

**GOA STATE INFORMATION COMMISSION AT
PANAJI**

CORAM: Shri Afonso Araujo, State Information Commissioner

Complaint No. 72/SCIC/2008

Shri G. R. Deoulkar
Asst. Public Information Officer (APIO)
Dhempe College of Arts & Science
Miramar, Panaji – Goa ... Complainant

V/s.

1) Mr. S. J. Godse
Public Information Officer
Dhempe College of Arts & Science
Miramar, Panaji - Goa ...Opponent No. 1

2) First Appellate Authority
Dr. S. V. Deshpande
Principal
Dhempe College of Arts & Science
Panaji – Goa ...Opponent No. 2

Complainant present in person.

Opponent No. 1 present in person.

J U D G M E N T

(Per Afonso Araujo)

This complaint deals with the order of the First Appellate Authority directing the Assistant Public Information Officer to tender apology to the information seeker.

2. One Ketan Govekar on 13.10.2008 sought information from the Public Information Officer – Opponent No. 1. This application was received by the Complainant as he was in charge of the inward register and was also appointed as Assistant Public Information Officer (for short APIO) in the educational Institution. As per the procedure prescribed by the College authorities, the entry clerk has to forward all the applications received to the Principal of the Institution. The application of said Ketan Govekar was accordingly forwarded on 13.10.2008 to the Principal of the College who is also the First Appellate Authority – the Opponent No. 2. As the information sought by the said Ketan Govekar was

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under the RTI Act there was a delay in providing the information and the Opponent No. 1 made a letter on 04.12.2008 to the Opponent No. 2 stating that due to the lapse of procedure on the part of the Complainant the information sought was not forwarded in time for which there was delay in providing the information by the Opponent No. 1. The Opponent No. 2 as the First Appellate Authority on 08.12.2008 issued a memo to the Complainant as to why action should not be taken against him for serious lapse in his duties and the Opponent No. 2 on 12.01.2009 passed an order fixing the responsibility for delay on the Complainant and directing the Complainant to tender apology to said Ketan Govekar. This is the Impugned Order.

3. The Complainant submitted that the statement made on 16.02.2009 before this Commission may be taken as arguments. Shri Deshpande submitted that the Complainant being the APIO had to forward any application under the RTI Act to the Public Information Officer – Opponent No. 1 which has not been done in that case, instead forwarded to him and due to that there was delay in providing information to Ketan Govekar and for this reason he passed an order requiring the Complainant to tender and apology to the said Ketan Govekar.

4. I have gone through the records of the case and submissions of both the parties. The points for determination are whether the Complainant as APIO was responsible for the delay caused in providing the information sought as it was not forwarded forthwith to the Public Information Officer – Opponent No. 1 and whether the First Appellate Authority (for short FAA) was justified in ordering the APIO to tender apology to the information seeker.

5. The information which was sought under the RTI Act by one Ketan Govekar was received by the Complainant who was in charge of the inward register and at the same time performing the

functions of APIO. It is the contention of the Complainant that as per instructions and internal procedure of the Institution all correspondence entering the Institution, after registering in the inward register must be invariably forwarded to the Principal of the College. Accordingly, the application dated 13.10.2008 under RTI Act of Ketan Govekar was forwarded on the same day to the Principal of the College – the Opponent No. 2. The provision of section 5(2) of the RTI Act mandates every public authority to appoint APIO to receive any application for information under the RTI Act and forward the same forthwith to the Public Information Officer. In the proviso to this sub-section a period of five days is to be added for computing the period of limitation of 30 days prescribed under section 7(1) of the RTI Act.

6. Once any application pertaining to the information under RTI Act is received in the Institution, the Complainant being APIO, an authority designated under the RTI Act, has to forward immediately to the Public Information Officer the request received under RTI Act and is not required to follow the instructions of the Institution and send to the Principal. The allegiance of the APIO is to the provisions of RTI Act rather than the internal procedure of the Institution. The Complainant by adhering to rules of procedure of the Institution regarding the entry and distribution of the correspondence and being naïve to the duties of the APIO and perhaps being an entry clerk as well as APIO, and for no fault of his, missed to perform the obligation cast by the RTI Act on the APIO to forward forthwith to the Public Information Officer, the request for information received by him.

7. As this information sought under RTI Act was forwarded to and for some time remained with the Principal of the Educational Institution who is also the First Appellate Authority- the Opponent No. 2, there was a delay in providing the information to the said

Ketan Govekar and this delay, the Opponent No. 2 attributed to the Complainant for not sending the information sought under the RTI Act to the Opponent No. 1 and directed the Complainant to tender apology to the said Ketan Govekar on account of delay in providing the information. The provision of section 19 of the RTI Act deals with appeals from decisions of the Public Information Officer to the FAA and the appeals from the decisions from FAA to the Commission. The powers which are enumerated in section 19(8) of the Act at (a) to (d) are to be exercised by the Commission and not by the FAA. Under RTI Act the FAA has only to decide the First Appeal and the powers to decide on penalties, compensation are vested only with the Commission. It was not proper on the part of the FAA – Opponent No. 2 to direct the Complainant to tender apology to the information seeker, since these powers are required to be exercised only by the Commission.

8. Since the Complainant unintentionally forwarded the application for information sought under RTI Act to the Principal instead of to the Public Information Officer and by remaining unattended, there was delay in providing the information, the Complainant as APIO cannot be held responsible for the delay and order directing the Complainant to tender apology to the information seeker requires interference. However, the Complainant is required to be aware of the functions of APIO and perform it according to provisions of RTI Act. Hence, the following order:

ORDER

The direction of the First Appellate Authority to tender apology by the Complainant passed in order dated 12.01.2009 is quashed.

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The Complainant to be cautious in future while dealing with matters pertaining to RTI Act and any application received under RTI Act to be forwarded forthwith to the Public Information Officer.

Pronounced in the open court on this 24th day of July 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

