

§-3&8

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5165/2015

SHANTI PRAKASH

Through: Petitioner-in-person.

..... Petitioner

Versus

CENTRAL INFORMATION COMMISSION & ORS Respondents

Through: Mr. Anil Kumar Sangal and Mr.
Siddharth Sangal, Advs. for
R-2&3/SBI.

AND

8+ W.P.(C) 7124/2015

SHANTI PRAKASH

Through: Petitioner-in-person.

..... Petitioner

Versus

THE FIRST APPELLATE AUTHORITY & ANR Respondents

Through: Mr. Anil Kumar Sangal and Mr.
Siddharth Sangal, Advs. for R-
1&2/SBI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **14.09.2015**

CM No.19534/2015 (of petitioner for deletion of R-1 from the array of parties) in W.P.(C) No.5165/2015

1. The counsel for the respondents No.2&3 State Bank of India (SBI) has no objection.
2. Allowed.
3. The application is disposed of.

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W.P.(C) No.5165/2015

4. The petition impugns the order dated 6th January, 2015 of the respondent No.1 Central Information Commission (CIC) as well as order dated 14th March, 2014 of the respondent No.2 Appellate Authority of State Bank of India (SBI) with respect to the query dated 7th December, 2013 made by the petitioner under the Right to Information Act, 2005 (RTI Act). The petition also seeks a mandamus to the respondent No.3 Central Public Information Officer (CPIO) of the SBI to provide the complete and correct information to the petitioner in response to his RTI query dated 7th December, 2013.
5. Notice of the petition was issued. The counsels have been heard.
6. The petitioner, appearing in person, has at the outset contended that the order dated 6th January, 2015 of the CIC is liable to be set aside for the reason of being *ex-parte* qua the petitioner. It is contended that the petitioner was unable to appear before the CIC on the said date fixed for hearing and had requested for adjournment but instead of granting the adjournment, as the CIC was required to do under Rule 17 of the Central Information Commission Management Rules, 2007, the CIC dismissed the appeal.
7. It is not as if the CIC on 6th January, 2015 dismissed the second appeal preferred by the petitioner merely for the reason of the absence of the petitioner. The CIC has proceeded to decide the appeal on merits, though holding that there was no non-compliance by the respondent No.3 CPIO and the respondent No.2 Appellate Authority, of the respondent SBI, of the
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provisions of the RTI Act.

8. It has as such been enquired from the petitioner as to what he would have argued if present before the CIC on 6th January, 2015 and as to how his presence could have changed the order.

9. The petitioner has drawn attention to the two queries made by him to the CPIO of the respondent SBI as reproduced at page 3 of the paper book and has drawn attention to page 23 of the paper book being the reply of the CPIO of the respondent SBI thereto.

10. A perusal of the reply however shows the respondent No.3 CPIO to have replied to both the queries.

11. The petitioner then states that though the CPIO of the respondent SBI in response to Query No.1 enclosed the reply dated 13th September, 2013 given by the respondent SBI to the Chairman of the National Commission for Scheduled Castes but the said reply was to the letter dated 30th August, 2013 of the said Commission and not reply to the letter dated 11th July, 2013 of the Commission, which was sought in the RTI query.

12. The counsel for the respondent SBI has pointed out to para 4 of the said reply dated 13th September, 2013 which states that the same was in disposal of the letter dated 11th July, 2013 also of the Commission.

13. The petitioner has not contended anything further in this respect.

14. Similarly, qua the other query, it was the stand of the CPIO of the respondent SBI that the documents sought by the petitioner were not available on record. The petitioner has not been able to show anything from

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where it can be said that the said statement was incorrect.

15. In the circumstances, it cannot be said that the order of the CIC dismissing the second appeal preferred by the petitioner would have been different, if the petitioner had been given an opportunity to appear.

16. Even otherwise, once the RTI Act has created a mechanism of disposal of the query made, this Court cannot interfere with the said decision as an Appellate Court, unless valid reasons exist therefor.

17. No reasons are found to exist in the present case.

18. Dismissed.

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19. The challenge in this petition is to another order, also dated 6th January, 2015 of the respondent No.1 CIC and to the order dated 21st December, 2013 of the respondent No.2 Appellate Authority of the SBI with respect to the query dated 30th October, 2013 made by the petitioner to the respondent No.3 CPIO of the SBI under the RTI Act. The petitioner also seeks a mandamus to the respondent No.3 CPIO of SBI to provide complete and correct information in response to the said query dated 30th October, 2013.

20. The petitioner, for 6th January, 2015, had sought adjournment in this matter also but the CIC proceeded to decide the matter on merits.

21. The grievance of the petitioner is of the CIC having not adjudicated on the information sought by the petitioner as to the merit list of all the candidates who were interviewed for promotion to SMGS-IV for promotion year 2013-2014, showing their total marks.

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22. A perusal of the record shows that the CPIO and the First Appellate Authority of the respondent SBI declined to furnish the said information on the ground of the same pertaining to third party. CIC, vide impugned order dated 6th January, 2015 has directed the CPIO of SBI to furnish only the marks obtained by the petitioner and has not given any reason for upholding the orders of CPIO and First Appellate Authority of SBI of petitioner being not entitled to marks of other candidates who participated in the competitive interview.

23. The respondents No.2&3 have not filed any reply and the counsel appearing for the respondent SBI does not have instructions, whether there are any rules of the said promotion qua disclosure of the merit list. He however states that no merit list of candidates is declared. It is also the case of the counsel for the respondent SBI that the petitioner, who was one of the participating candidate, can at best be intimated the marks of the selected candidates and not the marks of all the others who were interviewed. It is stated that a large number of candidates were interviewed and disclosure of the marks secured by them would not serve any purpose of the petitioner.

24. It *prima facie* appears to me that once promotion is by holding interview and is competitive, there should be no objection to the publication of the merit list of the said competition. However, without examining whether any rules exist or not in this regard and without calling for a reply in this regard, I do not want to render any final conclusion thereon.

25. Rather than calling for the reply of the respondents, it is deemed appropriate to remit the Appeal No.CIC/MP/A/2014/000255 to the CIC for
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decision afresh after giving an opportunity of hearing to the parties.

26. Accordingly, as far as W.P.(C) No.7124/2015 is concerned, the order of the CIC impugned therein, is set aside and the matter is remanded to the CIC for decision afresh.

27. The parties to appear before the CIC on 8th October, 2015.

No costs.

Copy of this order be given *dasti*.

SEPTEMBER 14, 2015
bs..

RAJIV SAHAI ENDLAW, J.