

GOA INFORMATION COMMISSION

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

Appeal No. 97/2007-08/NIE

Dr. G. C. Pradhan,
F-1, Ashoka - II, Vasudha Colony,
P.O. Bambolim Complex,
Alto Santa Cruz - Goa.

..... Appellant.

V/s.

1. Public Information Officer,
Mr. Nicholas D'Souza,
The Vice Principal/Sr. Most Lecturer,
Nirmala Institute of Education,
Panaji - Goa.

2. First Appellate Authority,
Dr. Rita Paes,
The Principal,
Nirmala Institute of Education,
Panaji - Goa.

..... Respondents.

CORAM:

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

(Per A. Venkataratnam)

Dated: 10/01/2008.

Appellant in person.

Adv. Shri. Shivan Desai and Vallabh G. N. Parulekar on record for the
Respondents.

ORDER

The Appellant has approached the Respondent No. 1 with a request dated 8/6/2007 for information on 5 points. The Respondent No. 1 has rejected the request by his letter dated 8th July, 2007 against which the first appeal was moved by the Appellant on 16th July, 2007. By her letter dated 14/8/2007, the first Appellate Authority, Respondent No. 2 herein, confirmed the rejection of the request and also mentioned in her letter - cum - order that "the Appeal is investigative, probing and defamatory in nature. Hence I dismiss the appeal". The present second appeal is against this "impugned order" dated 14th August, 2007 of the Respondent No. 2.

...2/-

2. Notices were issued. The Appellant represented himself and though two advocates have signed the vakalatnama on behalf of the Respondents, none of them were present at the time of arguments. Adv. L. Halankar, who is not on record but holding for Adv. Desai submitted a joint reply signed by herself on behalf of both the Respondents. As mentioned above, the said Adv. Halankar is neither on record nor any vakalatnama was produced on behalf of the Respondents. Hence, the reply signed by her cannot be considered as Respondents' reply. Further, an opportunity was given to them to submit their written arguments, if any, by 3rd January, 2008.

3. In order to appreciate the order of the rejection, it is necessary to examine the request itself. The Appellant has raised 4 issues about the appointment and pay fixation of 3 temporary lecturers by name Mr. J. Miranda, Ms. Bernadette D'Souza and Ms. Nikita Dangui by the public authority, the Nirmala Institute of Education (NIE). He has raised important points based on the replies submitted by the Public Information Officer, Respondent No. 1 herein, to the Appellant to his earlier request dated 27/01/2007. As he found some deviation from the rules by the Institution, he filed the present request on 8th June, 2007. He raised some important points, viz., Mr. J. Miranda was paid Rs.13067/- per month in July, 2006 whereas the pay was fixed at Rs.8000/- on 28/02/2007. He wanted to know the rules under which the basic pay was reduced and or fixed in excess at the time of his appointment. Similar is the case of Ms. Bernadette D'Souza. In the case of Ms. Nikita Dangui, however, no payment was made for the months of June and July, 2006 and he wanted to know the reasons for such non-payment. It is his case that the above 3 lecturers were appointed on 12/6/2006, even before the interview could be held to the above posts by the N.I.E. on 22/6/2006 and that the Goa University has approved the appointments w.e.f. date of interview, namely 22/6/2006. When the information regarding the rules under which the appointments were made and the pay fixed, the Public Information Officer turned down request stating that the questions raised are "investigative and probing in nature and such spying inquiry is not information under the Right to Information Act, 2005" (for short the RTI Act). He has also mentioned why, what, who and where is not information at all and the Appellant has no such right given under the RTI Act. While confirming the same view, first Appellate Authority, Respondent No. 2 has added one more word "defamatory" to the

above list of words used by the Public Information Officer. She, however, did not clarify as to whose honour was defamed by the Appellant. The reply furnished by the Advocate cannot be taken as the reply filed by the Respondents.

4. The Advocate for the Respondents No. 1 and 2 has filed the written arguments on 3rd January, 2008. However, the signatory is different from the Advocate who signed the reply on behalf of both the Respondents. In his written arguments, he has taken the stand that the request filed by the Appellant is not "information" because it is based on certain pre-conceived notions the Appellant has with regard to NIE. However, he did not elaborate what are these notions and simply stated that the information sought by him "is on the face of it not in terms of the information contemplated under the said Act". The information about the salary paid to the employees by a public authority is certainly "information" as defined under section 2(f) of the RTI Act and if there is any discrepancy in paying the amounts, either more or less than the amounts due, the Appellant certainly is entitled to know the basis on which such payments are made and is entitled to get the copies of the rules/instructions under which such variations have been made in the payments. We are also not in a position to agree with the Respondents that the Appellants' query regarding the appointment of the 3 temporary lecturers before their actual date of interview is an "opinion or interference and is not information". The questions posed by the Appellant are neither judgmental nor malafide and based on the facts which were already informed to the Appellant earlier. The grounds argued by the learned Advocate do not support the stand of the Respondents to refuse the information.

5. The two direct objectives of the RTI Act, 2005 are to promote transparency and accountability in the working of every public authority. The indirect objective is to "contain corruption", in the functioning of the public authorities. In pursuance of these objectives, a right is vested in every citizen to obtain information from the public authorities without having to mention his locus standi or purpose for which the information is sought. The citizens of this country can ask for and obtain such information from any public authority from any part of the country. The words, "information", "record", "right to information" have all been defined in the RTI Act. Both the Respondents have quoted in their orders/letters to the Appellant extensively transcribing the

definition of "information" under section 2(f). They have not denied that they are the public authorities and they have also not claimed exemption from disclosure under section 8 and 9 of the RTI Act. They have simply denied the information because it is "probing, spying, defamatory and malafide inquiry." The reasons cited/taken by the Respondents to deny the information are not covered under the provisions of the RTI Act exempting the disclosure of the information. Hence, we reject the reasons cited by them to deny the information. It is not as if the information asked by the Appellant is not on "record" of the public authority. It would appear that both the Respondents do not wish to disclose the information as they have something to hide from the public scrutiny. In fact, only probing and searching questions reveal the malfunctioning of any public authority. In any case, the Appellant has asked for the rules and instructions under which the public authority has acted in a particular way and the Appellant not only has a right to know this information but the Respondent No. 1 is duty bound to give this information. The RTI Act puts an obligation to provide the information on the shoulders of the Public Information Officer.

6. We, therefore, have no hesitation in setting aside the letters dated 6/7/2007 and 14/08/2007 of both the Respondents and directing the Public Information Officer to give the information within one month from the date of this order. We are not inclined to start penalty proceedings on the Public Information Officer as prayed for by the Appellant at this stage.

Pronounced in the open court on this 10th day of January, 2008.

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

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

/sf.