

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 285/SCIC/2008

Mrs. Maria Esperanca Fernandes,
Alias Maria E. Fernandes,
H. No. 419, Behind St. Sebastian Church,
Aquem – Alto, Margao,
Salcete – Goa (403 601).

..... Appellant.

V/s.

1. Public Information Officer,
The Under Secretary (Higher Education),
Government of Goa,
Directorate of Higher Education,
Junta House, 2nd Lift, 5th Floor,
Panaji - Goa.
2. First Appellate Authority,
The Director,
Government of Goa,
Directorate of Higher Education,
Junta House, 2nd Lift, 5th Floor,
Panaji - Goa.

..... Respondents.

Appellant present in person.

Respondents No. 1 and 2 present in person.

JUDGMENT

(Per Afonso Araujo)

Not providing information by the Public Information Officer under the Right to Information Act, 2005 (for short the RTI Act) as per the request of the Appellant is the grievance in this Appeal.

2. The Appellant by letter dated 5/11/2008 sought information under the RTI Act enumerated at points 1 to 10 of the said letter. The Public Information Officer – Under Secretary (Higher Education) in the reply dated 28/11/2008 provided the attested copies to the information sought at points 1 to 4. Regarding points 7, 8 and 9, the Respondent No. 1 wanted to know what were the exact requirements of the Appellant and requested to approach the Department for inspection of concerned file and in respect of information at points 5, 6 and 10 the same was transferred to Shree Damondar College of Commerce and Economics, Margao (for short Damodar College) on 28/11/2008. Not content with the

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reply of the Respondent No. 1, the Appellant approached the First Appellate Authority and Director of Higher Education – Respondent No. 2 on 13/12/2008. As the Appeal was not decided by the First Appellate Authority, the Appellant preferred this Second Appeal on 02/02/2009.

3. Written arguments were filed by the Appellant and the Respondents. I have gone through the written arguments and submission of both the parties.

4. According to the Appellant, the information sought in the request dated 5/11/2008, only information at Sr. No. 1 to 4 was provided. However, the documents at Sr. No. 2 consists of certified copy of the letter dated 27/08/2008 as well as the notings. The Respondent No. 1 provided only the certified copy of the letter dated 27/8/2008 but not the notings. Since this noting is part and parcel of the letter dated 27/08/2008 there will not be any difficulty to provide such information to the Appellant. The information at Sr. No. 5 and 6 pertains to Mrs. Jean Elvin Themudo in respect to the decision taken on the deduction of the salary of the said Jean Elvin Themudo; decision on the release of salary for the period of October, 2007 to July, 2008. In respect the information at point 7, the Appellant sought information regarding steps taken to discontinue the service of Mrs. Jean Elvin Themudo in order to put into effect the letter No. 9/25/97-HE/Vol.II/1913 dated 10/10/2007. This letter is of the Respondent No. 2 addressed to the Principal of Damodar College, Margao. It is not for the Respondent No. 1 to provide the information regarding the steps taken to discontinue the service of said Jean Elvin Themudo. At the most the Respondent No. 1 can transfer this information to the Public Information Officer – Damodar College, Margao. On perusing the information sought at point No. 8, the Respondent No. 1 to provide the certified copy of the staffing pattern for non-teaching staff of aided – Colleges based on which Staffing Pattern the NOC bearing ref. No. 9/9/99-HE/Apptt.Non-Teaching.Staff/1901 dated 09/10/2006 was granted to Shree Damodar College of Commerce and Economics, Margao to temporarily appoint LDC in UDC's vacancy. This information can be provided but the information as to whether the temporary appointment was subject to the outcome of the final decision on the representation filed by the Appellant, is not information within the definition in section 2(f) of the RTI Act. The Appellant can obtain the information of the records and not the opinions from the Public Information Officer. Whether

the staffing pattern was subject to the final decision on the representation filed by the Appellant, is an opinion which the Respondent No. 1 is not required to provide to the Appellant. The Appellant can obtain certified copy of the request at serial No. 9 of the decision passed in her representation but not the reasons for the decision can be sought from the Respondent No. 1. The reasons for the decision will be available in the decision itself and the Respondent No. 1 can provide the certified copy of the decision on the representation only. In the same manner the information sought at point No. 10 which is certified copy of information as to the basis on which the Appellant has been denied ACP – II is also an opinion. At the most the Respondent No. 1 can provide the records regarding the ACP and not the basis on which the ACP was denied to the Appellant. Since the request of the Appellant is information in respect of basis on which the ACP was denied to the Appellant, the Respondent No. 1 is not required to provide the information at point No. 10 of the request.

5. Taking into consideration that some of the information has not been provided to the Appellant and some of the information Respondent No. 1 cannot provide being opinions which is not the information within the meaning under the RTI Act, the Appeal partly succeeds. Hence, the following order: -

ORDER

The Appeal is partly allowed. The Respondent No. 1 to provide following information to the request dated 5/11/2008: at point No. 2, only of the file notings mentioned in the letter dated 27/08/2008; points No. 5 and 6; the information at point No. 7 to be transferred to the Public Information Officer, Shree Damodar College of Commerce & Economics, Margao; point No. 8 (first part) and point No. 9.

The Respondent No. 1 to provide this information within the period of 20 days from the date of the receipt of this order and report compliance on 04/09/2009 at 10.30 a.m.

Pronounced in the open court on this 30th day of July, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

