

GOA STATE INFORMATION COMMISSION

Ashok Menon
Asst. Divisional Officer
Directorate of Fire & Emergency Services
District Fire Station (South)
Aquem, Margao, Goa. ... Appellant

V/s
State Information Officer
Directorate of Fire and Emergency Services
St. Inez, Panaji, Goa. ... Respondent

Second Appeal No. 03/2006/DFS/1214

U/s 19(3) of the Right to Information Act, 2005 (Central Act 22 of 2005)

CORAM: Shri A. Venkataratnam, State Chief Information Commissioner(SCIC)
Shri G. G. Kambli State Information Commissioner (SIC)

(Per A Venkataratnam)

Appellant in person
Adv. J. P Mulgaonkar for the Respondent

ORDER

(Dated July 7th, 2006)

This Order disposes off the Complaint against the First Appellant's Order dated 7/2/2006 of the Directorate of Fire and Emergency Services.

The facts, in brief, are that the Appellant approached the Respondent by his Appeal dated 21/12/05 for the supply of some information U/s 6 (1) of the Right to Information Act, 2005 hereinafter referred to as "the RTI Act". By his Order dated 28/12/05, the then Public Information Officer (P.I.O.) requested the Appellant to inform the purpose for which the information is being sought by him. The Appellant informed him the purpose of his request by his letter dated 6/1/06 though not required to do so. Thereafter, the P.I.O. by his letter dated 16/1/06 refused the information on the ground that the disclosure of the information requested does not justify any public interest and is exempted U/s 8 of RTI Act. The Appellant filed his First Appeal before Directorate of Fire and Emergency Services on 23/1/06 which came to be disposed off by a

memorandum dated 7/2/06, confirming the original order refusing the information. Meanwhile, some interesting developments have taken place in the Department. P.I. O. who initially refused the information was transferred out of the Department. The Appellate Authority, namely the Director of Fire and Emergency services, retired from Government service and most interestingly the Appellant himself has become the Director and Head of the Department. Now, he himself is the First Appellate Authority. During the course of hearing the Appellant was asked whether he would like to pursue with the matter as he himself has access to the records and information requested by him now that he had taken over as the Director. He insisted with the perusing the matter. The Respondent was directed to submit its reply which was done on the day of final arguments. The learned Advocate representing the Respondent stood by the reply submitted. Basically, the reply justifies the denial of the information on two grounds namely:

- i) That it is a personal information which would cause unwarranted invasion the privacy of another official, who is also working in the same department,
- ii) That the disclosure is not in public interest

The appellant, on the other hand, submitted that:

- i) The information requested is not invasion of privacy though it is about the service record of another colleague in the same department
- ii) There is no need to justify the public interest while revealing the information.

2. A perusal of the information requested by the Appellant reveals that all the eight points are regarding the public policy of the Government Department either in the matter of appointment of its employees, of prescribing the qualification and training for the post or the award of Fire Services medals. To our mind, none of these points are personal to any individual as they are in the public domain. We will examine the questions serially.

- a) the first Question is about the eligibility criteria of Shri Prakash M Parab in the matter of his absorption from the Electricity Department to the Fire Services Department. There is nothing personal about this information and hence this does not qualify U/s 8 (j) of RTI Act for exemption.

- b) The Second question deals with the qualification and training received by Shri Parab while being absorbed in the Department .We do not find this to be a personal question though it would relate to one of the employees in the Department. The qualification prescribed and fulfilled by the employee at the Government Department are no matter of secrecy. They are widely published by the Department and the service records of the employees are public documents.
- c) The Third question is about the seniority of Shri Parab
- d) The Fourth question is about the deputation for a training of Shri Parab
- e) The Fifth question is of the postings held by him from the date of absorption dated 19/12/05

None of these questions are personal. The other questions are regarding the eligibility criteria for conferring the Goa Chief Ministers Fire Services medal on Shri Parab. In fact, these medals are awarded under the rules framed by Government for the purpose and only those who satisfy the criteria laid down are recommended for the award. To enquire whether Shri Parab satisfies the criteria or not is also not a personal question.

We, therefore, hold that the Appellant is entitled to see the above information and the Respondent is under an obligation to supply the information. In fact, the burden of proving that the request can be denied under the exemption clause (f) of Section 8 of the RTI Act lies squarely on the shoulders of the Respondent. We are afraid that the Respondent could not prove to our satisfaction that the information is covered under the exemption clause. It is also stated that the appeal is not maintainable as the Appellant is superior in rank than the P.I.O. and also the Appellate Authority himself. While this is so, he does not cease to be a citizen and therefore, is entitled to the right to information guaranteed under the Act. We do not see any merit in the argument. The last point taken up is regarding the justification of public interest. This argument also does not survive as weighing the information to justify whether it would serve the

larger public interest or not will arise only when the information sought is covered under the privacy clause. We have already held that there is nothing personal in disclosing the information requested by the Appellant. Hence, we proceed to pass the following order.

The Respondent is directed to provide the information to the Appellant on all the points requested by him within 15 days from the date of receipt of this order. If the information is not available with the Respondent, it should be obtained from wherever it is available including whosoever is maintaining the service records of Shri Parab. It is for the Respondent to obtain the records and submit the information as it pertains to the period when he was a non gazetted officer and his records for that period are supposed to be preserved in the department itself.

(A. VENKATARATNAM)

State Chief Information Commissioner

(G. G. KAMBLI)

State Information Commissioner.