

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

शिकायत संख्या / Complaint No.

CIC/DSSSB/C/2018/128865

Ms. Manju Rani
Through: Sh. Praveen
Sh. Akshay

शिकायतकर्ता / Complainant

VERSUS/बनाम

PIO/Dy. Secy. (Secret Cell-I)
(Govt. of NCT of Delhi)
Through: Sh. Devender Kumar, SO, Secret Cell

...प्रतिवादीगण / Respondent

Date of Hearing : 24.01.2020
Date of Decision : 05.02.2020

Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 17.07.2017
PIO replied on : 21.08.2017
First Appeal filed on : 03.10.2017
First Appellate Order on : 01.12.2017
2nd Appeal/complaint received on : 08.05.2018

Information sought and background of the case:

Complainant filed RTI application dated 17.07.2017 seeking information regarding the post of TGT (Computer Science) post code -192/14. In this regard, she sought following information:-

1. *Provide the copy of her OMR sheet (both sides) of the written examination held on 21.05.2017.*

PIO/Dy. Secy., Secret Cell-I, DSSSB vide letter dated 21.08.2017 stated that information may be obtained after declaration of final result.

Being dissatisfied, the Complainant filed First Appeal dated 03.10.2017.

FAA vide order dated 01.12.2017 directed PIO/DS (Secret Cell) to provide copy of OMR sheet to the Complainant within 15 days as per the RTI Act.

Feeling aggrieved over the non-compliance of FAO, Complainant filed a complaint before the Commission.

Facts emerging in Course of Hearing:

Both the parties are present for the hearing.

Complainant insists upon receiving the information sought by him. It is the grievance of the Complainant that despite FAA's directions no information has, till date, been provided to him.

Respondent is present and heard. Respondent has filed a submission dated 22.01.2020 on record. In response to query no. 1, reliance has been placed on the decision of Hon'ble Supreme Court in the matter of *UPSC vs. Angesh Kumar & Ors.* in C.A. No. (5)/6159-6162 of 2013 for non-disclosure of information.

Decision:

Upon hearing the averments of parties and perusal of records, based on the plea of the applicant, the instant complaint is converted into an appeal.

As a matter of routine, Commission receives several appeals regarding information pertaining to OMR sheets and answer keys of examinations. It is also observed that the candidates appearing in competitive examinations face immense inconvenience in retrieving information regarding their own performance in such examinations.

Considering the case law relied upon by the Respondent, Commission is inclined to draw attention to certain relevant excerpts in that case for the purpose of brevity.

In ***UPSC vs. Angesh Kumar & Ors.*** in C.A. No. (5)/6159-6162 of 2013 the Hon'ble Supreme Court has made following observations in context of disclosure of Civil Service Examinations marks under the RTI:

(8) The problems in showing evaluated answer sheets in the UPSC Civil Services Examination are recorded in Prashant Ramesh Chakkarwar v. UPSC1.

From the counter affidavit in the said case, following extract was referred to:

"(B) Problems in showing evaluated answer books to candidates.—(i) Final awards subsume earlier stages of evaluation. Disclosing answer books would reveal intermediate stages too, including the so-called 'raw marks' which would have negative implications for the integrity of the examination system, as detailed in Section (C) below.

(ii) The evaluation process involves several stages.

.....

(v) With the disclosure of evaluated answer books, the danger of coaching institutes collecting copies of these from candidates (after perhaps encouraging/inducing them to apply for copies of their answer books under the RTI Act) is real, with all its attendant implications.

.....

(viii) UPSC is now able to get some of the best teachers and scholars in the country to be associated in its evaluation work. An important reason for this is no doubt the assurance of their anonymity, for which the Commission goes to great lengths. Once disclosure of answer books starts and the inevitable challenges (including litigation) from disappointed candidates starts, it is only a matter of time before these examiners who would be called upon to explain their assessment/award, decline to accept further assignments from the Commission.

.....

(10) Weighing the need for transparency and accountability on the one hand and requirement of optimum use of fiscal resources and confidentiality of sensitive information on the other, we are of the view that information sought with regard to marks in Civil Services Exam cannot be directed to be furnished mechanically. Situation of exams of other academic bodies may stand on different footing.

From the above it cannot be denied that the facts of *UPSC vs. Angesh Kumar (supra)* case are distinguishable from those in the present case. The legal doctrine of 'Stare Decisis' obligates courts to follow historical cases when making a ruling on a similar case. It ensures that cases with similar scenarios and facts are approached in the same way. In the present case, upon perusing the available records, it is not clear as to how the *ratio* of the *UPSC vs. Angesh Kumar (supra)* case is applicable in the present case. Merely citing a case law does not suffice. The PIO has failed to establish and convince the Commission as to how the facts and circumstances of the *UPSC vs. Angesh Kumar (supra)* case are similar and applicable to the present case. Thus, the onus to prove that a denial of a request was justified is on the PIO. But in the instant case, the PIO has been unable to discharge that responsibility.

The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information, which relates to securing transparency and accountability in the working of public authorities. The Commission therefore holds that candidates have a right to seek a copy of the OMR sheet. It will not only contribute to transparency but also facilitate the candidates in assessing their performance.

In the light of the foregoing, the Commission hereby directs the PIO to provide *Copy of applicant's OMR sheet (both sides) of the written examination held on 21.05.2017, as sought in query no. 1, to the Complainant/Appellant, in compliance with the FAO, under intimation to the Commission, within 3 weeks from the date of issue of this order.*

The appeal is disposed off accordingly, with the above observations and directions.

Y. K. Sinha (वाई. के. सिन्हा)
Information Commissioner(सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

Ram Parkash Grover (राम प्रकाश ग़ोवर)
Dy. Registrar (उप-पंजीयक)
011-26180514