

GOA INFORMATION COMMISSION

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

Appeal No. 156/SCIC/2008

Shri. Wilson J. Ribeiro,
H. No. 356, Opp. P'ji Gymkhana,
Campal, Panaji – Goa 403 001.

..... Appellant.

V/s.

1. First Appellate Authority,
Directorate of Higher Education,
Junta House, 2nd Lift, 5th Floor,
Panaji - Goa.
2. Public Information Officer,
Directorate of Higher Education,
Junta House, 2nd Lift, 5th Floor,
Panaji - Goa.

..... Respondents.

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner

(Per A. Venkataratnam)

Dated: 30/12/2008.

Adv. S. Facho for Appellant.

Both the Respondents are in person.

ORDER

This disposes off the second appeal filed by the Appellant on 12/09/2008 against the Respondent No. 2 who did not pass any order on his first appeal filed on 17/06/2008.

2. Notices were issued. Written arguments were filed by both the Appellant and the Respondents No. 1 and 2. The common reply has been filed by both the Respondents.

3. The request dated 11/02/2008 of the Appellant contains 8 questions. 3 questions namely, 4, 5 and 8 relate either to the reasons to be given by the Public Information Officer why certain action has not been taken or what the Public Information Officer is planning to do in future. Such questions are not permissible under the Right to Information Act, 2005 (RTI Act for short) as they do not constitute "information" within the definition of section 2(f) of the RTI Act. The law is settled regarding this matter by the Hon'ble High Court of Bombay at Panaji Bench in the order

...2/-

dated 3rd April, 2008 in Writ Petition No. 419/2007 in the case of Celsa Pinto V/s. Milan G. Natekar. I, therefore, will look into the remaining questions only. The first two questions are regarding the daily progress of the action taken by the respective officials of the Education Department on 3 applications submitted by the Appellant earlier on 8/1/97, 17/07/97 and 02/04/98 and their names. The Appellant wants the progress of the action taken by the Department on the above 3 applications. This is a matter of record. Either the letters are received by the Department or they are not received. It is not denied that they are received. If they are pending in the Department, it should be a matter of record and can be disclosed to the Appellant as to what action has been taken and who are the officials supposed to take action. This has been denied by the Respondent No. 1 simply stating that it does not come within the purview of section 2(f) of the RTI Act. Section 2(f) of the RTI Act defines information as follows: -

“(f) “information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”

4. It is clear therefrom that if any record exists in a public authority's office in any form i.e. in the form of report, papers or electronic form, that record is covered by the definition of “information”. The action taken by the officials on the 3 representations/letters of the Appellant and the names of the officials entrusted with the duty of replying to the citizens for such letters is a matter of record of the public authority. It, therefore, cannot be rejected as not covered under section 2(f) of the RTI Act. This information should be furnished to the Appellant. Question No. 3 relates to the file notings. The Respondent No. 1 has offered to give the notings on payment of fees. However, it is not known whether the Appellant has collected them or not. The notings are of file bearing No.9/10/99-HE/FRRs. This grievance, therefore, is taken as settled. As stated earlier, questions No. 4 and 5 need not be answered. Questions No. 6 and 7 relate to the scales of pay of the Laboratory Technician (Physics) for Government and non-Government Aided Colleges from the years 1992 to

1996. The reply of the Public Information Officer does not answer this question. On the other hand, he has replied that the information was received from 5 Aided Colleges and 2 Government Colleges. This information given by the Public Information Officer to the Appellant does not mention what is the present scale of this post as well as the various letters communicated by the Education Department approving these pay scales for the period mentioned i.e. 1992 to 1996. I do not see any difficulty in answering this question completely. This should be done now. The reply of Public Information Officer for 7th question is about the RRs which are not yet framed by the Government. The question has nothing to do with the RRs, though the scale of pay is mentioned in the RRs. Pending approval of the RRs of the Laboratory Technician, they are being paid the salaries in particular scales of pay. These scales of pay are approved by the Directorate of Higher Education for purpose of reimbursement and grants. The information is only in respect of 5 private institutions. I do not see what is the difficulty in giving the copies of the documents approving the above scales of pay irrespective whether the RRs are approved by the Government or not. This should also be done.

5. The appeal is partly allowed. Further information on points No. 1, 2, 6 and 7 should be given by the Respondent No. 1 within 10 days from the pronouncement of this order. The file notings also should be given if not yet given by the Public Information Officer. The replies to points No. 4,5 and 8 are rightly rejected by the Public Information Officer and appeal is rejected to those points.

Pronounced in the open court on this 30th day of December, 2008.

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

