

GOA INFORMATION COMMISSION

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji-Goa

Appeal No. 135/2007

Shri Eusebio Braganza,
Hno: 583, Magillvaddo,
Raia, Salcete - Goa.

..... Appellant

V/s

1. The Public Information Officer,
The Vice Principal / Sr. Most Lecturer,
Shree Damodar College of Commerce & Economics,
Comba, Margao - Goa. Respondent No.1..
2. The First Appellate Authority,
The Principal,
Shree Damodar College of Commerce & Economics,
Comba, Margao - Goa. Respondent No.2..

CORAM:

Shri A. Venkataratnam
State Chief Information Commissioner
&
Shri G.G. Kambli
State Information Commissioner

(Per G.G. Kambli)

Dated: 06/08/2008.

Mr. Caetano Mascarenhas, Ld. Adv. for the Appellant.
Shri P. P. Singh, Ld. Advocate for the Respondents

ORDER

The Appellant challenges the order dated 14/02/2008 passed by the Respondent No. 2 in the first Appeal (number not mentioned) under section 19(3) of the Right to Information Act, 2005 (for short the Act), on various grounds as set out in memo of appeal.

2. The facts of the case in brief are that the Appellant vide his application dated 29/11/2007 sought the information from the Respondent No. 1 on 3 points. The Respondent No. 1 provided the information on the points at Sr. Nos. 1 & 3 and rejected the request on point No. 2 under section 8(j) of the Act. The Appeal filed by the

....2/-

Appellant before the Respondent No. 2 was also dismissed by the order dated 14/02/2008 upholding the decision of the Respondent No. 1. Aggrieved by the said decision of the Respondent No. 2 the Appellant has filed second appeal before this Commission under section 19(3) of the Act.

3. Upon issuing the notices, the Respondents filed their replies. Shri Caetano Mascarenhas, Ld. Advocate appeared for the Appellant and Shri P. P. Singh, Ld. Advocate appeared for the Respondents. The arguments of both the Ld. Advocates were heard. Shri Caetano Mascarenhas, Ld. Advocate for the Appellant contended that the Respondent No. 2 did not give any opportunity of being heard before passing the order thereby the Respondent No. 2 has failed to follow the principles of natural justice. He further submitted that this Commission had held in number of cases that the First Appellate Authority has to follow the procedure laid down in Goa State Information Commission (Appeal Procedure) rules 2006 as far as possible. He further also submitted that the Respondent No. 2 has not properly appreciated the matter and hastily passed the impugned order.

4. Shri P. P. Singh, Ld. Advocate for the Respondents submitted that the copies of the evaluated answer papers cannot be supplied as they are of the secret and confidential in nature. However, he stated that evaluated answer papers can be made available to the candidate concern for inspection but no copies can be provided. He also submitted that the Appellant has not disclosed the cause of action and also the purpose for which he requires the copies of the evaluated answer papers.

5. The Appellant at point No. 2 has requested the Respondent No. 1 to provide him answer books (written & typing) of the test conducted with respect to the call letter No. 98 under reference No. S/1A/385/06 dated 3/08/2006 of Smt. Jean Elvin Themudo held on 12th August, 2006

and 13th August, 2006 respectively with reference to the advertisement dated 7th July, 2006.

6. Admittedly, the Appellant was not the candidate for the said written test conducted by the Respondents. During the hearing the Ld. Advocate for the Appellant clarified that the Appellant is the husband of Smt. Jean Elvin Themudo to that the Ld. Advocate for the Respondents replied that the Appellant has not mentioned any relationship in the application seeking information. The evaluated answer papers in relation to any exams are the documents of the respective candidate and they are held by the authority in a fiduciary relationship because it also contains the assessment marks by the Examiners. Section 8(1)(j) of the Act also applies in this case. Such cases are exempted under the clause (e) of subsection (1) of section 8 unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information. Being so, the evaluated answer papers cannot be disclosed to the persons other than concerned candidate.

6. We, therefore, hold that the copies of the evaluated answer papers cannot be provided to any persons. However, the concerned candidate can be allowed to inspect his or her own evaluated answer papers. Admittedly, the Appellant was not the candidate and therefore, the Appellant is not entitled to copies of the evaluated answer papers. We, therefore, hereby dismiss the Appeal.

7. Announced in the open court on this 06th day of August 2008.

Sd/-
(G.G. Kamblı)
State Information Commissioner

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

