

GOA STATE INFORMATION COMMISSION

“Shrama Shakti Bhavan”, Ground Floor, Patto Plaza, Panaji – Goa.

CORAM: Smt. Leena Mehendale, State Chief Information Commissioner

Appeal No. 86/SIC/2013

Decided on 27/02/2014

Dr. Kalidas Vaigankar,
R/o. H. No. 138, Rua De Maria,
Sancoale, Cortalim – Goa.

.....Appellant

V/s

1. Shri. N. V. T. Pednekar,
Secretary, Board of Technical Education,
Directorate of Technical Education,
Porvorim – Goa.

2. Shri. Vivek B. Kamat,
First Appellate Authority, Director,
Directorate of Technical Education,
Porvorim – Goa.

..... Respondents.

ORDER (Open Court)

RTI application dated	:	18/02/2013
PIO reply dated	:	13/03/2013
First Appeal dated	:	23/04/2013
FAA Order dated	:	04/06/2013
Appeal filed on	:	11/07/2013

1) Can someone ask for copies of marksheets of another examinee? This is the central question of this case.

2) This second appeal arises out of original RTI application dated 18/02/2013 made to the PIO and Assistant Directorate of Technical Education, Porvorim, Goa. It asked five questions in relation to the answersheet of one Mr. Vishal Gajanan Naik who took his exam in November, 2012. From the 1st Appeal memo filed by appellant it is seen that the PIO did not furnish information claiming it to be “*third party information and held in fiduciary relationship*” thus claiming the exemption u/s 8(1) (e) of the RTI.

3) The First Appellate Authority has agreed with the opinion of PIO and dismissed First Appeal No. 9/DTE/2013/664 dated 04 June, 2013, hence the second appeal.

4) Notices were issued to concerned parties on 23/8/2013, fixing the hearing on 24/09/2013, but the appellant has continuously remained absent. The detailed reply has been filed by respondent No.1, who has cited the judgment passed by Supreme Court in CIVIL APPEAL NO.6454 OF 2011, as below:

“In view of the foregoing, the order of the High Court directing the Examining bodies to permit examinees to have inspection of their answerbooks is affirmed, subject to the clarifications regarding the scope of the RTI Act and the safeguards and conditions subject to which information should be furnished. The appeals are disposed of accordingly

*As per the decision, it is clearly held that **only examinee is entitled for the disclosure of the information and no person other than the examinee is entitled for the disclosure of such information.**”*

He has cited another judgment passed by the Hon’ble Supreme Court reported in [2011]3 RCR(Civ) 914/[2011] 3 CivCC 596/[2011]8SCC 497/[2011]9 JT 212 Central Board of Secondary Education Vs. Aditya Bandopadhyay. It is held on para 24 *“There is no question of the fiduciary withholding information relating to the beneficiary, from the beneficiary himself. One of the duties of the fiduciary is to make thorough disclosure of all relevant facts of all transactions between them to the beneficiary, in a fiduciary relationship. By that logic, the examining body, if it is in a fiduciary relationship with an examinee, will be liable to make a full disclosure of the evaluated answer-books to the examinee **and at the same time, owe a duty to the examinee not to disclose the answer-books to anyone else**”*.

In view of these two judgments as well as in view of failure of the appellant to remain present and plead his case, I consider that case is fit to be dismissed.

- - ORDER - -

Accordingly appeal is dismissed. Order is declared in open Court. Parties to be informed for their record.

Sd/-

(Leena Mehendale)

Goa State Chief Information Commissioner
Goa State Information Commission
Panaji-Goa