

HIGH COURT OF TRIPURA
AGARTALA
IA No.1 of 2025 in WA No.42 of 2025
WA No.42 of 2025

Sri Sourav Chakraborty

S/o: Lt. Sri Sikes Chakraborty, of Ramnagar Road No.10, Agartala, West Tripura

---Applicant/Appellant(s)

Versus

1. The State of Tripura

Represented by the Secretary, Govt. of Tripura,
School Education Department, New Capital Complex,
Agartala, West Tripura.

2) The Director

Directorate of Secondary Education (School)
Government of Tripura, Agartala, West Tripura.

3) The Tripura Board of Secondary Education

Represented by the Secretary, Office of P.N. Complex,
Gurkhabasti, Agartala, West Tripura, PIN-799006.

4) The Secretary, State Public Information Officer

Tripura Board of Secondary Education,
Office of P.N. Complex, Gurkhabasti, Agartala,
West Tripura, PIN-799006

---Respondent(s)

For the Applicant(s) : Mr. Saugat Datta, Advocate

For the Respondent(s) : Mr. Karnajit De, Addl. GA

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA

ORDER

28.04.2025

The appeal suffers from a delay of 319 days for the condonation of which IA No.1 of 2025 has been preferred.

Mr. Saugat Datta appears as a legal aid counsel for the appellant.

The writ petition was preferred by the petitioner seeking copies of his answer sheet of Senior Secondary Exam conducted by the Tripura Board of Secondary Education (TBSE) for the session 2022. According to the petitioner, he ought not to have got 279 marks out of 500 in the exams as he had not

attempted 135 marks in the examination since he was not well during that exam.

He filed an RTI application on 22.01.2024 to obtain copies of the answer sheets, but he was only granted right to inspect the answer books. Being aggrieved, he approached the writ court. The learned writ court dismissed the writ petition on the ground of laches, as the petitioner had approached the writ court after 2(two) years and there was no infringement of any legal right. Being aggrieved, he has preferred the present appeal.

This issue has been dealt with in the case of **CBSE and Anr. vs. Aditya Bandopadhyay and Ors.** reported in **(2011) 8 SCC 497**. The following issues were framed for consideration in the appeal in the said case:

“The issues that arose in the present appeal were as follows:

(i) Whether an examinee's right to information under the RTI Act includes a right to inspect his evaluated answer books in a public examination or taking certified copies thereof?

(ii) Whether the decisions of in Maharashtra State Board of Secondary and Higher Secondary Education case, (1984) 4 SCC 27 and other cases referred to, in any way affect or interfere with the right of an examinee seeking inspection of his answer books or seeking certified copies thereof?

(iii) Whether an examining body holds the evaluated answer books "in a fiduciary relationship" and consequently has no obligation to give inspection of the evaluated answer books under Section 8(1)(e) of the RTI Act?

(iv) If the examinee is entitled to inspection of the evaluated answer books or seek certified copies thereof, whether such right is subject to any limitations, conditions or safeguards?”

The Apex Court while answering the question number (iv) at paragraph 52 to 55 held as under:

“Re: Question (iv)

52. When an examining body engages the services of an examiner to evaluate the answer books, the examining body expects the examiner not to disclose the information regarding evaluation to anyone other than the examining body. Similarly the examiner also expects that his name and particulars would not be disclosed to the candidates whose answer books are evaluated by him. In the event of such information being made known, a disgruntled examinee who is not satisfied with the evaluation of the answer books, may act to the prejudice of the examiner by attempting to endanger his physical safety. Further, any apprehension on the part of the examiner that there may be danger to his physical safety, if his identity becomes known to the examinees, may come in the way of effective discharge of his duties. The above applies not only to the examiner, but also to the scrutiniser, co-ordinator and head examiner who deal with the answer book.

53. The answer book usually contains not only the signature and code number of the examiner, but also the signatures and code number of the scrutiniser/co-ordinator/head examiner. The information as to the names or particulars of the examiners/co-ordinators/scrutinisers/head examiners are therefore exempted from disclosure under Section 8(1)(g) of the RTI Act, on the ground that if such information is disclosed, it may endanger their physical safety. Therefore, if the examinees are to be given access to evaluated answer books either by permitting inspection or by granting certified copies, such access will have to be given only to that part of the answer book which does not contain any information or signature of the examiners/co-ordinators/scrutinisers/head examiners, exempted from disclosure under Section 8(1)(g) of the RTI Act. Those portions of the answer books which contain information regarding the examiners/co-ordinators/scrutinisers/head examiners or which may disclose their identity with reference to signature or initials, shall have to be removed, covered, or otherwise severed from the non-exempted part of the answer books, under Section 10 of the RTI Act.

54. The right to access information does not extend beyond the period during which the examining body is expected to retain the answer books. In the case of CBSE, the answer books are required to be maintained for a period of three months and thereafter they are liable to be disposed of/destroyed. Some other examining bodies are required to keep the answer books for a period of six months. The fact that right to information is available in regard to answer books does not mean that answer books will have to be maintained for any longer period than required under the rules and regulations of the public authority. The obligation under the RTI Act is to make available or give access to existing information or information which is expected to be preserved or maintained.

55. If the rules and regulations governing the functioning of the respective public authority require preservation of the information for only a limited period, the applicant for information will be entitled to such information only if he seeks the information when it is available with the public authority. For example, with reference to answer books, if an examinee makes an application to CBSE for inspection or grant of certified copies beyond three months (or six months or such other period prescribed for preservation of the records in regard to other examining bodies) from the date of declaration of results, the application could be rejected on the ground that such information is not available. The power of the Information Commission under Section 19(8) of the RTI Act to require a public authority to take any such steps as may be necessary to secure compliance with the provision of the Act, does not include a power to direct the public authority to preserve the information, for any period larger than what is provided under the rules and regulations of the public authority.”

The Apex Court at Para 67 has also observed that indiscriminate and impractical demands or directions under RTI for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counterproductive

as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of getting collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens.

The Apex Court has recorded the conclusion in the following manner:

“Conclusion

68. In view of the foregoing, the order of the High Court directing the examining bodies to permit examinees to have inspection of their answer books is affirmed, subject to the clarifications regarding the scope of the RTI Act and the safeguards and conditions subject to which "information" should be furnished. The appeals are disposed of accordingly.”

In the present case, such information has been sought for after more than two years of the examination. Therefore, the learned writ court found it to be suffering from laches and refused to allow the prayer.

In the light of above discussion, we do not find any reason to interfere in the impugned Judgment. Accordingly, the appeal stands dismissed.

Pending application shall also stand disposed.

(S.D. PURKAYASTHA), J **(APARESH KUMAR SINGH), CJ**

Rohit

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