

**ODISHA INFORMATION COMMISSION
BHUBANESWAR**

**Present : Shri Sunil Kumar Misra,
State Chief Information Commissioner**

Date 24th April, 2017

Second Appeal No.2693/2014

Dr. Ramani Ranjan Jena,
Qrs. No.T-II-65,
Old A.G. Colony,
Odisha, Bhubaneswar.....Appellant

-Vrs-

1. Public Information Officer,
Office of the Principal,
Utkal Sangeet Mahavidyalaya,
Odisha, Bhubaneswar.
2. First Appellate Authority,
Office of the Principal,
Utkal Sangeet Mahavidyalaya,
Odisha, Bhubaneswar.....Respondents

Decision

1. Appellant, Ramani Ranjan Jena, is present. Sukesh Kumar Panda, PIO-cum-Lecturer, Drama, Utkal Sangeet Mahavidyalaya, Bhubaneswar is also present. The PIO has made a written submission along with annexures. He also files an affidavit. These are taken on record.

2. Vide an application in Form-A dated 04.07.2014, the appellant had requested the PIO, Utkal Sangeet Mahavidyalaya, Bhubaneswar for certain specific information relating to the Jury members who had conducted interviews for Guest Lecturers for Chhow / Odissi Dance. He had also sought to have copies of the appointment letters, joining reports, working periods and mark-sheets of the Guest Lecturers who were selected.

2.1 The appellant followed up his application in Form-A by filing first appeal vide an appeal memo in Form-D dated 04.09.2014 alleging therein non-supply of complete information. The First Appellate Authority vide order dated 25.09.2014 informed the appellant that information had been earlier furnished to the appellant as per availability, vide letter dated 07.08.2014; but as regards the academic / educational qualifications of one Jury Member, namely, Snehaprava Samantaray, information could not be collected from her who also happened to be a third party.

2.2 Aggrieved with the order of the First Appellate Authority, the appellant filed the subject second appeal vide an appeal memo in Form-E dated 11.11.2014 alleging that the information sought by him was not supplied.

3. At the time of the first hearing on 11.01.2017, the PIO submitted a written memorandum. It was stated by him that most of the information sought by the appellant, which related to interview conducted for Guest Lecturers during the academic session 2013-14, had been already supplied to the appellant by the then PIO, Dr. Bijay Kumar Jena, vide a letter dated 07.08.2014. The information thus sent consisting of 26 pages had also been received by the appellant on 16.08.2014. These included copies of documents regarding the qualification of Satyajit Tipiria who was selected as Guest Lecturer for Chhow Dance; copies of his mark-sheets for the academic sessions 2012-13, 2013-14 and 2014-15; and, copies of the marks given by the Selection Committee which selected Satyajit Tipiria as Guest Lecturer. The mark-sheets for the academic sessions 2008-09, 2009-10 and 2010-11 could not be supplied as the same were not available in the Establishment Section of the Mahavidyalaya. The appellant was also informed that no appointment letters had been issued by the Mahavidyalaya to any Guest Lecturer. Names of the selected candidates had been put up on the Notice Board.

3.1 During the course of the hearing, the PIO also submitted that certain further information regarding appointment of Satyajit Tipiria had since been collected and would be sent to the appellant.

3.2 The Ex-First Appellate Authority-cum-Principal, Utkal Sangeet Mahavidyalaya, T. R. Dashmohapatra, too sent a written submission reiterating therein the facts stated by the PIO.

3.3 In view of the submissions thus made by the PIO and the Ex-Principal, the Commission vide proceedings dated 11.01.2017 directed the appellant that in view of the information already sent by the then PIO and the further information which would be sent by the present PIO, he should submit his written memorandum pointing out therein any deficiency or shortcomings noticed in the information thus already sent / to be sent. The PIO was also directed to submit an affidavit regarding non-availability of the balance information.

4. At the time of the next hearing on 31.01.2017, the PIO, Sukesh Kumar Panda, submitted an affidavit affirming therein that further information was sent to the appellant vide letter No.96 dated 17.01.2017. The appellant too made his written submission stating that out of the information sought by him only information on two counts remained to be provided viz. individual marks awarded by the Jury Members from the years 2008-09 to 2014-15 for selection of Guest Faculty for Chhow Dance and names and designations with academic qualifications of the Jury Members for these years. In the light of the submissions thus made by the appellant, the PIO informed the Commission that he would go through the records and ascertain if the remaining information as pointed out by the appellant was available. In view of the submission thus made by the PIO, the Commission directed him to make available to the appellant all the pending information disclosure of which is not otherwise barred.

5. In pursuance of the direction thus given, the PIO has submitted a further written memorandum today. He has also enclosed to his written memorandum a copy of the affidavit of Pramod Kumar Nayak, section in-charge of the Establishment Section of the Utkal Sangeet Mahavidyalaya, Bhubaneswar.

5.1 In the written memorandum of the PIO, apart from stating the names, designations and academic qualifications of the Jury Members for selection of Guest Faculty for Chhow Dance in the Choow Department for the academic years 2010-11 to 2014-15. It has also been stated that the individual marks given by the Jury Members for selection of Guest Faculty cannot be disclosed as such disclosure is barred under the provisions of Section 8(1)(d) of the RTI Act, 2005.

5.2 In the affidavit of Pramod Kumar Nayak, it has been affirmed that information relating to the Jury Members for the years 2008-09 and 2009-10 are not available in the Establishment Section of Utkal Sangeet Mahavidyalaya.

5.3 During the course of the proceedings, the Commission directed the PIO to provide to the appellant the above supplementary information. The direction was complied with and the appellant too has submitted an acknowledgement for receipt of the same. The appellant nevertheless contends that although further details have been given to him, there is no reason as to why individual marks given by the Jury Members cannot be supplied. It is submitted by him that earlier individual marks given by two Jury Members had been provided to him and the same would show that there had been partiality in the selection process.

6. The Commission has carefully considered the submissions thus made from time to time. It is seen that the PIO has provided to the appellant all the information sought by him except (i) list of Subject Experts for the years 2008-09 and 2009-10 which as per the affidavit given by Pramod Kumar Nayak are not available and (ii) individual marks awarded by the Jury Members which as per the PIO cannot be disclosed in view of the provisions of Section 8(1)(d). In so far as the list of Subject Experts is concerned, it has to be held that

the PIO can provide only such information as is available. Non-furnishing of non-available information would not amount to denial. As regards individual marks awarded by the Jury Members, the Commission finds merit in the PIO's argument that disclosure thereof is barred under Section 8(1)(d). The Jury Members award individual marks in confidence and, moreover, the relation between the Jury Members and the Institution which had engaged them as such Jury Members is a fiduciary one. Hence the Commission does not find any infirmity in the action of the PIO in not disclosing the individual marks awarded by the Jury Members. As regards the appellant's contention that the marks given by two Experts which had been earlier provided to him would show that there had been partiality, suffice would it to state that the appellant is at liberty to raise such grievance before an appropriate forum and not before this Commission.

7. In view of the above, and as available and disclosable information has been provided to the appellant, the Commission deems it appropriate to treat this case as closed. The case is accordingly closed.

8. The subject second appeal stands disposed of.

Pronounced in open proceedings

Given under the hand and seal of the Commission this day, the 24th April, 2017.

State Chief Information Commissioner
24.04.2017