

## **GOA INFORMATION COMMISSION**

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

Appeal No. 73/2007

Mr. Premanand G. Phadte,  
46/E, Arlem – Raia,  
Salcete\_Goa

..... Appellant

V/s.

1. Public Information Officer,  
The Dy. Director of Education (Acad).  
Directorate of Education,  
Panaji - Goa

..... Respondent No. 1

2. The First Appellate Authority,  
The Director,  
Directorate of Education,  
Panaji – Goa

..... Respondent No. 2

### **CORAM :**

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

(Per G. G. Kambli)

Dated: 29/11/2007.

Appellant in person

Respondent No. 1 in person

Respondent No. 2 is represented by authorized representative i.e.  
Shri Nasnodkar

### **J U D G M E N T**

This is a second appeal filed by the Appellant under section 19(3) of the Right to Information Act, 2005 (for short the Act).

2. Briefly, the facts of the case are that the Appellant vide his request dated 23-03-2007 sought the following information from

...2/-

the Director (Administration), Public Information Officer, of Directorate of Education under the Act;

- 1) Why the teachers from the aided school's are given holidays on every Sunday?
  - 2) Whether or not the teachers from the aided school's can be called for duties on Sundays by the management or Goa Board or Directorate of Education?
  - 3) If the teachers from the aided schools work on Sunday how much monetary compensation they should get? Who should pay the compensation if the teachers from the aided schools work on Sunday?
  - 4) Whether or not the teachers are entitled to compensatory holiday in addition to monetary compensation, if they work on Sunday?
  - 5) Who should grant the compensatory holiday to the teachers?
3. The Respondent No. 1 vide letter dated 21-05-2007 has provided the point wise information as follows:-
- “ 1) It is a policy of the Government to give weekly off on Sunday.
- 2) If necessary, in exigency of service they may called on Sunday.
- 3) There are no prescribed norms for the payment for the work allotted to the teacher on Sundays & holidays. However, institution may decide to pay the honorarium to such teachers depending upon the work done by them. Such honorarium has to be paid by the institution

concerned. In this regard, F.R.11 and 46 and the decision there under may be referred to. The Xerox copies of the relevant rules are enclosed.

4) If the person is financially benefited he/she is not entitled to get compensatory off.

5) Head of the Institution/Management”.

4. Aggrieved by the said reply of Respondent No. 1, the Appellant filed an first appeal before the Respondent No. 2 on 8/06/2007 which appeared to have been received in the office of the Respondent No. 2 on 15-06-2007 as can be seen from the endorsement made in the margin of memo of Appeal. The Respondent No. 2 fixed the Appeal for hearing on 23-07-2007 and as the Appellant remained absent on the date of hearing, the Respondent No.2 dismissed the Appeal for the default of the appearance of the Appellants vide Order dated 23/07/2007. It appears that the Appellant had also filed appeal before the Respondent No. 2 which was heard on 29/05/2007 and the Respondent No. 2 verbally directed the Respondent No. 1 to provide the information

5. Feeling aggrieved by the said order of the Respondent No. 2 the Appellant has preferred the second Appeal before this Commission. The grievances of the Appellant is that the Respondent No. 1 has provided false and incomplete information on point No. 1 and 4 and had collected unnecessary charges of Rs.14/- by providing copies of irrelevant documents, which were

not sought by the Appellant. The Appellant, therefore, prayed that:

- (i) the Respondents be directed to provide complete and correct information.
- (ii) the Appellant be compensated for causing the delay in providing the information and
- (iii) the Respondent be directed to refund an amount of Rs.14/-.

The Appellant has also prayed for initiating necessary actions against the Respondents.

6. We will first deal with the order dated 23-07-2007 passed by the Respondent No. 2 whereby the Appeal filed by the Appellant was dismissed for the default of the appearance of the Appellant. This Order is not supported by any provisions of the Act. We also do not find any provisions empowering the First Appellate Authority to dismiss First Appeal. On the contrary Rule 7(2) of the Goa State Information Commission (Appeals Procedure) Rules 2006 provides that the Appellant has an option either to remain present or absent. This Commission has held that the principle behind these rules shall also be followed in the appeals filed before first Appellate Authority as no separate procedure has been laid down for the disposal of first appeal by the First Appellate Authority. Being, so we have no hesitation to hold that the Order dated 23-08-2007 passed by the Respondent No. 2 was not in-accordance with the provisions of the Act. Therefore, the same is liable to be quashed and set aside.

7. Further, the Respondent No. 2 has not adhered to the time-limit laid down in section 19(6) of the Act according to which

appeal filed under section 19(1) of the Act has to be disposed off within 30 days extendable upto 45 days for the reasons to be recorded in writing by the First Appellate Authority. In the instant case, the Appeal was presented on 15-06-2007 and the hearing was fixed on 23/07/2007, which is after the expiry period laid down in section 19(6) of the Act. We hope that the Respondent No. 2 will strictly adhere to the provisions of section 19(6) of the Act in future.

8. Turning now to the information provided by the Respondent No. 1 to the Appellant, the Appellant had made grievances in respect of information provided on points No. 1 & 4. We do not find anything wrong in the information provided by the Respondent No. 1 on points 1 & 4. As regards the Point No. 3, it has two parts, first pertaining to the amount of compensation payable to the teachers from the aided schools for having worked on Sunday; and secondly, regarding the authority as to who should pay the said compensation. Regarding the second part, the Respondent No. 1 has reported that such honorarium has to be paid by the institution concern. Therefore, we feel that the information on the second part is complete. However, as regards the reply to the first part pertaining to the amount of compensation, the Respondent No. 1 has replied that there are no prescribed norms for the payment for the work allotted to the teacher on Sundays and holidays. We feel that this is not the correct information. The Respondent No. 1 has further clarified that the honorarium has to be paid as per FR-11 and FR-46 and also enclosed Xerox copies of FR-11 & FR-46 comprising of 7 pages. The Appellant has rightly stated that he has not sought copies of FR-11 & FR-46 and

therefore there was no need to send copies of FR-11 & FR-46 thereby charging Rs. 14 to the Appellant. We understand that whenever any person works on Sunday he has to be given either compensatory off or he has to be paid fulltime allowance or the due compensation if he is eligible. Therefore, there must be some Orders/guidelines/Rules, which governs the matter. We are not aware whether the teachers from the aided Schools are governed by the service conditions as are applicable to the government servants or they are governed by separate service conditions under the Education Act or Rules frame there under.

9. In these circumstances we pass the following order;

**O R D E R**

- (a) The Appeal is partly allowed;
- (b) The Order dated 27-03-2007 passed by the Respondent No. 2 in first appeal No. 25/2007/43 is hereby quashed and set aside;
- (c) The Respondent No. 1 is directed to refund Rs. 14/- to the Appellant.
- (d) The Respondent No. 1 shall provide the correct information on the first part of point No. 3 to the Appellant within 15 days from the date of order; and
- (e) the other prayers of the Appellant for imposition of the penalty and for awarding compensation are rejected.

Announced in the open court on this 29<sup>th</sup> day of November, 2007

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

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



