

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1 OF 2009.

Kashinath J.Shetye,
Major, Indian National,
resident of Rabino Building,
Alto-Fondem, Ribandar,
Tiswadi, Goa. Petitioner.

Versus

1. Public Information Officer,
The Superintendent Engineer-
II(N), Electricity Department,
Panaji, Goa
2. The First Appellate Authority,
The Chief Electrical Engineer,
Electricity Department, Panaji,
Goa.
3. The Goa Information Commission,
Ground Floor, "Shrama Shakti
Bhavan", Patto Plaza, Panaji,
Goa.
4. Dinsh Vaghela, major, Indian
National, resident of Navagauri
Apartments, 2nd Floor,Alto
Porvorim, Bardez, Goa 403521. ... Respondents.

Mr. Ryan Menezes, Advocate for the petitioner.

Mr. J. A. Lobo, Advocate for the respondent No.4

CORAM :- C. L. PANGARKAR, J.

DATE OF RESERVING

THE JUDGMENT : 9THJANUARY, 2009.

DATE OF PRONOUNCING

THE JUDGMENT : 20TH JANUARY, 2009.

JUDGMENT :

1. Rule, returnable forthwith. Heard with consent of the parties.

2. The third person of whom the information has been directed to be supplied by the Information Officer, has filed this writ petition challenging that order.

3. A few facts may be narrated as follows :

The petitioner is working as Junior Engineer in Electricity Department. The respondent No.4, a citizen applied to Public Information Officer to supply the information in respect of the petitioner on the following counts :

(i) How many paid, unpaid sick, earned and casual leaves did the petitioner enjoy and whether it was sanctioned by the Department with their dates.

(ii) Xerox copies of the applications made by the petitioner.

4. The Public Information Officer gave notice to the petitioner to show cause as to why the information as sought,

should not be supplied. The petitioner filed reply contending that the information being personal, should not be supplied and demanding or supplying of such information, would be invasion of his privacy. The Public Information Officer i.e. the Superintendent Engineer, refused to supply the information on the ground that the department is exempted from supplying the information as it falls under clause (j) of Section 8(1) of Right to Information Act. The respondent preferred appeal before the Chief Engineer, who dismissed the appeal. The appeal was preferred by him before the Goa Information Commissioner, which allowed the appeal and set aside the orders of the authorities below and directed that the information to be supplied as sought. Hence, the petitioner has come up in writ petition.

5. I have heard the Counsel for the petitioner and respondent No.4.

6. The learned Counsel for the petitioner, submits that the order is bad on two counts. (i) the information sought, is personal information and (ii) it invades the right of privacy and no larger public interest is involved.

7. The first thing that needs to be taken into consideration is that the petitioner is a public servant. When one becomes a public servant, he in strict sense becomes a public servant and as such, every member of public, gets a right to know about his working, his honesty, integrity and devotion to duty. In fact, nothing remains personal while as far as the discharging of duty. A public servant continues to be a public servant for all 24 hours. Therefore, any conduct/misconduct of a public servant even in private, ceases to be private. When, therefore, a member of a public, demands an information as to how many leaves were availed by the public servant, such information though personal, has to be supplied and there is no question of privacy at all. Such supply of information, at the most, may disclose how sincere or insincere the public servant is in discharge of his duty and the public has a right to know.

8. The next question is whether the applicant should be supplied the copies of the application at all. It was contended that the copies of the application should not be supplied for, they may contain the nature of the ailment and the applicant has no right to know about the ailment of the petitioner or his family. To my mind, what cannot be

supplied, is a medical record maintained by the family physician or a private hospital. To that extent, it is his right of privacy, it certainly, cannot be invaded. The application for leave is not a medical record at all. It, at the most, may contain ground on which leave was sought. It was contended that under Section 8(1)(j), the information cannot be supplied. In this regard, it would be necessary to read proviso to that section. If the proviso is read, it is obvious that every citizen is entitled to have that information which the Parliament can have. It is not shown to me as to why the information as is sought, cannot be supplied to the Parliament. In fact, the Parliament has a right to know the ground for which a public servant has taken leave since his salary is paid from the public exchequer. In the circumstances, I do not find that the Information Commission committed any error in directing such information to be supplied. There is no substance in the writ petition. It is dismissed.

9. Rule is discharged.

SMA

C. L. PANGARKAR, J.