

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No.82/2012

The Public Information Officer,
Dr. M.M. Sangodkar,
Registrar, Goa University,
Taleigao Plateau,
Panaji - Goa.

... Petitioner

Versus

Dr. Aureliano Fernandes,
Associate Professor,
Rosary Apartments,
Miramar - Goa.

... Respondent

Ms. A. Agni, Senior Advocate along with Ms. J. Sawaikar Advocate for the Petitioner.

Coram:- M.S. SONAK, J.

Date:- 4th February 2021

JUDGMENT:

Heard Ms. Agni Senior Advocate along with Ms. J. Sawaikar for the Petitioner. The respondent, though served, is neither present nor represented.

2. The challenge in this petition is to the order dated 07.10.2011 made by the Goa State Information Commission (GSIC) in Appeal

No.55/SCIC/2010. The respondent in this case raised as many as 150 queries and applied to the Registrar and Public Information Officer (PIO) on 12.09.2009 for the furnish of the same.

3. The PIO furnished some of the information applied for and rejected the rest. The respondent appealed to the First Appellate Authority i.e. the Vice Chancellor of Goa University. Again, the appeal was partly allowed vide order dated 22.01.2010.

4. The respondent then instituted an Appeal before the GSIC which has, by the impugned order dated 07.10.2011 directed furnish of some further information to the respondent.

5. Ms. Agni, the learned Senior Advocate for the petitioner pointed out that the University will furnish the information listed at Sr.Nos.1, 112, 113, 122 and 137 as directed by the Second Appellate Authority to the respondent. This means that the impugned judgment and order in relation to the direction to grant information as against the aforesaid queries need not be entertained and is disposed of by confirming the directions of the Second Appellate Authority.

6. Ms. Agni submits that some of the information has already been furnished and in case the same is not furnished, the same will be duly furnished to the respondent herein. This statement is also accepted.

7. Insofar as the information at Sr.No.13 is concerned, it is pertinent to note that the respondent had applied for photocopy of the final results of semester III and IV, MA Part I & II Political Science inclusive of all marks (of compulsory and optional papers). However, the record indicates that before the First Appellate Authority, the respondent, did not press for this information. This is clear from paragraph 2(d) of the judgment and order dated 22.01.2010 made by the First Appellate Authority which reads as follows:

“(d) With regards to query no.13 it was pointed out by the PIO that information sought by the Appellant was irrelevant as the examinations for the year 2009-10 were yet to take place and their results were not available and hence cannot be provided. The Appellant informed that in view of the submissions made by the PIO during the course of hearing the information sought at query no.13 was not insisted upon.”

8. Since, the respondent did not insist upon the information at Sr.No.13 before the First Appellate Authority, obviously the Second Appellate Authority, was not justified in directing the University to grant the same. The impugned order insofar as the information at Sr.No.13 is concerned is therefore set aside.

9. The information at Sr.Nos. 20, 21 and 26 relates to the statements of the students/faculty, report of the Sub-committee on ragging and minutes of the Sub-committee meeting on ragging.

10. Ms. Agni pointed out that the respondent was not entitled to insist upon the aforesaid information, as, the furnish of such information would invade the privacy rights of the parties who had given such statements. She points out that such statements were received by the University in its fiduciary capacity and therefore, the exemption under Section 8 of the Right to Information Act, 2005 (RTI Act) was attracted.

11. The information applied for by the respondent was at a stage when the inquiries were pending against him. If any information was sought to be used against the respondent in the course of such inquiry, then, the respondent was possibly right in requiring such information to be furnished to him. However, by now, the inquiry is completed. Ms. Agni pointed out that the penalty imposed upon the respondent has also been upheld by this Court and the matter is now pending before the Hon'ble Supreme Court.

12. At this point of time, it would be appropriate to accept the objection raised on behalf of the University that the disclosure of such information will affect the rights of privacy of third parties. Further, such information, was given by such third parties to the University based on the premise that the University was acting in a fiduciary capacity. Therefore, taking into consideration the provisions of Section 8 of the RTI Act as also the observation made by the Hon'ble Supreme

Court in the case of *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal – (2020) 5 SCC 481*, the impugned judgment and order to the extent it directs furnish of information listed at Sr.Nos.20, 21 and 26 is set aside.

13. Based on the aforesaid reasoning itself the impugned judgment and order to the extent it directs furnish of information listed at Sr.No.74 is also set aside.

14. Insofar as the information at Sr.Nos.98 and 99 is concerned, the Goa University has taken a categorical stand that it does not have such information. Without examining this plea the impugned judgment and order could not have directed the University to furnish such information. Therefore the impugned judgment and order insofar as it relates to information at Sr.Nos.98 and 99 is also set aside.

15. Insofar as the information at Sr.No.123 is concerned, there is a contradiction in the impugned judgment and order dated 07.10.2011. The first part of the operative order directs such information to be furnished to the respondent but the latter part rejects the plea for furnish of this very information. Ms. Agni pointed out that this information was not available in the prescribed format and therefore was correctly rejected. Therefore, it is clarified that the information at Sr.No.123 is to be treated as rejected in the impugned judgment and order.

16. The Rule is made absolute in the aforesaid terms. There shall be no orders as to costs.

M. S. SONAK, J.

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