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GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji -Goa

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Appeal No. 193/2020

Christina De Souza,
FO 1, Block 1, 5th Floor,
Milroc Temple Towers,
Merces-Goa. 403005.

.....Appellant

V/S

1. The Public Information Officer,
Kirti K. Murgaonkar,
Asst. Registrar-Administration (Teaching),
Goa University,
Taleigao Plateau Goa. 403206.

2. FAA/ Professor S. Krishnan,
Professor of Botany,
Goa University,
Taleigao Plateau Goa. 403206.

.....Respondents

Shri. Vishwas R. Satarkar

State Chief Information Commissioner



Filed on: 16/11/2020

Decided on: 09/02/2022

FACTS IN BRIEF

1. The Appellant, Christina De Souza, FO 1, Block 1, 5th Floor, Milroc Temple Towers, Merces-Goa by her application dated 06/07/2020, filed under sec 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought information on six points from the Public Information Officer (PIO), Assistant Registrar (Academic), Goa University, Taleigao Plateau-Goa.
2. The said application was responded by the PIO on 05/08/2020. Not satisfied with the reply of the PIO, the Appellant preferred first appeal before Prof. S. Krishnan, First Appellate Authority (FAA), Goa University, Taleigao Plateau-Goa.

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3. The FAA by its order dated 10/09/2020 partly allowed first appeal and directed the PIO to furnish the information on point No. 5 and part of information on point No. 2 and rejected the request of the Appellant, regarding information on point No. 4 and 6 being exempted under sec 8(1)(J) of the Act.
4. Aggrieved with the order of FAA, the Appellant landed before the Commission under sec 19(3) of the Act for seeking various reliefs.
5. Parties were notified, pursuant to which Adv. M. Kavlekar appeared on behalf of PIO and filed the reply on 23/08/2021. FAA duly served opted not to appear before the Commission and filed the reply in the matter.
6. Perused the pleadings, reply, scrutinised the documents on records, considered the written arguments of the parties and judgement relied upon by the rival parties.
7. It is admitted fact that information on point No. 1,3 and 5 is not in dispute. The controversy therefore is only with respect to information at point No. 2,4 and 6 of the application.
8. From the records it indicates that Appellant is working as Associate Professor in the discipline of Economics in Government College of Art, Science and Commerce at Khandola, Marcella Goa who applied for promotion from Associate Professor to Professor Grade/scale under Career Advancement Scheme (CAS) alongwith other Associate Professor and since the Appellant has been denied promotion from Associate Professor to Professor Grade/Scale in the discipline of Economics under CAS she sought the information from PIO.
9. According to Appellant, instead of providing the above requested information, the PIO has provided the Report of the Pre-Screening



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Committee for Career Advancement Scheme (CAS) to the Appellant. Further according to her, the information on point No. 4 and 6 was denied as exempted under section 8(1)(J) of the Act.

10. Further according to Appellant, denial of promotion to the post of Professor suffers from lack of consideration and application of mind to the relevant criteria of Goa University and as such she wanted to know the reason behind her lacking in promotion. To substantiate her case she also relied upon the judgement of Hon'ble Supreme Court in the case of **Kerala Public Service Commission & Ors v/s The State Information Commission & Anrs** and judgement of **CIC in Neeraj Kumar Singhal v/s North West Railway, Jaipur**.

11. On the other hand, the PIO submitted that information at point No. 2 has been supplied to the Appellant and information on point No. 4 and 6 is exempted under sec 8(1)(J) read with sec 11 of the Act.

Further according to her, statue 19 provides for the criteria followed by the Goa University for promotion from Associate Professor to Professor Grade/Scale under the Career Advancement Scheme (CAS). The provisions of the Goa University statue in this regard are based on the UGC regulations and guidelines.

12. On meticulous reading of the application dated 06/07/2020 the information sought on point No. 2 and 4 are as under:-

"2. The total scores received by all the Associate Professors of the discipline of Economics who applied for promotion from Associate Professors to Professor under CAS as per the criteria followed by the Goa University for the years 2018-2019 and 2019-2020. Provide documents.



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4. The scores/evaluation/mark sheets received from the Selection Committee under CAS of all the Associate Professors of the discipline of Economics who attended the Selection Committee meeting/interview conducted on 29th August 2019 at the Goa University for promotion from Associate Professors to Professor under CAS. Provide document."

A perusal of above would make it clear that, she is seeking the total marks/scores received by all the Associate Professors who applied for the promotion from Associate Professor to Professor under CAS of the discipline of Economics. Upon the order of FAA dated 17/08/2020, scores of pre-screening report i.e Academic performance indicator of all the candidates has been furnished to the Appellant. However grievance of the Appellant is that she was not provided with the total scores obtained by all the Associate Professors.

13. On perusal of the order of FAA dated 10/09/2020 , the FAA observed that information at point No. 4 and 6 is coming within the preview of sec 8(1)(J) and therefore exempted from disclosure under the Act. Sec 8(1)(J) of the Act reads as under:-

"8. **Exemption from disclosure of information.** ____
(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, ____

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the



case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person."

From the above reading, it is carved out that the disclosure of information is satisfied if larger public interest justifies. The disclosure can be refused if the request pertains to personal information and further the disclosure of which has no relation to public activity or public interest or which would cause unwarranted invasion of the privacy of individual, cannot be agreed to.

14. It is a matter of fact that, Appellant is not a stranger to selection process but one of the aspirant who applied for promotion for the post of professor. She has been overlooked and therefore seeks to know the reason, which had prevailed for preferring another over her. Without such information, the applicant who has remained unsuccessful would not even be in the position to know as to why she was not promoted and another candidate was preferred over her and also would not be able to seek judicial review against irregularity, if any, in the promotion process.

The Hon'ble High Court of Delhi in case of **State Bank of India v/s Mohad. Shajahan (W.P.Np. 9810/2009)** has held that:-

"22. The very object and purpose of the RTI Act is to make the working of public authorities transparent and accountable. For the purpose of the RTI Act, all information held by a public authority is accessible except to the extent such information is expressly

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exempted from disclosure as provided in the RTI Act itself. In other words, unless the public authority is able to demonstrate why the information held by it should be exempt from disclosure, it should be normally be disclosed. The burden therefore is entirely on public authority to show why the information sought from it should not be disclosed.

26. The disclosure to the Respondent of the information concerning himself can hardly be said to be an unwarranted invasion of his privacy. This is information about himself which he needs to know as it provides the reason why he was not considered for promotion. Therefore, the information directed to be disclosed by SBI to the Respondent is only the "disaggregated marks awarded to him in the promotion process" and cannot be stated to be covered under section 8(1)(J) of the RTI Act."

15. The Advocate for the Appellant relied upon the judgement of Hon'ble Supreme Court passed in **Kerala Public Service Commission & Ors v/s The State Information Commission & Anrs (2016 (2) ALL MR 962 (SC))**. The relevant part of the judgement reads as under:-

"10. In the present case the request of the information seeker about the information of his answer sheet and details of the interview marks can be and should be provided to him. It is not something which a public authority keeps it under a fiduciary capacity. Even disclosing the marks and the answer sheets to the candidates will ensure that the candidates have been given marks according to their performance in the

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exam. This practise will ensure a fair play in this competitive environment, where candidate puts his time in preparing for the competitive exams."

As the Appellant was one of the candidate and is seeking information about her own marks, there is no question of intrusion of privacy. The Commission therefore is of the opinion that the Appellant is entitled to know marks obtained by her in interview.

16. As far as marks/scores received by all the Associate Professors cannot be disclosed as some of the candidates had been eliminated in the process of promotion. The Associate professor who has been eliminated though may have been the applicant to a promotion process the information furnished by them cannot be said to be necessary in public interest or for the sake of transparency or otherwise. Similarly the information provided by eliminated Associate Professor does not enter in public domain as they are eliminated from the process of promotion and therefore be treated as third party information. Considering the above, I am unable to decipher the need of the Appellant of such information, hence the marks scored by eliminated Associate Professor cannot be furnished.

17. On the other hand, since the process of promotion of the post of Professor under Career Advancement Scheme in respect of College Teachers has been approved by Executive Council of Goa University and list of suitable candidates for promotion has been referred to Directorate of Higher Education, the process is completed from the end of public authority. Therefore disclosure of marks obtained by successful candidates would not harm competitive position of promoted candidates.



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The Hon'ble Central Information Commission in **Shri. Om Prakash v/s Gurgao Gramin Bank (CIC/PB/A/2008/00487)** has held that:-

"It is an admitted fact that all examinations conducted by any public authority must follow transparent methods. To the extent marks obtained in the written test and the interview formed the basis of the inter se ranking of the candidates for promotion, the marks must be available in the public domain."

Goa University being a public authority, is required to act and conduct itself in fair and transparent manner. It would also be in public interest that this fairness and transparency is displayed by putting the marks/ scores obtained by successful candidates on notice board or on the Website of Goa University. Merely giving the name of successful candidates would not be enough to display the process followed to indicate fairness.

18. The information sought at point No. 6, is with respect to the criteria followed by the Goa University while promoting Associate Professor to Professor under CAS by Goa University. There is a serious anomaly in reply given by PIO, FAA and reply filed in this proceeding. The PIO by letter dated 05/08/2020 replied that:-

"Recommendation of Selection Committee as approved by Executive Council was forwarded to DHE as per instructions of Directorate of Higher Education".

The FAA in its order dated 10/09/2020 overruled the reply of PIO and observed that information on point No. 6 is coming within the purview of sec 8(1)(J) of the Act and rejected to furnish the information. Whereas in the reply filed by PIO in this proceeding, it is contended that, Statue 19 of the Goa University provides criteria

for promotion from Associate Professor to Professor Grade/Scale under Career Advancement Scheme (CAS). This provision is based on the UGC regulations and guidelines and is available on the website of the Goa University. From the above reply, it is clear that the information sought for is available with the public authority, however was denied for wrong reason. The position taken by the PIO during the initial stage and at the stage of responding to the second appeal is different. Similarly, the position taken by the FAA is completely different. While dealing with RTI application, the PIO should always keep in mind that RTI Act is a beneficial legislation enacted to enable the citizen to secure access to information under the control of public authority. Under section 19(5) of the Act, the onus to prove lies on the PIO to justify the denial. The PIO in this case has taken different position at different stages and has substantially failed to justify the denial of information. The Commission is therefore of the opinion that Appellant is entitled for the information on point No. 6.

19. In sum and substance, every candidate is entitled to have the details of the total marks obtained by him/her, in fact the marks of successful candidate should be put in public domain. Hon'ble Supreme Court in the **Institute of Chartered Accountant of India v/s Shaunak H. Satya & Ors. (C.A. No. 7571/2011)** has held that:-

"Public authorities should realize that in an era of transparency, previous practices of unwarranted secrecy have no longer a place. Accountability and prevention of corruption is possible only through transparency. Attaining transparency no doubt would involve additional work with reference to maintaining records and furnishing information. Parliament has enacted the RTI Act providing access to information,

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after great debate and deliberations by the Civil Society and the Parliament. In its wisdom, the Parliament has chosen to exempt only certain categories of information from disclosure and certain organizations from the applicability of the Act. As the examining bodies have not been exempted, and as the examination processes of examining bodies have not been exempted, the examining bodies will have to gear themselves to comply with the provisions of the RTI Act."

20. Considering the principles laid down by Hon'ble Supreme Court and facts and circumstances as discussed above, I find merit in the appeal and consequently the present appeal is partly allowed with the following:-

ORDER

- The PIO directed to provide the total score/marks obtained by all successful Associate Professors who were recommended for promotion as Professors or Professor Scale under CAS of the discipline of Economics by Goa University for the year 2018-2019 and 2019-2020.
- The PIO is also directed to provide the total score/marks obtained by Appellant in the said interview.
- The PIO is directed to furnish the information on point No. 6, of the application dated 06/07/2020 free of cost within **FIFTEEN DAYS** from the date of receipt of the order.
- Proceeding closed.
- Pronounced in open court.
- Notify the parties.

Authenticated Copy

Under Secretary cum Registrar
Goa State Information Commission
Panaji - Goa



(Vishwas R. Satarkar)

State Chief Information Commissioner