



**The State Information Commission, Kerala**  
Punnen Road, Thiruvananthapuram-695 039.

Tel:0471 2335199, Fax:0471 2330920  
Email: sic@infokerala.org.in

**AP.No.338/2007/SIC**  
**File No.3408/SIC-Gen1/07**

Shri.Bijukumar.R  
Sindhu Bhavan,  
Muthala.P.O.  
Pallikkal, Kilimanoor,  
Thiruvananthapuram. 695 604.

Appellant

Vs

- 1.State Public Information Officer and  
Deputy Secretary,  
Kerala Public Service Commission,  
Pattom, Thiruvananthapuram.
2. Appellate Authority and  
Additional Secretary (Rect),  
Kerala Public Service Commission,  
Pattom, Thiruvananthapuram.

Respondents

## **ORDER**

Shri. Bijukumar.A.R, the appellant/requester had preferred a request seeking copies of his answer script and answer keys of the OMR test to the post of Assistant Engineer(Civil), Public Works and Irrigation Departments conducted on 21.8.2004. The State Public Information Officer had given only the answer key of the test. His request for copies of answer scripts was denied invoking Section 8(1)(e) and (j) of the RTI Act and also based on the fact that the orders of the State Information Commission, Kerala, to provide copies of answer scripts were stayed by the Hon.High Court of Kerala in respect of two cases vide W.P(C) Nos.5755/2007, 12297/2007. Aggrieved by this, he had preferred first appeal

before the Appellate Officer in the public authority on 13.4.2007 which was disposed off on 2.5.2007 by rejecting the appeal on the very same grounds, the State Public Information Officer had chosen to reject the request. Subsequently, he had approached the State Information Commission, Kerala on second appeal on 21.5.2007.

The Commission obtained a detailed report from the respondent public authority and also summoned the appellant and SPIO of the respondent public authority on 13.12.2007. Responding which, the appellant Shri. Shri.Bijukumar.R, and Shri.L.Sanjeeva Kamath, the State Public Information Officer and Deputy Secretary, Kerala Public Service Commission appeared before the Commission. The SPIO had also filed a detailed affidavit on the case before the Commission at the time of hearing. The Commission heard both the appellant and the SPIO and also perused the records.

***The limited question to be answered in this case is whether (i) the copy of OMR answer scripts after duly marked, results published and/or follow up action taken thereto; (ii) whether Section 8(1) (e) and (j) could be invoked in this case?***

The Commission after examining the case from all the angles arrived at the conclusion, as a matter of practice, the copy of the OMR answer scripts, once done with by the KPSC, could be provided to the applicant/s to the post on request. In this case, therefore, Commission feel that there is no harm by providing copy of OMR answer script to the appellant who had appeared for the OMR test for which the applicant to the post of Assistant Engineer (Civil), Public Works and Irrigation Department conducted on 21.8.2004. With regard to whether Section 8(1) (e) and (j) could be invoked in this case, the Commission felt that by providing the information sought for, it would not violate the assumed fiduciary relationship u/s.8(1)(e) or invade the privacy of an individual u/s.8(1)(j). The public authority had also not elaborated the issue in order to invoke section 8(1)(e) and (j). True, the appellant had asked for his personal information, though bereft any larger public interest, and the same cannot be denied. The Commission also take note of the fact as submitted by the State Public Information Officer of the respondent public authority that in respect of past two cases, in which the Commission had ordered to provide copies of the answer sheets had been stayed by the Hon.High Court in W.P(C)5755/2007, 12297/2007. The Commission, however, maintains its stand with regard to provision of answer sheets, once done with, by the public authority in larger public interest and to maintain utmost transparency. In the affidavit, the SPIO had quoted a judgement by the Apex Court as reported in 2007 ISCC 603, which dwell upon the need for having some finality attached to the results of public examinations while published etc. The Commission feels that in the very same judgement as extracted by the SPIO, it has been mentioned that "further verification in the presence of the candidates and revaluation are to be allowed as of right it may be to gross and indefinite uncertainty particularly in regard to

relative ranking *etc.*, of candidates besides leading to utter confusion". The Commission fully appreciate the spirit of the judgement and, it should not be a matter of practice to reopen all cases involving results of public examination. The position that, once concluded, it (the public examination) has to have a finality and, transparency has to be brought in at all levels, and to the entire satisfaction of those who had appeared for the tests/examinations. In the instance case, the appellant was provided with the key to the test but copy of his OMR answer script, which cannot be altered/modified/changed subsequently has not been provided to him. A straight forward verification is not going to alter the position, if the valuation has been done properly. To the best of information of the Commission, the respondent public authority does not provide scope for inspection/verification *etc.*, of answer sheets by the applicants, as a matter of practice and, therefore, feel, the judgement of the Apex Court has been misapplied.

**In sum, the Commission observes that the denial of the information *ie.*, non provision of the copy of the OMR answer script of the test for the post to which the requester/appellant had appeared, cannot be sustained and, a copy of the answer sheet shall be provided to the appellant within 7 days of the receipt of this order, free of cost.**

The appeal is disposed off accordingly.

Dated this, the 14th day of December, 2007.

Authenticated copy

Secretary to Commission