

IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI
WRIT PETITION NO. 639/2008

Public Information Officer,
The Registrar of Goa University,
Taleigao Plateau, Bambolim Goa.

..... Petitioner

V/S
Shri Gajanan Haldankar and 2 Ors.,

..... Respondents

To,
The Goa State Information Commission,
Ground Floor, "Shrama Shakti Bhavan",
Patto Plaza, Panaji, Goa.

WHEREAS the Petitioner above named has filed to this Court the above Writ Petition No. 639/2008 under Articles 226 and 227 of the Constitution of India and in the matter of Order dated 03/10/2008, passed by the Goa State Information Commission, Panaji, Goa, in Appeal No. 55/2007-08/GU;

AND WHEREAS the above matter came up for hearing before this Hon'ble Court (CORAM: F. M. REIS, J.) on 25th June, 2013;

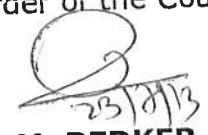
AND UPON hearing Mrs. A. Agni, Advocate for the Petitioner, Mr. G. Sardesai, Amicus Curiae for respondents no. 1., this Hon'ble Court has passed the following Oral Judgment:

(True copy of the Oral Judgment dated 25.06.2013 is enclosed herewith)

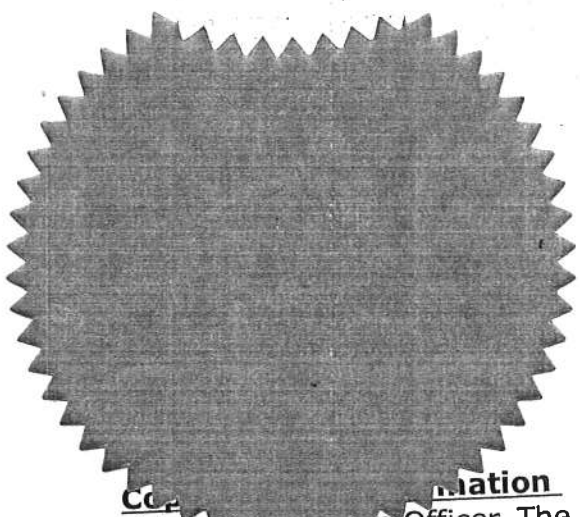
THIS COURT DOTH ORDER THAT THE ABOVE ORDER of this Hon'ble Court be punctually observed and carried into execution by all concerned.

WITNESS, Hon'ble Shri Justice Mohit S. Shah, Chief Justice of Bombay High Court at Bombay aforesaid this 23rd day of July, 2013.

By Order of the Court



(G. M. REDKER)
Assistant Registrar
High Court of Bombay at Goa,
Panaji



Note:- This writ should be returned to this Court immediately after being duly endorsed and taken note thereof.

CC - Information
Public Information Officer, The Registrar of Goa University,
Taleigao Plateau, Bambolim Goa.
Sh/-

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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 639 OF 2008

Public Information Officer,
The Registrar of Goa University,
Taleigao Plateau,
Bambolim Goa. ... Petitioner

Versus

1. Shri Gajanan Haldankar,
House No. 760/26, Wadakade,
Near Chubby Cheeks,
Alto Porvorim, Bardez Goa.
2. First Appellate Authority,
Vice Chancellor of Goa University,
Taleigao Plateau,
3. Goa State Commission under
Right to Information Act, 2005
with office at Shrama Shakti Bhavan
Patto Plaza. ... Respondents

Mrs. A. Agni, Advocate for the petitioner.

Mr. G. Sardesai, Amicus Curiae for respondent no.1.

Respondent no.1 present in person.

CORAM : F. M. REIS, J

DATE : 25th JUNE, 2013

ORAL JUDGMENT :

Heard Mrs. A. Agni, learned counsel appearing for the petitioner and Mr. G. Sardesai, learned Amicus Curiae for respondent no.1. Respondent no.1 present in person.

:2:

2. The above petition inter-alia seeks for Writ of Certiorari to quash and set aside the order dated 03.10.2008 passed by the State Commission in Appeal No. 55/2007.

3. Briefly, the facts of the case as stated by the petitioner are that on 07.04.2007, respondent no.1 filed an application addressed to the petitioner seeking information under Right to Information Act, 2005 which came to be furnished on 16.05.2007. Respondent no.1 again filed an application addressed to the petitioner seeking information on 23.05.2007 inter-alia making some allegations against the Goa University and the information sought was the reason for the delay in declaring the result in time as also for withholding the result of the second and third revaluation. Respondent no.1 also sought information about the name of the first examiner, qualification, date of joining and post as also the names of the examiners of the second and third valuation done with the qualification etc. The petitioner furnished the requisite information on 13.06.2007 including the marks secured by the student Sushant Haldankar in April, 2000 after revaluation. The information with regard to the grace marks was also furnished in the letter dated 13.06.2007. Thereafter, an appeal came to be filed by the

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petitioner before the First Appellate Authority stating therein that the names of the first examiner as also the second and third examiner have not been furnished. The respondent no.1 also sought reason for not informing immediately about the revaluation in May, 2000 in the said appeal memo. The decision of the Appellate Authority was conveyed to respondent no.1 vide letter dated 24.07.2007 and as per the directions of the First Appellate Authority the required information was set out. It was mentioned inter-alia that the examination papers as also the names and details of the examiner cannot be revealed. It was also mentioned in the said letter that the revaluation marks communicated are as per the records and that the examination was conducted as per the programme announced by the Goa University. It was inter-alia stated that the examination papers are stored only for six months after the revaluation as per the University rules. A second appeal came to be preferred by respondent no.1 before the State Commission which came to be opposed by the petitioner herein by filing reply. On 13.12.2007 the State Commission proceeded to pass remarks as far as the First Appellate Authority is concerned and also gave directions to the Public Information Officer to produce certain documents acting under Section 18(3)(a) of the Right to

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Information Act. The said order came to be challenged by the petitioner by preferring a Writ Petition before this Court which came to be disposed of by setting aside the said order dated 13.12.2007. Thereafter, on 03.10.2008 the impugned order came to be passed by the Commission under Right to Information Act.

4. Mrs. Agni, learned counsel appearing for the petitioner has pointed out that while disposing of the appeal, the Commission has directed the petitioner to furnish the information to respondent no.1 with regard to the information at item nos. 1, 2 and 5. The learned counsel further pointed out that as far as item no.1 is concerned, the same deals with furnishing the names of the examiner and the answer papers which the Commission in the body of the impugned order has come to the conclusion that respondent no.1 is not entitled to such information. The learned counsel has thereafter taken me through item nos. 2 and 5 and pointed out that the contest therein do not disclose any information to be furnished to respondent no.1. The learned counsel has further submitted that the question of directing the petitioner to furnish information of the documents which were not available with the petitioner would not arise. The learned

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counsel further submits that the impugned order has been passed without any application of mind and as such the same deserves to be quashed and set aside. The learned counsel further submits that as far as the mark sheets are concerned, respondent no.1 has been given copies thereof as demanded. The learned counsel as such submits that the impugned order deserves to be quashed and set aside.

5. Mr. G. Sardesai, learned Amicus Curiae appointed for respondent no.1 has pointed out that the respondent no.1 is also entitled for the information with regard to the answer papers. The learned counsel further submits that respondent no.1 is also entitled for the documents with regard to the result register maintained by the University in connection with the examinations held in April, 2000 and October, 2000 with regard to the son of respondent no.1. The learned counsel further submits that on going through paragraph 14 of the impugned order, the Commission has clearly directed that the result register in respect of the examinations for both October, 2000 and April, 2001 are to be supplied to respondent no.1. The learned counsel further pointed out that instead of April, 2001, respondent no.1 would be satisfied in case the relevant

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extract of examination of April, 2000 are supplied to the respondent no.1 in respect of result of the son of respondent no.1. The learned counsel as such submits that no interference is called for in the impugned order.

6. I have carefully considered the submissions of the learned counsel and I have also gone through the records. The question of furnishing the answer papers as well as the names of the examiners would not arise as the Commission while disposing of the appeal by the impugned order has categorically held that such information need not be furnished by the petitioner to respondent no.1. The said findings have not been challenged by respondent no.1 and as such it is not open for the respondent no.1 now to raise such contention in the present Writ Petition.

7. Be that as it may, Mrs. Agni, learned counsel appearing for the petitioner is justified to contend that the Commission was not justified to direct the information sought at item nos, 1, 2 and 5 be supplied to the respondent no.1. On going through the said paragraph, I find that in view of the findings rendered by the Commission in the impugned order the direction to that effect does not at all survive.

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8. With regard to the contention of Mr. Sardesai, learned Amicus curiae for respondent no.1, I find that respondent no.1 is entitled to be furnished with the copies of the result register for April, 2000 and October, 2000 for the paper of law of tort. Upon instructions, Mrs. Agni, learned counsel appearing for the petitioner states that the copies of the said two documents namely pages of result register for both April, 2000 and October, 2000 for the examination of law of tort of the son of respondent no.1 shall be given to respondent no.1 on payment of fees within two weeks from today.

9. In view of the above, I pass the following :

ORDER

- (i) The impugned order dated 03.10.2008 to the extent it directs the petitioner to furnish the information at item nos. 1, 2 and 5 is quashed and set aside.
- (ii) The petitioner is directed to furnish the copies of the relevant pages of the result register for both April, 2000 and October, 2000

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examination of law of tort of the son of
respondent no.1 on payment of fees within two
weeks after such payment.

(iii) Rule is made absolute in above terms.

(iv) The petition stands disposed of
accordingly.

F. M. REIS, J

TRUE COPY



Asst. Registrar
High Court of Bombay at Goa
Panaji-Goa

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