

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 405 OF 2021

Smt. Saania Sayed, daughter of Sayed Saifuddin, 30 years of age, service, resident of H. No. 133/18, FF-1 M2K Classics, Jairam Nagar, Alto Dabolim, Vasco-da-Gama, Goa.

... PETITIONER

Versus

1. State Public Information Officer, Mr. Cajetan Fernandes, Nodal Officer (IT & Computerization)/ Technical Officer (Computers) & PIO Training, office of Dy. Director (Planning), Director of Education, Porvorim, Goa.
2. The First Appellate Authority, Directorate of Education, Alto Porvorim, Goa.
3. The State Chief Information Commissioner, Goa State Information Commission, Second Appellate Authority, Kamat Towers, Seventh Floor, Patto, Panaji-Goa.
4. Shri Mohammed Hussain Shaikh, major of age, resident of Bldg. No. CF-3, Rehabilitation Board, GRB Colony, Headland Sada, Mormugao, Goa.

... RESPONDENTS

Mr. Iftikhar Agha, Advocate for the Petitioner.

None present for the Respondents.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 2nd NOVEMBER 2023

ORAL JUDGMENT:

1. Heard Mr. Agha, learned Counsel for the Petitioner.
2. Vide order dated 08.09.2023, this Court passed the following order:-

“1. Office report dated 18.12.2021 indicates that the respondents are served, however, the respondents are not represented.

2. List the Petition for hearing on 29.09.2022, High on Board. It is made clear that if the respondents are not represented on the adjourned date of hearing, the Court shall proceed to hear the Petition and pass appropriate orders.”
3. It was made clear that if the Respondents fail to appear, the matter will be taken up for passing appropriate orders.
4. Rule. Rule is made returnable forthwith. The matter is heard finally, though, none appeared for the Respondents.

5. The record shows that the Respondents were duly served including Respondent No. 4, who is a private Respondent.

6. The Petitioner is challenging the impugned order dated 08.09.2021 passed by the Goa State Information Commission in an Appeal bearing No. 162 of 2020, which was filed by Respondent No. 4, against the order of PIO of Directorate of Technical Education.

7. Respondent No. 4 filed an Application dated 10.07.2020 addressed to the PIO and Deputy Director (Planning), Directorate of Education, Porvorim under the Right to Information Act, 2005 [RTI Act, for short] requesting information of the Petitioner including her educational qualifications and residential certificate.

8. Vide communication dated 20.08.2020, the PIO informed Respondent No. 4 that such information cannot be provided to a third party.

9. Respondent No. 4 then approached the Goa State Information Commission by filing Appeal No. 162 of 2020, which was decided by the impugned order dated 08.09.2021. The

learned State Chief Information Commissioner allowed the said Appeal and directed the PIO to furnish the information within 15 days.

10. The Petitioner is challenging such an impugned order on the ground that first of all, the Application filed by Respondent No. 4 is not in accordance with the procedure and format. Secondly, the information sought for is personal information and no reasons are disclosed as to why such information is required. Thirdly, it is claimed that the information sought for is not claimed in the larger public interest. Finally, it is claimed that if such information is provided, it would amount to an invasion of the privacy of the Petitioner.

11. Mr. Agha appearing on behalf of the Petitioner contended that the State Chief Information Commissioner failed to appreciate the basic concept of the RTI Act and restrictions under Section 8(1)(j) of the RTI Act wherein there is a prohibition of furnishing information without showing proper reasons. In this respect, he placed reliance on the decision of the Hon'ble Supreme Court in the case of **Canara Bank Vs. C.S. Shyam & Another, (2018) 11 SCC 426** and the decision of this Court in the case of **Deepak Pandharinath Vaingankar Vs. Mr.**

Suryakant Babu Naik & Others reported in **2019 (1) Goa Law Times 635.**

12. The rival contentions fall for determination.

13. The Application filed by Respondent No. 4 is at page 22 wherein the information sought for is disclosed in the letter itself without mentioning the purpose and whether such information comes within the scope of Section 8 of the RTI Act.

14. The model form of the Application for seeking information is found appended to the RTI Act and is at page 47, which reads thus:

*“Model Form No. 1
Application for seeking information*

*I.D. No.
(For official use)*

*To,
The Authorised Person,
.....
.....*

- 1. Full name of the applicant*
- 2. Address*
- 3. Particulars of information required-*
 - (a) Concerned department*
 - (b) Particulars of information required-*
 - (i) Details of information required*
 - (ii) Period for which information asked for*
 - (iii) Other details*

4. *I state that the information sought does not fall within the restrictions contained in section of the Right to Information Act and to the best of my knowledge it pertains to your office.*

5. *A fee of Rs..... Has been deposited in the office of the authorised person vide Receipt No..... dated*

.....	
Place.....	Signature of the Applicant
...	E-mail address
Date.....	Telephone No. (Office)....
	(Residence).....

Note- (i) Reasonable assistance can be provided by authorised person in filling up the Form.

(ii) Please ensure that the Form is complete in all respect and there is no ambiguity in providing the details of information required.”

15. Apart from the requirement of giving particulars of the information/details, the Applicant is duty bound to disclose as to whether such information sought does not fall within the restriction under Section 8 of the RTI Act and to the best of his knowledge it pertains to the office.

16. The Application filed by Respondent No. 4 and provided at page 22 is lacking in these particulars. On this ground, the Application was rejected by the PIO. However, the learned State Chief Information Commissioner reversed the said findings and

claimed that the education qualifications of the Petitioner are available in the public domain.

17. In **Canara Bank** (supra), the Supreme Court was dealing with a similar aspect wherein information was sought from the PIO of the Bank regarding transfers and posting of clerical staff from 01.01.2002 to 31.07.2006. The same was opposed on the ground that the information is with regard to individual employees and it relates to personal information such as designation, date of joining, promotion etc. While dealing with this matter, the Supreme Court referred to its earlier decision in the case of **Girish Ramchandra Deshpande Vs. Central Information Commissioner, (2013) 1 SCC 212** and quoted paragraphs 12 and 13 of the said decision, which reads thus:

“12. We are in agreement with the CIC and the Courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression “personal information”, the

disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. The details disclosed by a person in his income tax returns are “personal information” which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information.”

18. Further, in **Canara Bank** (supra), the Supreme Court observed that the information sought in connection with the individual employees of the Bank was personal in nature and it was exempted from being disclosed under Section 8(1)(j) of the RTI Act. Similarly, there was no disclosure of any public interest involved while seeking such information.

19. All the above facts/reasons are applicable to the matter in hand. First of all, the Application filed by Respondent No. 4 nowhere discloses whether the information sought for is either personal or under Section 8(1)(j) of the RTI Act. Similarly, the Application is cryptic. It nowhere discloses whether seeking such information involves a larger public interest.

20. Admittedly, the educational qualifications and the residential certificate of the Petitioner, though submitted to the employer, are personal documents/information and covered under Section 8(1)(j) of the RTI Act. Respondent No. 4 failed to disclose the reasons as to why such information is necessary. Thus, rejection of such an Application by the PIO on the ground that it is personal information is fully justifiable. The observations of the State Chief Information Commissioner are therefore required to be quashed and set aside as the same are directly in the teeth of the proposition laid down in the case of **Canara Bank** (supra) and as also discussed by this Court in the case of **Deepak Pandharinath Vaingankar** (supra).

21. In sum and substances, the impugned order needs to be quashed and set aside and the order of the PIO needs to be restored. Accordingly, the impugned order dated 08.09.2021 is

hereby quashed and set aside and the communication dated 20.08.2020 of the PIO is restored.

22. Rule is made absolute in the above terms. The Petition stands disposed of. Parties shall bear their own costs.

BHARAT P. DESHPANDE, J.

VAIGANKAR
ESHA SAINATH

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