

GOA STATE INFORMATION COMMISSION AT PANAJI

CORAM: Shri Afonso Araujo, State Information Commissioner

Appeal No. 293/SCIC/2008

Shri Shivaji J. Patil,
Headmaster,
Government High School,
Fatorpa via Cuncolim,
Quepem – Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Director (Administration),
Directorate of Education,
Panaji - Goa.
2. First Appellate Authority,
Directorate of Education,
Panaji - Goa.

..... Respondents.

Appellant present in person.

Shri Santosh Amonkar, Asstt. Director of Education for Respondent No.1
present.

Shri Avinash Nasnodkar, A.E.O. (Legal) for Respondent No. 2 present.

J U D G M E N T

(Per Afonso Araujo)

Not content with the information provided by the Public Information Officer as well as with the order of the First Appellate Authority, the Appellant approached this Commission in the Second Appeal.

2. By request dated 4/12/2008, the Appellant sought information under the Right to Information Act, 2005 (for short the RTI Act) on 4 queries which pertains to seniority list prepared in 1983, for the purpose of promotion to the post of Headmaster of Government High Schools and requires to know the rules, guidelines followed for such promotion and on what basis some officers were given promotion by superseding the Appellant. This information sought was transferred by the Respondent No. 1 under section 6(3) of the RTI Act to the Ex-Officio Joint Secretary (School Education) on 18/12/2008 as the request of the

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Appellant was closely connected to the said section. On 22/12/2008, the Section Officer and Public Information Officer of Ex-Officio Joint Secretary (School Education) transferred back the information at Sr. No. 1 of the letter of the Appellant dated 4/12/2008 to the Director (Admn.), Directorate of Education – Respondent No. 1. On 6/01/2009, the Respondent No. 1 replied to the letter dated 4/12/2008 stating that the office could not trace the old documents relating to the year 1983 and informed the Appellant that he has right to file the appeal within the period of 30 days before the First Appellate Authority, Director of Education, Respondent No. 2. The Ex-Officio Joint Secretary on 12/01/2009 provided the information at Serial Nos. 2, 3 and 4. Not satisfied with the replies in the letters dated 6/01/2009 and 12/01/2009, the Appellant preferred the First Appeal and the First Appellate Authority by order dated 27/2/2009 disposed the Appeal with observation that as the records are not traceable, it is behind the reach of the Public Information Officer to provide information. Aggrieved by this order, the Appellant preferred this Second Appeal.

3. Shri Patil stated that the two separate seniority lists still prevails and the same rules and regulation for promotion are still applicable till this date and there is no difficulty for the Respondents to provide him this information as to the reasons for superseding him and depriving him of the promotion. Shri Amonkar stated that whatever information was available it was provided to the Appellant and those records of the year 1983 are old and practically not possible to be traced.

4. I have gone through the records and proceedings of the case and taken into consideration the submissions of both the parties. The information sought on 4/12/2008 at points No. 2, 3 and 4 were transferred by the Respondent No. 1 under section 6(3) of the RTI Act and provided to the Appellant in a communication dated 12/2/2009. At Point No. 2, the Appellant requires to know under what special rule Mr. Agnelo Pimenta, Smt. Neela Kerkar and Smt. Meera Deo who were juniors to the Appellant were promoted to the post of High School Headmaster by superseding him in 1983. Similarly, at point 3, the Appellant is required information whether those persons were fulfilling the condition of qualification at the time of promotion. The Respondent

No. 1 provided the information by stating that their promotion were based on the recommendation of Goa Public Service Commission and copy of the D.P.C. meeting promoting the officers to Group A was provided to the Appellant. The information which the Public Information Officer is required to provide is from the records showing the manner and on what basis they were promoted. It is not in the domain of the RTI Act to show whether those persons were promoted by superseding the Appellant and whether they were fulfilling or not all the condition of qualification at the time of promotion. At the most the Respondent No. 1 can provide records upon which those persons were promoted to the post of Headmaster of Government High School. The Respondent No. 1 by providing the D.P.C. meeting has met the requirement of the Appellant.

5. Similarly, the point No. 4, the Appellant wants to know whether all officers who were regularized in the Group A Gazetted Officers were fulfilling all the conditions. Again the Appellant is seeking the opinion from the Respondent No. 1 whether those officers were fulfilling all the conditions. The Respondent No. 1 at the most can provide the Appellant with the rules or circulars wherein it is mentioned in what manner the services of those officers could be regularized. The Public Information Officer in the reply has stated that the promotion were made based on the recommendation of the Goa Public Service Commission and by providing the Appellant with D.P.C. meeting and note of Goa Public Service Commission regularizing the Group A officers, the information at serial No. 4 was provided to the Appellant.

6. Regarding point No. 1, the Appellant is seeking the two separate seniority list prevailing in the year 1983 for the purpose of promotion to the post of Headmaster, Government High School and requires to know what was the ratio/criteria/guidelines for giving promotion for Middle School Headmaster/Headmistress. The contention of the Appellant is that these two separate seniority lists are still prevailing and the promotions are being made based on these seniority lists till this date. The Respondent No. 1 has not specifically provided the information to the point No. 1, but merely stated that the records are not available

being old. I do not see any reason why the Appellant should not be provided with information sought at point No. 1 of his letter dated 4/12/2008. The Respondent No. 1 need not provide information in respect of whether more weight was given to one particular list vis a vis the other seniority list for the purpose of promotion and which is in the form of opinion and it is not 'information' within the meaning of section 2(f) of the RTI Act. All the Respondent No. 1 is required to provide from the records what are the rules or guidelines for giving promotions to the candidates shown in these two separate seniority list. Hence, the following order: -

ORDER

The Appeal is partly allowed. The Respondent No. 1 to provide information at point No. 1 of the Appellant's letter dated 4/12/2008 and provide the information regarding the rules or guidelines for the promotion of Headmaster of Government High Schools from the two separate seniority lists.

The Respondent No. 1 to provide the information within the period of 20 days from the date of receipt of this order and report compliance on 30th September, 2009 at 10.30 a.m.

Pronounced in the open court on this 20th day of August, 2009.

Sd/-
(Afonso Araujo)
State Information Commissioner

