

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION N O. 345 OF 2006

The Principal
Nirmala Institute of Education,
situated at Altinho, Panaji, Goa,
a Degree College owned by
Nirmala Education Society
a Society registered under
the Societies Registration Act, 1860. Petitioner

V e r s u s

1. State of Goa,
through the Chief Secretary,
Office of the Chief Secretary,
Government of Goa,
Alto Porvorim, Goa.
2. The Goa State Information Commission,
Shrama Shakti Bhavan, Patto Plaza,
Panaji, Goa through its
State Chief Information Commissioner.
3. Dr. Gopal Chandra Pradhan,
Major, married, resident of F-1,
Ashoka-II, Vasudha Colony,
Alto St. Cruz, P.O. Bambolim
Complex, Goa. 403 202.
4. Dr. Susanta K. Pradhan,
Major, married, resident of 5, F-6,
Shantaban Housing Complex,
Merces, P.O. St. Cruz, Goa 403 005. Respondents.

Mr. S.G. Dessai, Senior Advocate with Mr. V. Parsekar, Advocate for
the Petitioner.

Mr. S. Narvekar, Addl. Government Advocate for Respondent no.1.

Mr. L. Raghunandan, Advocate for Respondent no.2.
Respondents no.3 and 4 absent, though served.

**CORAM: A. P. LAVANDE &
U. V. BAKRE, JJ.
DATE: 10TH DECEMBER, 2012.**

ORAL JUDGMENT (PER A. P. LAVANDE, J) :

1. Heard Mr. S.G. Dessai, learned Senior Counsel for the Petitioner, Mr. S. Narvekar, learned Additional Government Advocate for Respondent no.1 and Mr. L. Raghunandan, learned counsel for respondent no.2. None appears on behalf of respondents no.3 and 4.

2. By this petition, the petitioner takes exception to orders dated 22/6/2006 and 13/7/2006 passed by respondent no.2.

3. The petitioner is the principal of Nirmala Institute of Education, at Panaji, imparting education in D.Ed., B.Ed. and M.Ed. which was at the relevant time an aided institution. By communications dated 2/1/2006 and 14/2/2006, respondents no.3 and 4 sought certain information from the petitioner in relation to B.Ed staff members. Since some staff members requested the petitioner not to supply certain personal information, the petitioner supplied information except personal information to respondents no.3 and 4. Aggrieved by

the refusal of the petitioner to furnish the said information, respondents no.3 and 4 preferred appeal under Section 19(3) of the Right to Information Act, 2005 ("The Act", for short) before respondent no.2. The appeal was contested by the petitioner. However, the respondent no.2 by order dated 22/6/2006 directed the petitioner herein to designate P.I.O and the first appellate authority in respect of institution and in any case within a period of seven days from the date of the order. The respondent no.2 also directed the petitioner to provide all information sought by the respondents no.3 and 4 within seven days.

4. The information directed to be supplied by respondent no.2 was not furnished to respondents no.3 and 4. On the contrary, the petitioner by communication dated 29/6/2006 brought it to the notice of respondent no.2 that she could not give certain personal details which were not covered under the Act. Taking serious note of the said communication, respondent no.2 invoked Section 20 of the Act and by order dated 13/7/2006 issued show cause notice to the petitioner calling upon her as to why contempt proceedings should not be initiated against her. Aggrieved by both these orders, the petitioner has filed the present petition.

5. The petitioner has relied upon order dated 21/7/2006 passed by the State Government which has been gazetted. By the said order, the Government of Goa has brought several non-Government aided Colleges affiliated to the Goa University including Goa University under the purview of the Right to Information Act, 2005 and designated the authorities mentioned therein as Appellate Authority, Public Information Officer and Assistant Public Information Officer. The institute of which the petitioner is the principal appears at serial no.17.

6. It is the contention of Mr. S.G. Dessai, learned Senior Counsel for the petitioner that unless a Body or an institution is declared and notified to be a public authority in terms of Section 2 (h) of the Act such authority is not covered under the Act and since the order was issued by the State Government only on 21/7/2006, Nirmala Institute of Education was not covered under the Act and, as such, respondent no.2 had no jurisdiction to entertain the appeal purportedly filed u/s 19(3) of the Act and consequently to pass order dated 22/6/2006 and also order dated 13/7/2006, which was issued on the footing that the order dated 22/6/2006 was not complied with.

7. Mr. Narvekar, learned Additional Government Advocate submitted that in view of the fact that the institute of which the petitioner is the principal along with other institutes was brought under the purview of the Act by order dated 21/7/2006 issued by the State Government which was later on gazetted. The Nirmala Institute of Education was not covered under the Act prior to 21/7/2006 and consequently, the respondent no.2 had no jurisdiction to pass orders dated 22/6/2006 and 13/7/2006.

8. In view of the concession made on behalf of respondent no.1 the order dated 22/6/2006 and order 13/7/2006 which was passed on the ground that order dated 22/6/2006 was not complied with, are liable to be quashed and set aside and hereby quashed and set aside.

9. Rule is made absolute in the aforesaid terms with no order as to costs.

A. P. LAVANDE, J.

U. V. BAKRE, J.

AP/-