
(2012) 04 BOM CK 0093
In the Bombay High Court
Case No : Writ Petition No. 141 of 2012

Mario Diniz

APPELLANT

Vs

The Goa State Information Commission and The First
Appellate Authority, Director of Education, Porvorim, Bardez,
Goa

RESPONDENT

Date of Decision : 09-04-2012

Acts Referred:

Right to Information Act, 2005 — Section 11

Citation : (2012) 04 BOM CK 0093

Hon'ble Judges : F.M. Reis, J

Bench : Single Bench

Advocate : John Abreu Lobo, for the Appellant; Aires Rodrigues, Advocate for the Respondent No. 2, for the Respondent

Judgement

F.M. Reis, J.—Heard Shri J. A. Lobo, learned Counsel appearing for the Petitioner and Shri Aires Rodrigues, learned Counsel appearing for the Respondent no. 2. Rule. Heard forthwith. Learned Counsel appearing for the Respondent no. 2, waives service.

2. Learned Counsel appearing for the Petitioner states that the remaining parties are formal parties and, as such, notice to the said Respondents for final disposal be dispensed with.

3. The short point that calls for consideration in the above Petition is as to whether the said Petitioner who is third a party in respect of information sought by the Respondent no. 2, was entitled for a notice before disposing of an Appeal preferred before the Respondent no. 4.

4. At the hearing of the above Petition, Shri Aires Rodrigues, learned Counsel appearing for the Respondent no. 2, in fairness accepted the position that the Petitioner is a third party and otherwise entitled for a notice u/s 11 of the Right to Information Act. But, however, learned Counsel, has pointed out that such

irregularity, if any, was on account of the default on the part of the authorities and nothing to that effect can be attributed to the Respondent no. 2 herein.

5. Considering the facts and circumstances of the case and taking note of the Judgment of the learned Single Judge of this Court reported in AIR 2012 Bom. (1) in the case of Reserve Bank of India, Mumbai, vs. Rui Ferreira, & Ors., I find that it is well settled that before supplying the information sought by the Respondent no. 2, the Petitioner was entitled for a notice within the provisions of Section 11 of the Right to Information Act. Admittedly, no such notice was given and, as such, the Orders passed by the Respondent nos. 1 and 4 stand vitiated. Both the learned Counsel at this stage point out that the Respondent no. 4 be directed to decide the Appeal preferred by the Respondent no. 2 after hearing the Petitioner and dispose of such Appeal in accordance with law. Considering the facts and circumstances of the case and taking note of the fact that the Petitioner was not given a notice as contemplated in law, I find that the impugned Judgments passed by the Respondent nos. 1 and 4 cannot be sustained and deserves to be quashed and set aside. In view of the above, I pass the following :

ORDER

(i) The impugned Orders passed by Respondent no. 1 dated 13.01.2012 and Order dated 23.08.2011, passed by the Respondent no. 4, are quashed and set aside.

(ii) First Appeal no. 40/2011 is restored to the file of the Respondent no. 4.

(iii) The Respondent no. 4 is directed to decide the said Appeal afresh after hearing the parties in the light of the observations made herein above in accordance with law on or before 15.05.2012.

(iv) The parties are directed to appear before the Respondent no. 4 on 16.04.2012 at 11.00 a.m.

(v) Rule is disposed of in the above terms.

(vi) Petition is disposed of accordingly with no Orders as to costs.