

## **GOA INFORMATION COMMISSION**

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Appeal No. 172/SCIC/2008

Dr. Mangala R. Tamba,  
Health Officer,  
Primary Health Centre,  
Betki – Goa.

..... Appellant.

V/s.

Public Information Officer,  
The Under Secretary (Health – II),  
Public Health Department,  
Secretariat, Porvorim – Goa.

..... Respondent.

Appeal No. 173/SCIC/2008

Dr. Rajendra Tamba,  
State Epidemiologist,  
Directorate of Health Services,  
Campal, Panaji - Goa.

..... Appellant.

V/s.

Public Information Officer,  
The Under Secretary (Health – II),  
Public Health Department,  
Secretariat, Porvorim – Goa.

..... Respondent.

### **CORAM:**

Shri A. Venkataratnam  
State Chief Information Commissioner

(Per A. Venkataratnam)

Dated: 10/12/2008.

Appellant in person.

Respondent is also in person.

### **ORDER**

Both the second appeals were taken together for disposal by this Commission's order. On a notice having been issued, Dr. Rajendra Tamba represented himself in person for his own case No. 173/SCIC/2008 and on behalf of his wife Dr. Mangala Tamba in case No. 172/SCIC/2008. A letter was submitted by him authorizing him to represent Dr. Mangala R. Tamba. The Public Information Officer was present in person.

2. The Public Information Officer did not wish to submit anything in writing and also has nothing to defend her letter of rejection of the requests for information except for whatever was stated by her in writing

...2/-

to the Appellants. The Appellant while arguing his case and his wife's case submitted that both the Appellants have been superceded by the DPC while promoting their juniors to higher posts in the Health Department, Goa Government relying on the gradation finalized by the DPC headed by the GPSC of the ACRs of both the Appellants. It is his case that he has already obtained earlier certain information both from the GPSC and also the Respondent No. 1 by way of obtaining the copies of the DPC minutes and also inspected their own ACRs from the Government Departments. The ACRs were written, reviewed and countersigned by the respective authorities. The countersigning authority, namely, the Secretary, Goa Government in Public Health Department is said to have recorded outstanding reports in respect of Dr. Rajendra Tamba while the DPC has downgraded those "outstanding" reports to simply "good" reports. According to the Appellants, this has resulted in injustice to them and has consequently asked following questions to the Public Information Officer, Respondent No. 1 herein: -

"1. Among the officers placed above me in the seniority list (as per list attached), how may have been afforded express written grading in the ACRs? The information may be given for each officer in a tabular format (an example is given in Table No. 1 which I have prepared for myself). In case it is decided not to communicate to me the specific grading, kindly give the information only whether a grade entry exists or not.

2. When there is no express printed query pertaining to "Grading" in the ACR Form, kindly name the Authority which worked out the grading of these officers which were communicated to GPSC in the 2003, 2005 and 2006 DPCs for promotion to the post of Health Officer. What was the basis for arriving at such Grading?"

3. The Public Information Officer, the Respondent No. 1 herein has replied to both the Appellants that "the DPC should not be guided merely by the overall grading if any, that may be recorded in the CRs but should make its own assessment on the basis of entries in the CRs....." She has further informed that the information sought by the Appellants cannot be furnished for the above reason. She replied on 21/07/2008 after a first appeal is filed by the Appellants before the Respondent No. 2 on 16/7/2008.

4. The First Appellate Authority has directed the Under Secretary (Health), Public Information Officer to dispose off the applications within two weeks from the date of his order dated 14/08/2008, as it was not given by the Respondent No. 1 on the date of filing of first appeal. However, it has come on record that Public Information Officer has replied on 21/07/2008 to the Appellants rejecting the applications and informing the reasons for not doing so. In the second appeal before this Commission, the Appellant has not specifically assailed either the order of the First Appellate Authority or the reasons given by the Public Information Officer for rejection of their requests. I find that the First Appellate Authority has only directed the Public Information Officer to dispose off the applications within two weeks as per the provisions of RTI Act, 2005. He has not given any specific direction to furnish the information. Again, it is also not correct to say that the request for information is not disposed off by the Public Information Officer who refused to information for the reasons contained in the letter of rejection dated 21/07/2008 though belatedly.

5. The Appellants asked the information regarding the details of ACRs of 24 officers in a proforma given by them asking for the specific grading given by reporting, reviewing, countersigning officers of each of the above 24 officers. The second question is regarding the furnishing the names of the authorities which gave the grading of these officers before the ACRs are forwarded to the GPSC. The Appellant himself has furnished a copy of the Digest of the ACR regulations framed by the Government of India and various decisions given thereunder as well as a circular of Goa Government regarding the preparation and maintenance of ACRs issued by the Government on 16/9/1993. The Appellant has drawn my attention particularly to Para No. 3 of page No. 9 of the Digest on the ACRs which states as follows: -

“There is no provision for any authority other than the Reporting Officer and the Reviewing Officer for recording his remarks/comments of the work and conduct of an officer, in his confidential record.”

He has also drawn my attention to para No. 4 of page No. 11 of the above Digest: -

“The grading of the officer has to be done by the Reporting Officer. Grading ‘outstanding’ should be only when the officer has exceptional qualities and performance. The ground for giving such a grading should be clearly brought out.”

The decision No. 11, page No. 19 of the Digest was also quoted by him which states as follows: -

“Under the present scheme of writing of confidential reports there are only two levels for writing reports, namely, the Reporting Officer and the Reviewing Officer. There is no provision for any other authority for writing his remarks/comments about the work and conduct of an officer in his confidential reports.”

Para No. 2 of decision No. 36, page No. 44 of the above Digest quoted by him states as follows: -

“(f) If the reviewing Authority or the Accepting Authority, as the case may be, has overruled the Reporting Officer or the Reviewing Authority, as the case may be, the remarks of the latter authority should be taken as the final remarks for the purposes of assessment.”

6. None of the above decisions quoted by the Appellants help the case of the Appellants in any manner. The Goa Government has also, for sometime, followed the Government of India’s decision restricting the performance appraisal at two levels of assessing officers namely, the Reporting and the Reviewing Officers and abolished the countersignature by the accepting authority. However, it has also restored the countersigning authority subsequently. In any case, the report of “outstanding” in respect of both the Appellants was given by the then Secretary (Health), who was countersigning authority at that point of time and was neither a reporting nor reviewing officer. The whole scheme of evaluation of performance of a Government servants is an executive function of the Government and this Commission cannot comment one way or another about the instructions already in force. Even otherwise, the citizens cannot ask for the basis on which the GPSC has downgraded the performance of the Appellants from “outstanding” to “good” by the GPSC and by the same token he cannot also ask the reasons how the

other 24 officials mentioned in the request for information were given certain grading or if a grading is given at all by the reporting officer or the names of the authorities who have graded their performance before sending their names to the GPSC to be placed before the DPC headed by the GPSC Member/Chairman.

7. Besides, there is no merit in the argument that the GPSC cannot downgrade the assessment of the countersigning authority when the Appellant himself quoted a decision of Government of India that the DPC has to take a view of all the remarks of the entire ACR while arriving at their own grading which makes the individual specific grading given by the reporting/reviewing officer redundant. Again the decision quoted about the overruling of the grading of the Reporting Officer by the Reviewing Officer is not relevant in this case as no such overruling was done. On the contrary, the accepting authority, who is normally not expected to grade an official, has upgraded the grading given by both reporting and reviewing officers which itself is not authorized by the rules quoted above; and the "downgrading" if any was done by the DPC headed by the GPSC, within the rules.

8. For the above reasons, there is no merit in both the appeals and hence, they are dismissed.

Pronounced in the open court on this 10<sup>th</sup> day of December, 2008.

Sd/-  
(A. Venkataratnam)  
State Chief Information Commissioner



