

The Goa State Information Commission

Appeal No.5/2006/NIE

1. Dr. G.C. Pradhan Complainant 1.
2. Dr. S.K. Pradhan Complainant 2.

V/s

1. The Principal,
Nirmala Institute of Education
Altinho, Panaji.
Goa - 403 001. Respondent

CORAM : A. Venkataratnam., CIC
G.G.Kambli, SIC

(per A.Venkataratnam)

Complainant in person
Shri. Denzil Martins
Authorised Representative
of Respondent were present.

Dated : 22/6/2006.

ORDER

Under Section 18 of the RTI Act (Central Act of No. 22 of 2005)

This disposes off the appeal dated 24/5/2006 against the respondent. On perusal of appeal, we find that there is no order of the first appellant authority. We have, therefore, treated this as a complaint under section 18 of the right to information Act 2005 (herein after referred to as the "RTI Act").

2. On issuing notice, Shri. Denzil Martins working for respondent Institute has appeared with an authorization from the principal to represent the case. The appellants/complainants appeared in person and argued the case. A preliminary objection was raised by the respondent that the appeal/complaint is not maintainable as no order/notification was issued by the appropriate Government under section 2 (h)

(d) of the RTI Act. It is the case of the respondent that though the institution has the information requested by the complainant, they are not obliged to give the information as they are not the Public authority as defined under the above sub-section 2 (h). The respondent has further stated that the information sought by the complainant is also available with the Director of the Higher Education as well as Goa University and therefore they can also furnish the information. Joining issue, the complainants submitted that the complainant has already approached both the authorities, namely the Director of Higher Education and the Goa University who have in turn, directed them to approach the respondent only. The appellant have submitted copies of the letters dated 25/01/2006 and 19/01/2006 of the Education Department and the Goa University.

3. The short point for our determination is whether the respondent is a “Public Authority” within the definition of section 2 (h) under the RTI Act. Section 2 (h) reads as follows:-

In 2(h) “Public Authority” means any authority or body or institution of self-Government established or constituted.-

- a)
- b)
- c)
- d) by notification issued or order made by the appropriate Government, and includes any-
 - (i) Body owned controlled or substantially financed;
 - (ii) Non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;

It is clear, therefore, that if the institution of self Government is substantially financed directly or in-directly by funds provided by the appropriate Government, it falls

squarely within the ambit of section 2(h) (d). The complainant has specifically mentioned in their complaint that the respondent is an aided college receiving cent percent funds from the Government of Goa. This statement has not been denied by the respondent neither in their written reply nor during the course of arguments. A mere reading of this section, 2(h) (d) makes it very clear that the notification or order by the appropriate Government is not the exclusive condition to bring the respondent under the definition of Public authority. It is an inclusive definition under which all NGO's substantially financed by the appropriate Government are covered even if no specific notification is issued by the appropriate Government. In this case there is, therefore, no need of separate notification or order listing all NGO's to be covered under the act. The sub-section mentions two separate categories, one which is notified by the Government and others which are mentioned in the inclusive definition. Both the categories are separated by a comma and the conjunction "and". In this particular case we find that it is not only substantially financed but it is financed completely. Hence, we do not have any hesitation in holding that the respondent is a public authority within the meaning of sub clause (d) (ii) of sub-section (h) of Section 2 of RTI Act. We have already decided so during the hearing on 15/6/2006 itself and recorded in the Roznama. Since the respondent in their reply relied upon only on that ground and they have no other ground to deny the information to the complainants, we proceed to pass the following order.

4. The respondent is hereby directed to provide all the information requested by the complainants within 7 days from today. As there is considerable delay in providing this information, we also direct them to give the information free of charge as provided under section 7 (6) of the RTI act. We however, find that there is some genuine doubt in the minds of

the respondent as to the jurisdiction and applicability of the RTI act. We, therefore, are not inclined to grant the request of the complainants to start the proceedings under section 20 of the RTI Act for the levy of penalty on the respondent.

5. We also direct the respondent institution to designate immediately PIO and the first appellant authority in respect of their institution and in any case not later than 7 days from today.

Pronounced in the open Court.

(A.Venkataratnam)
Chief Information Commissioner, GOA.

(G.G. Kambli)
Information Commissioner, GOA.