

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

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

Appeal No. 26/SCIC/2012

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 No. 1 be directed to furnish the information/documents to the Appellant as mentioned in the application dated 10.06.2011 free of cost 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 the prescribed time limit.

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

That the Appellant, vide application dated 10.06.2011, 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 vide reply dated 30.06.2011 informed the Appellant that he is not entitled to the information as the said information pertains to Shri Venkatesh N. Natekar who is the Ex-headmaster of the school and who was

appointed in the year 1987 and that the information which is requested in respect of the documents by the Directorate of Education and the same are required to be obtained from the appropriate authority. Being not satisfied the Appellant preferred the appeal before the First Appellate Authority('F.A.A.)/Respondent No.2. That by order dated 12.10.2011 the FAA/Respondent No.2 directed the Respondent No. 1 to furnish the documents within 10 days to the Appellant. That the Appellant sent reminder dated 12.11.2011 to the Respondent No. 1 alongwith Xerox copy of the said order dated 12.10.2011 passed by the Respondent No. 2 and requested to furnish the documents as early as possible. That the Respondent No. 1 has disobeyed the order passed by Respondent No. 2. Being aggrieved the Appellant has filed the present Appeal on various grounds as set out in the Memo of Appeal.

3. The Respondent resists the Appeal and the reply of the Respondent No. 1 is on record. In short it is the case of Respondent No. 1 that the information sought by the Appellant vide application dated 10.06.2011 pertains to the information regarding the acts of Headmaster of the school Mr. Venkatesh N. Natekar who retired on 31.05.2010. That the whole information from Sr. No. 1 to 15 is in respect of personal information of Shri Venkatesh N. Natekar. That under Section 8(j) such information is exempted from disclosure unless the State Public Information Officer or the Appellate Authority as the case may be, is satisfied that the larger public interest justifies the disclosure of such information. That Section 11 of RTI Act speaks of third party information and that the PIO has to obtain the information from the third party and when the third party has treated the information as confidential, the PIO within five days from the receipt of the request give a notice to such third party that the PIO intends to disclose the information and invite the third party to make submissions in writing or orally regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while deciding about disclosure of information. The Respondent No.1 also refers to the proviso to the section. That since the information which is personal the procedure under section 11 is required to be followed by the PIO. That no such procedure is followed and, therefore, the Appeal is liable to be dismissed.

4. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. It is seen that by application dated 10.06.2011 the Appellant sought certain information consisting of 17 points/items from Sr. No. 1 to 17. The PIO by reply dated 30.06.2011 informed the Appellant that he is not entitled for the information as the same pertains to the personal information of Shri Venkatesh N. Natekar who is the ex-headmaster of the school and who was appointed in the year 1987. It was also informed that some of the information is required to be obtained from the appropriate authority. Being aggrieved by the said reply/order the Appellant preferred Appeal before F.A.A./Respondent No. 2. By order dated 12.10.2011 the Appeal was disposed off. It was observed in the said order as under:-

“The P.I.O. stated that he needed more time to furnish the requisite information to the Appellant.

The Appeal is allowed with direction to the P.I.O. to furnish the requisite information which was asked for within 10 days.”

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

5. According to Adv. for Respondent No. 1 the information is of third party. Section 11 of the RTI Act relates to the third party. 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 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 requisite information. The said order is not challenged and therefore the same stands. Besides, it is seen from the order that P.I.O. has agreed to furnish the information but he needed more time to furnish the same. In any case the P.I.O. will have to comply the said order.

6. 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.

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

ORDER

The Appeal is allowed. The Respondent No.1/PIO is hereby directed to comply the order dated 12.11.2011 passed by Directorate of Education, First Appellate Authority in Appeal No. 50/2011 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 05th day of July, 2012.

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