

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

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

**Appeal No.278/SCIC/2011**

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

V/s.

1. The P.I.O., Nirmala Institutes of Education (N.I.E.)  
Panaji – Goa
2. The Principal &  
First Appellate Authority,  
Nirmala Institute of Education (N.I.E.),  
Panaji – Goa ... Respondents

Appellant present.

Respondent No.1 and 2 absent.

Adv. Parsekar for Respondent No.1 present.

**J U D G M E N T**  
**(23/07/2012)**

1. The Appellant, Dr. G. C. Pradhan, has filed the present appeal praying to quash and set aside the impugned orders/letters of the P.I.O.; NIE dated 3/8/2011 and of the F.A.A. N.I.E. dated 19/9/2011; that the P.I.O. N.I.E. be directed to provide him the correct and complete information as requested in the application dated 30/5/2011 and that penalty U/sec.20(1) on the P.I.O. N.I.E. for not providing him information and for misleading him.

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

That the appellant, vide application dated 30/5/2011, 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 P.I.O. instead of providing information vide his order/letter dated 27/8/2011 informed that the matter is sub-judice and asked the appellant to refer to the order of Misc. Civil Application No.491/2011. That both the statements of the P.I.O. are misleading/false. Being not satisfied the appellant preferred an appeal before the First Appellate Authority (F.A.A.). That by order dated 19/9/2011 the F.A.A. reiterated the decision of the P.I.O. That it appears that the P.I.O. and the F.A.A. have taken decision in mutual convenience. Being aggrieved the appellant has preferred the present appeal.

3. The respondent No.1 resists the appeal and the reply of respondent is on record. It is the case of respondent No.1 that the respondent Nirmala Institute of Education has filed a substantial petition before the Hon'ble High Court of Bombay at Goa bearing Writ Petition No.589/2010 as against the appellant herein and others in which all the issues pertaining to the appellant regarding the service are pending. That as such the Hon'ble High Court is seized of the matter and would finally decide the same. That the appellant by filing frivolous applications under the R.T.I. Act is attempting to raise issues when in fact the matter is subjudice. That the purported information sought by the appellant vide application dated 14/7/2010 cannot at all be termed as 'information' sought by the appellant is in the nature of queries, explanations, legal propositions, inferences. That the same does not fall within the realm and scope of the said Act. Therefore the orders made by the P.I.O. and the Appellate Authority are correct, legal, proper and need no interference. That the respondent No.1 refers to the definition of information and states that the

information means the available record maintained in the concerned file. That the appellant has not claimed copy of the record available in the file. That the appellant in his application dated 30/5/2011 purportedly seeks information in the nature of details of action taken by NIE on his letter dated 25/4/2011. The respondent No.1 refers in detail to the said letter. That it is not open to the appellant to adjudicate the claims under the garb of Right to Information Act. That the appellant attempts to invoke the said Act to seek recourse to remedy his grievances. Thus the appeal does not have any merits and the same deserves to be dismissed. Para 6, 7, 8, 9, 10, 11, 12 and 13 has explained about posting of appellant and other things. The respondent No.1 denies the contents of the appeal being false. According to respondent No.1 the entire issue is pending before Hon'ble High Court. That the P.I.O. and the Appellate Authority has rightly passed the orders. According to the respondent No.1 the appeal is liable to be dismissed.

4. The reply in – rejoinder of the appellant is on record.

5. Heard the appellant and the learned Advocate V. Parsenkar for respondent No.1.

6. 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 the appellant vide application dated 30/5/2011 sought certain information as under :-

“ I request you to kindly inform me date wise details of the action taken by NIE so far on my said letter.”

By letter dated 3/8/2011 the P.I.O./respondent No.1 replied as under :

“ I refer to your R.T.I. application dated 30/5/2011 for which you have remitted the fees on 27/7/2011.

Please note that matter is subjudice.

You may refer to order Misc. Civil Application No.491/2011 W.P. No.589 of 2010.”

Being not satisfied the appellant preferred an appeal before the First Appellate Authority (F.A.A.) By order dated 19/9/2011 the F.A.A. reiterated the decision of the P.I.O. Being aggrieved by the said decision the appellant has landed before this Commission.

7. It is pertinent to note Sec.8(1)(b) which is as under.:-

“8. Exemption from disclosure of information.

(1)Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, -

(a).....

(b)Information which has been expressly forbidden to be published by any Court of Law or Tribunal or the disclosure of which may constitute contempt of Court;

Under this provision disclosure of information is barred if

(i) it has been expressly forbidden to be published by any Court of law or Tribunal or

(ii) disclosure of which may constitute contempt of Court. It is pertinent to note here that where the matter is sub-judice only and no order is passed by any Court/Tribunal forbidding publication, thereof, the information can be disclosed under Sec.8(1)(b). Similarly where the disclosure does not constitute contempt of Court or violate the directions made by

the Court, the information can be allowed to be furnished.

The only exemption in sub-judice matters is regarding what has been expressly forbidden from disclosure by a Court or Tribunal and what may constitute contempt of Court.

8. Coming to the case at hand and looking at the reply given by the P.I.O. I find that the reply is incomplete. It is not known whether the same has not been considered in view of Writ Petition or in view of 8(1)(b) as observed above. P.I.O. should clarify the same.

It is to be noted here that this Commission is concerned only with the information. This is not a grievance redressal forum and in case of grievance the party should approach the appropriate forum. This Commission is only concerned with the giving of information or not if it comes under Sec.8.

9. Adv. for the respondent No.1 contends that the query 'what' does not come under the purview of R.T.I. and that R.T.I. information that is held is to be given.

There is no dispute about the proposition. Under R.T.I. the information as available with the public authority is to be furnished or as 'held' by Public Authority is to be furnished. However in the instant case what is sought is about action taken. i.e. whether action taken or not. Of course information seeker cannot ask 'why'

10. Regarding the aspect of delay. The application is dated 30/05/2011. The reply mentions that appellant remitted fees on 27/07/2011 and the reply is dated 03/08/2011.

Considering this, the reply is in time. So there is no question of delay as can be seen from records.

11. In view of all the above, I am of the opinion that P.I.O. to clarify the reply and/or furnish the reply properly as available or held by Public Authority. Hence, I pass the following order.:-

### **ORDER**

The appeal is allowed. The respondent No.1/P.I.O. is hereby directed to clarify the reply dated 3/8/2011 (NIE/RTI/(C)(i)(3)F-117/73/2011-2012) and/or furnish the reply properly as available or held by the Public Authority, within 20 days from the day of receipt of this order.

The appeal is, accordingly, disposed off.

Pronounced in the Commission on this 23<sup>rd</sup> day of July, 2012.

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