

CENTRAL INFORMATION COMMISSION
BLOCK IV, OLD JNU CAMPUS, NEW DELHI 110067

F.No.PBA/06/103
September 22, 2006

Complaint No.113/ICPB/2006
In the matter of Right to Information Act, 2005 – Section 19.
[Date of Hearing 18.9.2006]

Appellant: Dr. (Mrs) Archana S. Gawada

Public authority: Employees State Insurance Corporation, New Delhi.
Shri C. Sethu Addl. Commissioner & CPIO
Director General, ESIC – Appellate Authority.

Present: Shri C. Seth, Addl. Commissioner, ESIC
Shri Arvind Kumar, Joint Director.
Shri S. Thomas, Addl. Commissioner
None from appellant.

FACTS:

By an application dated 5.5.2006, the complainant had requested for the following information pertaining to recruitment of IMO Gr.II/Ayurvedic Physician and Dental Surgeon for which written examination was held on 29.06.2003 :

1. Total number of candidates applied for the post of Ayurvedic physician, total number of candidates appeared, called for interview and finally selected;
 2. Supply of a copy of the evaluated answer sheets along with relevant question paper in respect of the applicant;
 3. Supply of copies of evaluated answer sheets along with question papers relating to the selected candidates.
2. She had also enclosed a draft for Rs.100/- towards the application fee of Rs.10/- and Rs.90/- for the probable cost of providing the information. Her application was forwarded on 17.5.2006 to another CPIO and the appellant was advised to contact that CPIO as he was in charge of the information sought for. By a letter dated 9.6.2006, the CPIO informed the appellant that since she had not furnished her Roll No for the examination, her application could not be located and advised her to send a photo copy of the admit card. He had also returned the draft for

Rs 100 requesting her to send Rs.10/-. In response, by a letter dated 19.6.2006, the appellant sent back the DD for Rs 100/ and contended that there was nothing wanting in the application and the public authority should have all records and as such the information sought should be furnished. Since she did not get any response, she filed this Complaint on 11.7.06. Comments were called for from the CPIO. By that time, by a communication dated 2.8.2006, the CPIO furnished the information sought in serial no 1 of the application and declined to furnish the information sought in serial no 2 and 3 applying the provisions of Section 8(1)(j). On receipt of this information, the complainant sent a communication to this Commission dated 21.8.2006, pointing out the inordinate delay in furnishing even the part information and contending that the CPIO could not have applied the provisions of Section 8 (1)(j) to furnish the remaining information. She has pointed out that to have transparency in examination matters, evaluated answer sheets should be made available to the candidates. In the comments from the CPIO dated 11.9.2006 and 13/9/2006, the CPIO has stated that in addition to the information furnished on item 1 of the application on 2.8.2006, the answer sheet of the complainant had also been furnished to her on 25.8.2006 and that in regard to the answer scripts of the successful candidates, the same could not be furnished in terms of Section 8(1)(j). In respect of the delay, he has submitted that it was due the failure of the complainant in furnishing her Roll No etc. While admitting the delay in furnishing the information and highly regretting for the delay, it is stated that it was on account of this case being the first application received in connection with recruitment process which is normally kept confidential. It is also stated that in collecting and furnishing the information, an expenditure of Rs 167.10 was incurred as against the deposit of Rs. 90/- by the complainant.

3. The complaint was heard on 18.9.2006 with due notice to the complainant and the public authority. Complainant was not present. It was explained by the CPIO that the examination being of objective type, no manual evaluation of the answer sheets is made and the whole exercise is done by the computer which displays only the names of candidates securing marks above the cut off marks. Therefore, since the marking is not done manually, the answer sheet by itself will not display any marks. That is why, the copy of the answer sheet sent to the complaint does not exhibit any marks on the same. It was also submitted that answer sheets of the successful candidates cannot be furnished in terms of Section 8(1)(j). In so far as the delay is concerned, the CPIO expressed his deep regrets stating that since it was the first application under RTI and

since, the recruitment process had always been kept confidential, he was not sure whether the information could be furnished or not. He sought for condonation of the delay assuring the such delays would not occur in future.

DECISION:

4. This Commission has taken the view in similar cases of applications for copies of evaluated answer sheets, whether of the applicant himself/herself or that of others, that the same cannot be furnished in terms of Sections 8(1)(e) and (j). In Appeal No ICPB/A-3/CIC/2006, this Commission has decided as follows:

“Therefore, we find that in case of evaluated answer papers, the information available with the public authority is in his fiduciary relationship, the disclosure of which is exempt under Section 8(1)(e). In addition, when a candidate seeks for a copy of evaluated answer paper, either of his/her own or others, it is purely a personal information, the disclosure of which has no relation to any public interest or activity, which of such a situation is covered under Section 8(1)(j) of the Act. Therefore, we hold that the CPIO was justified in rejecting the request of the appellant for a copy of the evaluated answer paper. We, as a Commission, are not satisfied that the larger public interest justifies the disclosure of the information sought for by the appellant to direct the CPIO to comply with the request of the appellant and as matter of fact we are rather of the opinion that furnishing of copies of evaluated answer papers would be against public interest as has been rightly opined by the appellate authority that supply of a copy of the evaluated answer paper would compromise the fairness and impartiality of the selection process.” [Case No. ICPB/A-2/CIC/2006 (available in [www. cic.gov.in](http://www.cic.gov.in))]

5. Therefore, the CPIO had correctly applied provisions of Section 8(1)(j) to decline to furnish the copies of the answer sheets of the successful candidates. However, this Commission has also decided that as matter of course, marks obtained by the applicant and the selected candidates should be made available to the information seeker. Therefore, as directed during the hearing, the CPIO will furnish to the appellant the cut off marks prescribed, the marks obtained by the complainant and the successful candidates and also a copy of the key. This should be done within 15 days of this Decision.

6. As far as the delay in providing the information is concerned, since the CPIO has explained that the present application was first of its kind seeking for information which had always been kept confidential, I am inclined to condone the delay. However, since delay in furnishing the information has been established, the amount of Rs.90/- deposited by the appellant shall be refunded to her.

Let a copy of this decision be sent to the appellant and CPIO.

(Padma Balasubramanian)
Information Commissioner

Authenticated true copy :

(L. C. Singhi)
Addl. Registrar

Address of parties :

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2. Director General, Employees State Insurance Corporation, Panchdeep Bhawan, Kotla Marg, New Delhi-110002
3. Smt. Archana Gawada Flat No. 301, Karta purakh Apt, Block B-30, Room No 178,179 & 180, Ulashnagar 421005, Dist Thane Maharashtra State.