

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Appeal No. 267/SCIC/2011**

Shri Balkrishna Barde,  
Asst. Teacher,  
Sateri Vidya Mandir,  
Ibrampur, Pernem-Goa

... Appellant.

V/s.

1) Public Information Officer,  
In-charge Headmaster,  
Sateri Vidya Mandir, Ibrampur,  
Pernem - Goa

.... Respondent No. 1

2) The Director,  
First Appellate Authority,  
Directorate of Education,  
Panaji – Goa

.... Respondent No. 2.

**Appellant alongwith his representative Shri Rui Ferreira.  
Respondent No. 1 alongwith Adv. A. Kansar.  
Shri D. Chaudiker, representative of Respondent No. 2.**

**J U D G M E N T**  
**(05.07.2012)**

1. The Appellant, Shri Balkrishna Barde, has filed the present Appeal praying that the Respondent be directed to furnish the information/documents to the Appellant mentioned in the application dated 08.06.2011 free of cost and file compliance report to this Commission and that penalty proceedings be initiated under Section 20 of the RTI Act against Respondent No. 1 for non-furnishing of information within prescribed time limit as contemplated under the Act.

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

That the Appellant vide application dated 08.06.2011, 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 Respondent No. 1 informed to the Appellant vide letter dated 30.06.2011 that the information sought is more than 20 years and that the Appellant is not entitled for the same under RTI and besides the information is private

information of other teachers which is more than 20 years and as such not entitled. Being not satisfied the Appellant preferred the Appeal before the First Appellate Authority (F.A.A.)/Respondent No.2. That Respondent No. 2 passed an order dated 12.10.2011 directing the Respondent No.1 to furnish the documents within ten days free of cost to the Appellant. That the Appellant waited upto 11.11.2011 and sent a reminder dated 12.11.2011 to the Respondent No. 1 alongwith copy of the order dated 12.10.2011 passed by Respondent No. 2 and requested to furnish the documents as early as possible. That Respondent No. 1 has disobeyed the order by not furnishing the documents. Being aggrieved by the attitude of Respondent No.1 the Appellant has filed the present Appeal on various grounds as set out in the Memo of Appeal.

3. The Respondents resist the Appeal and the reply of Respondent No.1 is on record. In short, it is the case of Respondent No.1 that the information asked by the Appellant under application dated 08.06.2011 is more than 20 years old and is in respect of personal information of the teachers appointed in the year 1985-86 and 1986-87. That the information asked at Sr. No. 1, 2, 5, 6, 7, 8, 10, 11, 12, 15, 16, 24, 25, 26 are the documents in the office of Directorate of Education and are public documents and are required to be obtained from the office of the Directorate of Education. That the documents at Sr. Nos. 3, 4, 8, 9, 13, 14, 17, 18, 21, 22, 23 did not specify the particulars of the information which is sought by the Appellant who is the Asst. Teacher in the school itself. However, the information relates to personal information the disclosure of which has no relationship to any public activity or interest. The State Public Information Officer or the Appellate Authority has not shown their satisfaction that larger public interest justifies the disclosure of such information under Section 8(i) (j) of the RTI Act. That the Section 11 lays down the procedure to be followed for disclosing for obtaining the information from third parties. No such procedure has been undergone and, therefore, the Appellant is not entitled for the information he has applied. That there are two more Appeals and the information which is sought is regarding the entire records of the school since its inception in the year 1985 when the Appellant was not even Asst. Teacher in the school. That the purpose of asking information is to harass the management by taking advantage in the ambiguities in some of the

provisions of RTI Act. That the information which is asked is not the personal information of the Appellant in the records of the school. According to the Respondent No. 1 the Appeal is liable to be dismissed.

4. Heard Shri Rui Ferreira, representative of the Appellant and the learned Adv. Shri Amrut Kansar on behalf of the Respondent No. 1. Both sides advanced elaborate arguments and referred to the respective case in detail.

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 dated 08.06.2011 the Appellant sought certain information consisting of 27 points i.e. Sr. No. 1 to 27. The said application was received on 09.06.2011. By reply dated 30.06.2011 the P.I.O. informed the Appellant that he is not entitled to the information requested as the same pertains to the personal information of Shri Venkatesh N. Natekar who is the ex-headmaster of their school and who was appointed in the year 1987. It was also informed that some of the information is in respect of documents of the Directorate of Education and the same are required to be obtained from appropriate authority. Being aggrieved by the same, the Appellant preferred an appeal before the First Appellate Authority/Respondent No. 2. By order dated 12.10.2011 the F.A.A./Respondent No. 2 allowed the appeal and directed the P.I.O. to furnish the information desired by the Appellant within 10 days free of cost.

The grievance of the Appellant is that this order is not complied with.

It is to be noted here that the order of the F.A.A. is not challenged and, therefore, the same stands and the Respondent No. 1/P.I.O. will have to comply with the same.

6. In the reply the Respondent No. 1 contends that information asked is more than 20 years old and is in respect of personal information of the teachers appointed in the year 1985-86 and 1986-87.

It is to be noted here that under R.T.I., P.I.O. should furnish the information as available with the public authority or as held by public

authority. Now it is to be seen whether information which is more than 20 years is exempted from disclosure or not?

I have perused some of the rulings of C.I.C. on the point. They are as under:-

(i) Ex-Nb/Sun Gurbachan Singh v/s. Army Headquarters (Appeal No. CIC/AT/A/2006/20 dated 23.03.2006) it was observed as under:-

“The P.I.O. was not right in rejecting the request for an information on ground that it was over 20 years old. The stipulation in Section 8(3) “ ..... any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under Section 6 shall be provided to any person .....” does not imply that information older than 20 years need not be disclosed by a public authority. In fact the contrary is true. It is a provision that favours the information seeker.....”

(ii) In Shri S. R. Pershad v/s. Directorate General of Supplies and Disposals (Appeal No. 37/ICPB/2006 dated 26.06.2006) it is observed as under:-

“Further, the public authority has erred in interpreting Section 8(3) of the Act to state that since some of the information related to the period prior to 20 years, the same need not be furnished. Section 8(3) is part of Section 8, which deals with exemption from disclosure of information”. Section 8(1) specifies classes of information which are exempt from disclosure. What Section 8(3) stipulates is that, the exemption under Section 8(1) cannot be applied if the information sought related to a period prior to 20 years except those covered in Section clauses (a), (c) and (i) of Sub-section 8(1). In other words even if the information sought is exempt in terms of other subclasses of Sub-Section (1) of Section 8 and if the same relates to a period of 20 years prior to the date of application, then the same shall be provided.....”

In other words if information is available which relates to more than 20 years is to be furnished.

7. Regarding third party it is to be noted that Section 7(7) and Section 11(1) of the R.T.I. Act enjoin that third party, if involved in a particular matter, must be heard before a decision on disclosure or non-disclosure of an information is taken.

In the case before me there is the order of the First Appellate Authority directing the P.I.O. to furnish the information. The said order is not challenged and therefore the same stands. In any case the P.I.O. will have to comply the said order.

8. Coming to the aspect of delay. It is seen the request seeking information is disposed off well within time. However there is some delay in complying the order of F.A.A. Considering the same the information sought be furnished free of cost.

9. In view of the above, I pass the following Order:-

### **ORDER**

The Appeal is allowed. The Respondent No. 1/P.I.O. is hereby directed to comply the order dated 12.10.2011 passed by Director of Education, First Appellate Authority in Appeal No. 49/2011 and/or furnish the information to the Appellant as sought vide his application dated 10.06.2011 within 20 days from the date of receipt of this Order.

The Appeal is, accordingly, disposed off.

Pronounced in the Commission on this 05<sup>th</sup> day of July, 2012.

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