

CENTRAL INFORMATION COMMISSION
2nd Floor, 'B' Wing, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi -110066
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Appeal No. CIC/CC/A/2016/000824

Appellant: Mr. Vishram Talgaonkar
O/o. O-5, 4th Flr, Comunidade Ghor, Angod
Mapusa, Bardez, Goa-403507, (9823383030).

Respondent: Central Public Information Officer/Registrar, High
Court Of Bombay at Goa, Lyceum Complex,
Althinho, Panaji, Goa.

Date of Hearing: 21.10.2016
Dated of Decision: 21.10.2016

Adjunct Order

Facts:

1. The matter was earlier heard on 1.09.2016 and was adjourned for further hearing and submissions on 21.10.2016.

Hearing:

2. The appellant and the respondent both participated in the hearing through VC.

3. The appellant stated that he has not been provided the sought for information on two grounds viz 1) the sought for information is not available with the office 2) the information is exempted under Rules 13(e) of the Bombay High Court, Right to Information (Revised) Rule 2009 and Section 8(1)(e) of the Right to Information Act 2005.

4. The appellant stated that the Registrar of the Hon'ble High Court of Mumbai at Goa invited applications for the post of Civil Judge Junior Division and Judicial Magistrate First Class in Goa Judicial Service vide advertisement dated 28.03.2014. The appellant stated that the list of the candidates who applied, the statement of marks obtained by the candidates

who appeared for the main examination held on 07.12.2014 were prepared by the Hon'ble High Court. The appellant stated that the call letters were issued for viva-voce / oral interview and the candidates were to report to section officer of the High Court of Bombay at Goa. The appellant stated that the Goa Judicial Service Rules 2013 clearly provides the procedure and mode of evaluation. The appellant stated that it is inconceivable that the Hon'ble High Court would not have the information sought for by him.

5. The appellant stated that in terms of the Rules 13(e), the Public Information Officer and the First Appellate Authority are not the competent authority to decide the question of confidentiality. The appellant stated that the Chief Justice is the competent authority in the case of a High Court. The appellant stated that there is no decision of the Hon'ble Chief Justice of the Bombay High Court with regard to deciding the question of the confidentiality. The appellant stated that the Rules can never be wider than the Act which has been passed by the Legislature in its wisdom.

6. The appellant relied upon this Commission's decision passed in the matters Ms. Sweety Kothari Vs. Shri R. Raghupathy Joint Secretary and Legal Advisor, Govt of India Ministry of Law & Justice, Mr. P.C. Parakh IAS Vs Cabinet Secretariat, New Delhi, Ms Neetu Sharma Vs. Union Public Service Commission and Indian Institute of Chartered Accountants of India Vs Shaunka H. Satya and stated that the examination bodies and examination process have not been exempted.

7. The respondent stated that the Rule 13 of the Bombay High Court Right to Information (Revised) Rules, 2009 provides that the information specified under section 8 of the Act shall be not be disclosed and made available and in particular vide rule 13(e) has exempted from disclosure any information affecting the confidentiality of any examination conducted by the Bombay High Court including the Maharashtra Judicial Service and Maharashtra Higher Judicial Service.

Discussion/ observation:

8. It is observed that the sought for information should have been provided to the appellant.

9. The Hon'ble Supreme Court in the matter Civil Appeal no.6454 of 2011 [Arising out of SLP [C] No.7526/2009] Central Board of Secondary Education & Anr Vs. Aditya Bandopadhyay & Ors. in its decision dated August 9, 2011 has held that.

“27. We, therefore, hold that an examining body does not hold the evaluated answer-books in a fiduciary relationship. Not being information available to an examining body in its fiduciary relationship, the exemption under section 8(1)(e) is not available to the examining bodies with reference to evaluated answer-books. As no other exemption under section 8 is available in respect of evaluated answer books, the examining bodies will have to permit inspection sought by the examinees.”

Decision:

10. Respondent is directed to provide to the appellant, information in context of his RTI application dated 15.09.2015 within 30 days of this order.

The appeal is disposed of. Copy of the order be given to the parties free of cost.

(Radha Krishna Mathur)
Chief Information Commissioner

Authenticated true copy

(S.C. Sharma)
Dy. Registrar