

## **GOA INFORMATION COMMISSION**

Ground Floor, "Shrama Shakti Bhavan", Patto Plaza, Panaji.

Appeal No. 19/2007-08/IPHB

Shri Jude L. Vaz  
H. No. 254, Tariche Gallu,  
Colvale, Bardez - Goa.

..... Appellant.

V/s.

1. Public Information Officer,  
The Medical Superintendent,  
Institute of Psychiatry & Human Behaviour,  
Bambolim - Goa.
2. First Appellate Authority,  
The Director/Dean,  
Institute of Psychiatry & Human Behaviour,  
Bambolim - Goa.

..... Respondents.

### **CORAM:**

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

(Per A. Venkataratnam)

Dated: 30/08/2007.

Adv. Kunda R. N. Ganthe for Appellant.

Respondent No. 1 in person. Respondent No. 2 ex-parte.

### **ORDER**

This disposes off the second appeal dated 7/6/2007 filed by the Appellant against the letter dated 5/3/2007 (hereinafter called the "impugned letter"). The facts are that the Appellant has approached the Public Information Officer on 22/12/2006 requesting to issue to him the case history of Kum. Philomena Vaz, sister of the Appellant and "report of diagnosis" in her case. It appears that Kum. Vaz is under treatment at the IPHB since 1996. On 12<sup>th</sup> January, 2007 Respondent No. 1 replied to the Appellant to come and collect the information requested after the payment of fees which is done by the Appellant on 24<sup>th</sup> January, 2007. On 12<sup>th</sup> February, 2007, the Appellant filed his first appeal before the Director/Dean of the IPHB, Respondent No. 2 herein contending that some of the papers are not clear and that the diagnosis report is not given to him as

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requested. On 5<sup>th</sup> March, 2007, the Public Information Officer has sent the impugned letter to the Appellant styling it as comments by Public Information Officer/Medical Superintendent. A reference was taken therein to the first appeal filed by the Appellant and said comments are enclosed as reply. It is not clear whether the first appeal was heard or disposed off by the Director/Dean of the IPHB. On 7<sup>th</sup> June, 2007, the Appellant filed the present second appeal praying the impugned note-cum-letter dated 5/3/2007 to be set aside and for giving a direction to the Public Information Officer to give him the "diagnosis report" of Kum. Philomena Vaz. Notices were issued to the parties and one Adv. Kunda Ganthe appeared for the Appellant. Public Information Officer appeared in person and submitted his written statement. There is no sign of the first Appellate Authority who is Respondent No. 2.

2. The case of the Public Information Officer is that all the papers are very old and they are photocopied and given to the Appellant. As to the diagnosis report it is already given in the case papers given by the Public Information Officer. He has not made it clear whether he has sent a notice to Kum. Philomena Vaz before parting with the information of her case history. As already stated above, there is no information on record whether the case is heard by the Dean and if so what was his order and how the same Public Information Officer could send his comments on the first appeal to the Appellant.

3. The information requested about the medical history of Philomena Vaz is the information available with the Dean of the IPHB who has a fiduciary relationship with the patient who was under treatment at the IPHB. Accordingly, the information falls squarely under Section 8(1)(e) of the Right to Information Act which is exempted from disclosure unless the Public Information Officer is satisfied that the larger public interest serves the disclosure of such information. There is no recording by the Public Information Officer either about the intimation sent to Kum. Philomena Vaz or about his own satisfaction about the public interest versus privacy of Philomena Vaz. Again, even if the Public Information Officer comes to conclusion that it is in the public interest to disclose the information, he has to issue a notice to Philomena Vaz who is third party under Section 11(1) and wait for her reply i.e. why he has 10 more days extra to reply to the Appellant for this reason. No such notice appears to have been given in this case. The Public Information Officer has also not

informed Philomena Vaz under sub-section (4) of Section 11 that she is entitled to prefer an appeal under Section 19 against his decision to part with the information. Finally, he has no explanation to offer before this Commission why the statutory provisions were not followed by him. We, therefore, are constrained to set aside both his letters dated 12/1/2007 offering to give the information and letter dated 5/3/2007 giving a reply on behalf of the first Appellate Authority as the procedure laid down under Section 11 was not followed by him. Though a lot of information was already given by the Public Information Officer without following the procedure laid down under the Right to Information Act, we are helpless in recalling the information already given. Accordingly, the appeal fails and is hereby dismissed.

Announced in the open court on this 30<sup>th</sup> day of August, 2007.

Sd/-

(A. Venkataratnam)

State Chief Information Commissioner, GOA.

Sd/-

(G. G. Kambli)

State Information Commissioner, GOA.

/sf.

sf./dk.