



Before The State Information Commission, Kerala
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AP.No.159/2007/SIC
File No.1865/SIC-Gen1/2007

Shri.Berchmans.K.L
T.C.14/1048-4,
'Hail Mary Villa', Rajeev Nagar,
Vazhuthacaud, Trivandrum-5. } Appellant

Vs

Shri.P.Vijayan,
Appellate Authority, and
Additional Secretary (Rect),
KPSC, Pattom,
Thiruvananthapuram. } Respondent

ORDER

The Appellant Shri.K.L.Berchmans had preferred a request under section 6 of the RTI Act before the PIO of the KPSC on 8.1.2007. The relevant portion of the request is reproduced as below:-

"I request you to let me know the marks secured for both written test as well as for interview by each of the candidates included in the short list.(as per Gazette Notification dated 31.12.2002 under category No.197/2002) for the post of Administrative Officer Grade- II in various departments". The original request was marked as Ext A1. Ext A2 was the reply given by the PIO by which the

request was rejected under Section 8(1) (e) & (j) of the RTI Act, 2005. Subsequently, an appeal was preferred before the Appellate Authority, illustrating the requester's case as follows:-

He had refuted that his request was hit by Section 8(1)(e) & (j) of the Act. He had illustrated his claim that he was not seeking for information of a particular candidate but was demanding the information with regard to the result that was published by the PSC. The pleadings in the first appeal was marked as Ext A3 for the convenience of reference. Ext A4 is the brief order of the Appellate Authority confirming the orders of the PIO and further rejecting the request of the appellant. These were the circumstances that lead to the filing of the second appeal before the SIC. In the second appeal, the following facts were also narrated by the appellant in detail. Shri.Berchmans himself was the candidate who had appeared for the Administrative Officer Grade-II examination conducted by the PSC for category No.197/2007. The written test as well as interview were conducted and the rank list was published on 2.6.2006 as 154/05/SSIV. In the said list he happened to be the 18th rank holder. However, he had again made an application for revaluation. In the meantime before the publication of the result of the revaluation, the PSC had advised rank nos. 1 to 9 for appointment. After the re-valuation he was informed that he has secured more marks than that was already awarded and his rank will have to be readjusted consequent to the marks obtained by him in revaluation. In the meantime, rank no.10 and 11 in the earlier list were also advised on 7.9.2005 for appointment. On 23.11.2005, his rank was revised as 12A and he was informed of the matter. This was the circumstance under which he had claimed the information as per Ext A1 *i.e.*, the

total marks obtained for each candidate in the written test as well as in the interview.

The question that evolved was whether the information sought by the Appellant was hit by Section 8(1)(e) & (j) of RTI Act?

The remarks of the Appellate Authority was called for. The PIO as well as the Appellate Authority were under the impression that the information was sought by a pacca outsider and furnishing of the information to him was hit by Section 8(1)(e)&(j) of the RTI Act. As we are well aware Section 8(1)(e) deals with fiduciary relationship and (j) deals with unwarranted invasion on the privacy of an individual. Both these clauses of Section 8 are not at all available to the PIO and Appellate Authority in matters where the results were already published by KPSC. Here in this case, the competitive test was held on 3.6.2004, the result was published after the interview and therefore, there was no question of a fiduciary relationship nor of an invasion in the privacy of an individual. On the other hand, the PSC was duty bound to furnish the information to make itself more transparent and trustworthy in its behaviour. In the written remarks, two objections were mainly raised by the respondent. One was that the Appellant Shri.Berchmans had never disclosed the fact that he himself was the candidate who appeared in the test for Administrative Officer Grade -II. The other remarks was that the rejection was strictly in accordance with the provisions of the RTI Act. But the Appellate Authority while making the remarks had admitted the entire case of the appellant as true and correct. It was true that the rank list was published on 2.6.2005. It was admitted that originally Shri.Berchmans was

ranked as No.18 and after revaluation his rank was refixed as No.12A. This was the vicious circumstance that throw some shadow on the transparency and formation of the subsequent list. Shri.Berchmans was not without reasons. He had produced all relevant documents to substantiate his claims. Ext A5 was the 1st rank list published by the KPSC. It shows that Shri.Berchmans was ranked as No.18 in the serial order. Ext A6 was the intimation to the appellant from the office of the KPSC intimating that his answer sheet had been revalued he was awarded more marks and as a result of the same, KPSC was reconsidering the rank list. Ext A7 is the reconsidered order by which his name was inserted as 12A in the rank list. So this circumstance would sufficiently explain the need for furnishing the information and these are more than enough reasons for an ordinary prudent man to ask for the details of the examination especially in the circumstances when he was awarded 12A rank and before actually confirming his rank after revaluation, rank no.1 to 11 had already been advised for appointment.

It was true that the appellant had never disclosed his identity as he himself was the applicant. The disclosure of the fact that he himself was the applicant at the time of the second appeal will in no way disentitle him from furnishing the information. Disclosing the identity of the appellant was not a material omission or commission in the pleadings of this case. The SIC finds it difficult to agree with the argument of the Appellate Authority that there was a material change in the pleadings. Therefore, all the objections raised on the basis of Sub-section 8(1)(e)&(j) are not maintainable.

The appellant *interalia* was making a prayer that this SIC Kerala may call for the records and set right his rank and redress his grievance. Redressal of grievance on the basis of an authenticated information is outside the jurisdiction and purview of the SIC. The RTI Act provides the right to have the right, correct and genuine information. With-holding of information, however, serious it is and whatever mis-carriage of justice has been done could be corrected only by other corrective measures and Forums and not by the SIC. Therefore, the second prayer that his rank may be set right on the basis of the marks awarded in the written test and interview cannot be entertained.

However, the appeal is allowed. The Appellate Authority is directed to furnish information within 15days of the receipt of this order under intimation of compliance to this Commission.

Dated this, the 2nd day of July 2007.