

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

द्वितीय अपील संख्या / Second Appeal No. CIC/ICAOI/A/2017/169176

Rajat Kumar Mehra

... अपीलकर्ता/Appellant

VERSUS
बनाम

CPIO, The Institute of Chartered
Accountants of India, ICAI Bhawan,
New Delhi.

...प्रतिवादीगण /Respondents

Relevant dates emerging from the appeal:

RTI : 26.06.2017	FA : 10.08.2017	SA : 27.09.2017
CPIO : 28.07.2017	FAO : 18.09.2017	Hearing : 28.09.2018

ORDER

1. The appellant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), The Institute of Chartered Accountants of India, ICAI Bhawan, New Delhi seeking information on two points pertaining to Information Systems Audit-Assessment Test (ISA-AT) examination held on 24.12.2016, including, inter-alia, (i) marks awarded against

each of 200 questions attempted by him in Booklet code HCL, Booklet No. 31931 and (ii) his scaling records.

2. The appellant filed a second appeal before the Commission on the grounds that the CPIO denied the information stating that the marks based on the correct answers are awarded in the system only which also contains raw marks and scaling records of other candidates, hence, the information sought cannot be provided under Section 8(1)(j) of the RTI Act. The appellant requested the Commission to direct the CPIO to provide the information sought for by him in his RTI application, to impose penalty upon the respondent, to take necessary action against the erring officials and to award him compensation.

Hearing:

3. The appellant Shri Rajat Kumar Mehra and the respondent Shri Dinesh Kumar Mishra, Asstt. Secretary & CPIO, Ms. Seema Gerotra, Jt. Director & FAA, Shri Rajiv Seth, Jt. Secretary (Exams), ICAI, New Delhi were present in person.

4. The appellant submitted that he had only sought the actual marks secured by him against each of 200 questions and his scaling records. However, the CPIO had wrongly denied the information sought under Section 8(1) (j) of the RTI Act as the institute is bound to provide the marks secured by him as per the Hon'ble Supreme Court's judgment dated 04.02.2016 in Kerala Public Service Commission vs. State Information Commission & Anr. (Civil Appeal Nos. 823-854 of 2016) which has observed:

“10. Even disclosing the marks and the answer sheets to the candidates will ensure that the candidates have been given marks according to their

performance in the exam. This practice will ensure a fair play in this competitive environment, where candidate puts his time in preparing for the competitive exams”

5. The respondent submitted that in response to the RTI application a point wise reply was provided to the appellant vide letter dated 28.07.2017. The respondent stated that the appellant has sought the marks awarded to him based on the answers given by him i.e. the ‘raw marks’ and his scaling records. The respondent stated that the marks based on the correct answer are awarded in the system only. Further, such marks are scaled by the system, based on the topper’s marks and the institute only maintains the scaled marks generated by the system. In view of this, the appellant was informed that the marks based on the correct answers are awarded in the system only which also contains raw marks and scaling records of other candidates, hence, the information sought cannot be provided under Section 8(1)(j) of the RTI Act.

Decision:

6. The Commission, after hearing the submissions of both the parties and perusing the records, observes that the appellant has sought his raw marks and scaling records. The Commission notes that the Hon’ble Supreme Court in its judgment dated 20.02.2018 in Union Public Service Commission vs Angesh Kumar [Civil Appeal No(s). 6159-6162 of 2013] has ruled as under:

“(10)Furnishing raw marks will cause problems as pleaded by the UPSC as quoted above which will not be in public interest. However, if a case is made out where the Court finds that public interest requires

furnishing of information, the Court is certainly entitled to so require in a given fact situation. If rules or practice so require, certainly such rule or practice can be enforced. In the present case, direction has been issued without considering these parameters.”

7. However, the CPIO vide letter dated 28.07.2017 incorrectly denied the information under Section 8(1)(j) of the RTI Act stating that the answer sheet in the systems also contains the raw marks and scaling records of other candidates. The Commission, therefore, directs the CPIO to provide an appropriate response to the RTI application, keeping in view the provisions of the RTI Act and in the light of the above cited judgment, to the appellant within a period of four weeks from the date of receipt of a copy of this order under intimation to the Commission.
8. With the above observations, the appeal is disposed of.
9. Copy of the decision be provided free of cost to the parties.

Sudhir Bhargava (सुधीर भार्गव)
Information Commissioner (सूचना आयुक्त)
दिनांक / Date 11.10.2018

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. S. Rohilla (एस. एस. रोहिल्ला)
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Addresses of the parties:

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