He also submitted that they do not have any other information. According to the Advocate for the Respondent No. 1 appeal be dismissed.

In reply Appellant submitted that different stand at different time and if P.I.O. had no access then how they got the information.

6. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that falls for my consideration is whether the relief prayed is to be granted or not?

It is seen that by application dated 18.12.2010 the Appellant sought certain information i.e. minutes of all the meetings of the Nirmala Education Society (N.E.S.) held between 01.01.2004 till date as mentioned in the application. The information was sought from the P.I.O., Nirmala Institute of Education (N.I.E.). By reply dated 19.01.2011 the P.I.O. informed the Appellant that although he has no right to the records of Nirmala Education Society, he is furnishing the information after he pays Rs.8/- in order to process the same. It appears that by reply dated 27.02.2011 the available information is furnished.

Being not satisfied the Appellant has preferred the First Appeal before F.A.A./Respondent No. 2 who by letter dated 02.05.2011 informed the Appellant that P.I.O. has already furnished the information, even though the Appellant has no right to the information from the Society.

The grievance of the Appellant is that incomplete information has been furnished and that the same has not been properly furnished. According to the Advocate for Respondent No. 1 available information has been furnished.

7. At the outset I must say that in terms of the provisions of the R.T.I. Act a citizen is entitled to seek disclosure of information that is available in material form with a Public Authority i.e. the information is available in any file or document and the like. P.I.O. is not required to collect and compile the information on the demand of an information seeker nor is he expected to create a fresh one merely because someone has asked it. A combine reading of Section 2(f), 2(i) and 2(j) of the R.T.I. Act would indicate that a citizen is entitled for disclosure of information which is in material form with a Public Authority. In other words there is no obligation to furnish the non-existent information.

From the very application it is clear that Appellant wanted information about meetings, etc. of N.E.S. P.I.O., N.I.E. rightly furnished the information that was available with it. The P.I.O. could direct the Appellant to approach the concerned Authority. F.A.A. also maintained the same view. The Appellant could have approached the concerned authority so that issue could be settled. It is the contention of the Appellant that incomplete information is furnished. According to Respondent No.1 available information is furnished.

The other contention of the Appellant is that whatever given is also not proper. P.I.O. maintained that the same is given as per records. At the most the Appellant can take inspection to satisfy that whatever available is given.

8. Appellant contends that P.I.O./Respondent No. 1 has given some information that means he has access to the same. Even assuming it is so P.I.O. is not obligated to do so under R.T.I. more so when it is contended that society does not come within the purview of R.T.I. Act. Again this is

disputed by the Appellant. However it would not be proper to refer to this aspect as Society which is a third party is not before the Commission. In any case it is open to the Appellant to take appropriate steps in the matter.

9. Another aspect is about F.A.A. It is contended that no hearing was given. Though the Section does not say about hearing, the principles of natural justice require that a fair opportunity be given to both the parties.

10. Another aspect which I would like to mention here is that request for information is to be disposed within 30 days. Section 7 lays down as under:-

“7. *Disposal of request.* – Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.”

In the instant case the P.I.O. by letter dated 19.1.2011 called to collect after 5<sup>th</sup> February, 2012. And by letter dated 21.02.2011 informed to collect information after 2<sup>nd</sup> March. This appears to be not proper. The whole process is to be completed within 30 days. In case in pursuance of letter the appellant himself delays payment or to take information only then section 7(3) would come into play. P.I.O. to take note of the same in future. Due to

factual backdrop of this case I do not wish to delve in the matter of delay by the said correspondence.

10. Since available information is furnished no intervention of this Commission is required. However the Appellant can take inspection if he wishes to ascertain that available information is furnished. Hence, I pass the following Order:-

### **ORDER**

No intervention of this Commission is required as available information is furnished.

The P.I.O./Respondent No. 1 to give inspection of the concerned record/document/file to the Appellant on a mutually agreed date but within 15 days from the date of receipt of this Order.

The Appeal is accordingly disposed off.

Pronounced in the Commission on this 10<sup>th</sup> day of April, 2012.

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

