

GOA INFORMATION COMMISSION

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

Appeal No. 55/2007-08/GU

Shri. Gajanan Haldankar,
H. No. 760/26, Wadakade,
Near Chubby Cheeks,
Alto, Porvorim - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
The Registrar, Goa University,
Taligao Plateau - Goa.
2. First Appellate Authority,
The Vice Chancellor,
Goa University,
Taligao Plateau - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 13/12/2007.

Adv. Shirodkar for the Appellant.

Adv. Mrs. Agni for both the Respondents.

ORDER

In this matter, the Appellant is aggrieved by the action of the Goa University in the matter of revaluation of marks obtained by his son at the first year LLB examination held in the April, 2000, October, 2000 and April, 2001. It is very difficult to make out what exactly is the prayer of the Appellant as no such prayer is made either in the second appeal or the first appeal. The original request for information dated 23/05/2007 itself is a combination of his observations, conclusions, allegations against the Goa University. However, we have taken out some of his grievances on which information is sought by him and was not replied by the University to the satisfaction of the Appellant. These are (i) what are the names of the examiners who had valued the answer papers and revalued for the April, 2000 examination of first LLB; (ii) why were "examination" papers of October, 2000 were not examined in time; (iii) what is

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the reason for the delay in declaring the result of October, 2000 in time in respect of the son of the Appellant; (iv) how was the marksheet for subject of "Law of Torts" identical for April, 2000 and October, 2000 examinations?; (v) Why was his son not given 5 grace marks in the subject of "Law of Torts". In his first appeal also he has raised the same issues asking for the names of examiners, production of the answer sheets, reasons for delay in declaration of results late etc. Though the first appeal is addressed to the first Appellate Authority i.e. Vice-Chancellor and the Respondent No. 2 herein it was replied by the Public Information Officer himself signing as Registrar of Goa University. The reply to the original request was also signed by him as Registrar though the information was given under the Right to Information Act, 2005 (for short the RTI Act) and he is the Public Information Officer. We have time and again observed that the first Appellate Authority has to not only hear the Appellant, pass a reasoned order himself and even if it is conveyed by another official it has to be mentioned clearly that it is an Appellate order and finally it has to be passed within the time allotted under the law. The letter dated 24/07/2007 signed by the Registrar and exhibited as Exhibit I in this case, does not reveal that it is an order by the first Appellate Authority. On the contrary, in the reply submitted by the Respondent No. 1 it is claimed that the additional information is given to the Appellant after his first appeal is filed. This is not a good trend and we hereby direct the first Appellate Authority to hear all the appeals presented under the RTI Act.

2. Notices were given to both the parties. Written statements were filed. Matter was argued. The learned Counsel Smt. Agni argued for the Respondents though there is no Vakalatnama on record. She canvassed a number of points why the answer sheets cannot be given to the Appellant and how revealing the names of the examiners will jeopardize the entire examination system. She has also raised a point that the request regarding the revaluation of papers is beyond the scope and jurisdiction of this Commission. She claimed exemption of revealing names of the examiners under section 8(1)(e) and 8(1)(j) of the RTI Act. She cited certain decisions of Central Information Commission. We would like to observe that neither the Central Information Commission has any Appellate or review jurisdiction over this Commission nor the decisions of the Central Information Commission are binding on this Commission. We will go into the arguments of the Counsel of the Respondents in due course. Meanwhile, we would like to observe that even if the information is withheld from the citizen

taking recourse to the exemptions under section 8 of the RTI Act, we would like to mention that the same cannot be withheld for scrutiny by this Commission. It is specifically provided under section 18(3)(a) that the Commission can summon and enforce the attendance of any person and to compel them to produce the documents or things required with the connection of an inquiry. The same powers vest while hearing second appeals as well.

3. While going through the records of this case, we have observed that though the answer papers stated to have been destroyed as per the ordinance in force, 6 months after the results are declared, the marksheets obtained by the Appellant's son was communicated to the Appellant as recently as 13/06/2007. The Respondent No. 1 claimed to have reproduced the marks from the marks register maintained by the University. We would, therefore, like to see for ourselves marks register of Shri. Sushant G. Haldankar, son of the Appellant for all the three examinations given to him in all the subjects of first LLB namely, the examination conducted by the University in April, 2000, October, 2000 and April, 2001 in all the subjects answered by Shri. Sushant G. Haldankar alongwith the revaluation marks of April, 2000, the revaluations done suo moto by the University of the October, 2000 papers. The marks register should be produced before the Commission on 28/12/2007 at 11.00 a.m. by the Public Information Officer or a responsible officer of the University with due authorization alongwith the Wakalatnma signed by both Respondents. The Appellant need not be shown this for present till a final decision is taken in the appeal. Hence, Appellant need not remain present on that day.

Pronounced in the open court on this 13th day of December, 2007.

Sd/-

(A. Venkataratnam)

State Chief Information Commissioner, GOA.

Sd/-

(G. G. Kambli)

State Information Commissioner, GOA.

/sf.