

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.419 OF 2007.

Dr. Celsa Pinto,
Ex-Officio Joint Secretary
(School Education),
Public Information Officer
(Under R.T.I. Act) Directorate
of Education, 18th June Road,
Panaji, Goa. Petitioner.

Versus

1. The Goa State Information
Commission Through the State
Chief Information Commissioner
And the State Information
Commissioner, Ground Floor,
Shrama Shakti Bhavan, Patto
Plaza, Panaji, Goa.
2. Ms Milan G. Natekar,
Sadashiva Bhuvan,
Mapusa, Bardez, Goa. Respondents.

Mr.J.A.Lobo,Advocate for the Petitioner.

Mr. D. P. Bhise U/LAS , Advocate for the respondent No.2.

Ms Sapna Mordekar, Advocate for the respondent No.1.

Coram :- S. A. BOBDE, J.

Date : - 03st April, 2008.

ORAL JUDGMENT :

1. Rule returnable forthwith.
2. Heard by consent.

3. The petitioner is Public Information Officer appointed as such under the Right to Information Act, 2005. She has challenged the order dated 27.7.2007 passed by the Goa Information Commission holding her responsible for furnishing incorrect, incomplete or misleading information to the respondent No.2 and also for providing false information.

4. The respondent No.2 had sought the following information from the P.I.O. under the Right to Information Act, 2005 (hereinafter referred to as “the Act”).

	Information sought by the Complainant	Information provided by the Opponent
III	186/c letter from GPSC No.COM/1/1/15/1705/754 dated 03/11/2006	N.A.
XIV	146/c letter No.COM/11/11/15(1)05 dated 12/06/2006 regarding filling up the post of Curator clarify	N.A.
XV	117/c letter from GPSC to communicate seniority list of Librarian may be sent if not then kindly clarify under what provision of Rule the department to fill up the post by promotion.	N.A.
1	Copy of the Seniority list of the Common Cadre of the Librarian post from the Directorate of Education, Technical Education and Higher Education.	N.A.
2.	Why the post of curator was not filled	N.A.

	up by promotion after retirement of V.B.Hubli as the post filled by direct recruitment through GPSC	
3	Why the Librarian from the Engineering College was not considered for promotion for the post of Curator in the Central Library when it was fallen vacant due to retirement of Shri V. P. Hubli.	N.A.

Item 1,2 & 3 are relevant for a decision of this case.

5. Initially the petitioner wrote the words “N.A.” against all the 3 requisitions i.e. not available. Thereafter, the second respondent sought clarification as to what the petitioner made clear by the abbreviation “Not Available”. The petitioner clarified that it means “Not Available”. As to other two questions the petitioner clarified by stating “I don't know.” The respondent No.2 took the matter to the Goa Information Commission.

6. The Goa Information Commission has held the petitioner guilty of furnishing incomplete, misleading and false information and has imposed the penalty of Rs.5,000/- which is liable to be deducted from the petitioner's salary from the month of August 2007. This order is under challenge. Mr. Lobo, the learned Counsel for the petitioner submitted that the Goa Information Commission (hereinafter referred as

“Commission”) has wrongly held that the petitioner provided incomplete and misleading information on the 3 points.

7. The Commission has with reference to question No.1 held that the petitioner has provided incomplete and misleading information by giving the clarification above. As regards the point No.1 it has also come to the conclusion that the petitioner has provided false information in stating that the seniority list is not available. It is not possible to comprehend how the Commission has come to this conclusion. This conclusion could have been a valid conclusion if some party would have produced a copy of the seniority list and proved that it was in the file to which the petitioner Information Officer had access and yet she said “Not Available”. In such circumstances it would have been possible to uphold the observation of the Commission that the petitioner provided false information in stating initially that the seniority list is not available.

8. As regards the requisition Nos. 2 & 3 by which the petitioner was called upon to give information as to why the post of Curator was not filled up by promotion and why the Librarian from the Engineering College was not considered for promotion, the petitioner had initially answered by stating that the information was “N.A.”(Not Available). Thereafter, she had clarified by stating that it means “I don't know”. The Commission has initially observed in para. No.13 that it

does not see anything wrong in the petitioner's reply that she does not know the information because "P.I.O. cannot manufacture the information". However, in para. No.14, the Commission has observed that the petitioner has not supplied a correct information because she corrected information on points No.2 & 3. It can be recalled that the petitioner corrected the information by explaining that "Not Available" meant she does not know. It is not possible to accept the reasoning of the Commission. There is no substance in the observation that merely because the petitioner initially said "Not Available" and later on corrected her statement and said she does not know and the petitioner provided incomplete and incorrect information. In the first place, the Commission ought to have noticed that the Act confers on the citizen the right to information. Information has been defined by Section 2(f) as follows.

"Section 2(f) - Information means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;"

The definition cannot include within its fold answers to the question "why" which would be the same thing as asking the reason for a

justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information.

9. In this view of the matter, the order of the Commission appears to suffer from a serious error of law apparent on record and results in the miscarriage of justice. In the result, the impugned order is hereby set aside.

10. Rule is made absolute.

S. A. BOBDE, J.

SMA