

GOA INFORMATION COMMISSION

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

Appeal No. 64/2007-08

Shri Seby D'Silva,
H. No. 487/2, Grande Palvado,
Banualim - Goa

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Appellant

V/s

1. Public Information Officer,
The Vice Principal/Sr. Most Lecturer,
Shree Damodar College of Commerce & Economics,
G. R. Kare Road, Tansor, Comba,
Margao – Goa

...

Respondent No.1

2. The First Appellate Authority,
The Principal,
Shree Damodar College of Commerce & Economics,
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: 13/12/2007.

Appellant in person

Adv. Vanita G. Kondli for Respondent No. 1

Adv. P. P. Singh for Respondent No. 2

J U D G M E N T

This is a second appeal filed by the Appellant against the Respondents under section 19(3) of the Right to Information, Act 2005 (herein after referred to as the Act).

2. In brief, the facts of the case are that the Appellant herein requested the Respondent No. 1 to provide the following information under the Act.:

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1. Is the College Authorities required to form the DPC (Departmental Promotion Committee) to promote the existing staff members who were eligible and qualified for the promotion either to the post of UDC or to the post of Accountant? If not, Why the DPC was not required to be formed?
 2. Is the College Authorities required to seek any consent in writing from the existing staff members who were eligible and qualified for the promotion to the post of UDC while surrendering the existing post of UDC? If not, why the consent of existing staff members was not required?
 3. Is the College Authorities required to conduct the written test to recruit the Accountant in the College? If not, why the written test is not required?
 4. Whether the College Authorities conducted the written test to recruit Shri Prakash Tendulkar as an Accountant in the College? If no, Why the written test was not conducted?
3. As the Appellant did not receive any reply from the Respondent No. 1, the Appellant filed first Appeal before the Respondent No. 2 on 6/8/2007. The Respondent No. 2 fixed the said appeal for hearing on 3rd September 2007 and directed the Appellant to remain present for the said hearing vide letter dated 29/8/2007. The Appellant reacted to the said letter stating that the Appellant did not address the application dated 25/08/2007 to the First Appellate Authority but to the Public Information Officer. The Appellant also requested the Respondent No. 2 to provide him

the provisions of the Act under which the presence of the Appellant was required.

4. The Respondent No. 2 thereafter vide his letter dated 3/9/2007 informed the Appellant that Respondent No. 1 has already provided the information to the Appellant vide letter dated 29/8/2007 and accordingly the Appeal was disposed off. Subsequently by another letter dated 4/9/2007, the Respondent No. 2 corrected the number and date of the letter RTI/PIO/03/2007 dated 16/8/2007 instead of M/1/653/07-08 dated 29/8/2007.

5. Aggrieved by the decisions of the first Appellate Authority, the Appellant has filed the second appeal. The notices were issued to both parties. Both the Respondents filed exhaustive replies. Adv. P. P. Singh appeared for the Respondent No. 2 and Adv. Vanita G. Kondli appeared for the Respondent No. 1. The arguments of the Appellant as well as the Learned Advocates for both the Respondents were heard. Shri P. P. Singh, Learned Advocate for the Respondent No. 2 drew our attention to the application dated 8/6/2007 and the reply given by the Respondent No. 1 vide letter dated 16/8/2007. He submitted that the replies to all the questions have been provided to the Appellant. However, the Appellant made the grievances that no copy of the Government Order dated 13/12/1998 has been provided to him. On going through the questions of the Appellant, the Appellant did not seek any copies of the Government Order.

6. We have gone through the application of the Appellant dated 8/6/2007 and the information furnished by the Respondent No. 1 vide letter dated 16/08/2007. We have observed that the reply to the question No. 1 is not properly given by the Respondent No. 1. The reply is vague and not to the point. We do not find anything wrong in the replies given by the Respondent No. 1 to other questions. The Appellant has also not explained us as to how the said replies are incomplete or incorrect.

7. The Appellant has objected for the issuance of the notice dated 29/8/2007 by the Respondent No. 2 requiring him to remain present for hearing on 3rd September, 2007 at 10.30 A.M. on the ground that there is no provision in the Act where the appellant is required to remain present for hearing before the first Appellate Authority. In this context, we would like to point out that there are no provisions in the Act or Rules regarding the procedure to be followed by the first Appellate Authority. In a number of cases, the Commission has held that the principles behind the Goa State Information Commission (Appeal procedure) Rules 2006 can be followed by the first Appellate Authority for disposal of Appeals. We do not find anything illegal in issuing the notice by the Respondent No. 2 to the Appellant. In fact the Natural justice demand that the person should be given an opportunity before taking any decision on Appeal inasmuch as the Respondent No. 2 in deciding the Appeal acts in quasi-judicial capacity. Hence we do not find any merits in the said objection raised by the Appellant before the Respondent No. 2.

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8. In the light of what has been discussed above, we pass the following Order:

ORDER

The Appeal is partly allowed. The Respondent No. 1 is directed to provide the correct information on point No. 1 within two weeks from the date of the Order. We reject the other prayers of the Appellant.

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

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

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