

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP(C) No. 3172/2025

Aamir Ali Sheikh

...Petitioner(s)/Appellant(s).

Through: Mr. Taha Khalil, Adv.

Vs.

**Union Territory of J&K Th.
Comm/Secty (GAD) and Ors.**

...Respondent(s).

Through: Mr. Shah Aamir, Adv. with
Ms Afreen, Adv. for Rs. 2 to 4.

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER

11.02.2026

1. Reply on behalf of the respondents 2 to 4 stands filed.
2. The case of the petitioner in nutshell is that he has applied for the post of Civil Judge (Junior Division) pursuant to Notification No. 07-PSC (D-RP) of 2025 dated 14.05.2025 under EWS category and appeared in the Preliminary Examination held on 28.09.2025. that in order to ascertain the transparency and fairness in the process of evaluation of the answer sheets, he sought limited information concerning his own OMR-based evaluation, including:

Number of questions attempted;

Correct and incorrect responses;

Marks obtained after negative marking;

Status of checking of his papers; and

Cut-off marks for EWS category.

That the Respondent No. 3 (Public Information Officer) disposed of the RTI application on 19-10-2025 by a cryptic, one-line reply stating that, “the selection process is not yet complete”. That his application was addressed in a totally arbitrary and illegal manner without passing any reasoned order and without invoking any permissible exemption. That he was constrained to prefer a statutory First Appeal under Section 19(1) of the RTI Act, to demonstrate that the denial of requisite information to him was arbitrary, violative of settled law and contrary to the judgment of the Hon’ble Supreme Court passed in *CBSE vs. Aditya Bandopadhyay & Ors.* (2011) 8 SCC 497, which recognized a candidate’s right to access his evaluated answer sheets under RTI. That surprisingly the First Appellate Authority failed to pass any order, thereby frustrating his statutory remedy. That denial of access to one’s own evaluation data strikes the very root of transparency, fairness and accountability in public recruitment. That he is a serious judicial services aspirant and had earlier also applied for Kashmir Civil Services (Judicial) Examination, 2023, in which he not only qualified the written stages, but was also called for and appeared in the interview, which reflects and

demonstrate his bona fides, merit and legitimate expectation of a fair and transparent evaluation process. That impugned action of the respondent commission is ex facie arbitrary, violative of Article 14, 19(1)a and 21 of the Constitution of India, besides being contrary to the scheme and object of the RTI Act, thus, warranting interference by this Court under Article 226 of the Constitution of India.

3. The respondents 2 to 4 through the medium of their preliminary objections have resisted the writ petition on the following grounds;

1. *“That the present writ petition is wholly misconceived, premature and not maintainable, as this Hon’ble Court lacks jurisdiction to entertain the same in view of the complete, efficacious and statutorily prescribed remedy available to the petitioner under the Right to Information Act, 2005.*
2. *That it is a settled principle of law that where a statute provides complete machinery for redressal of grievances, recourse to writ jurisdiction under Article 226 of the Constitution of India is impermissible, except in exceptional circumstances.*
3. *That the RTI Act, 2005 being a self-contained and exhaustive code, provides for a two-tier appellate mechanism under Section 19(1) and 19(3), which the petitioner is bound to exhaust before invoking the extraordinary jurisdiction of this Hon’ble Court.*
4. *That admittedly, the petitioner has already availed the remedy of First Appeal under Section 19(1) of the RTI Act and has a further efficacious remedy of Second Appeal under Section 19(3) before the competent Information Commission. Without exhausting the said statutory remedy of Second Appeal, the present writ petition is premature and not maintainable and is liable to be dismissed on this ground alone.*
5. *That the petitioner has wrongly invoked Articles 14, 19(1)(a) and 21 of the Constitution of India, though no fundamental right has been violated.*
6. *That it is submitted that mere delay or deferment of information under the RTI Act does not per se amount to violation of fundamental rights, particularly.*
7. *That in the absence of any pleading or proof of arbitrariness, discrimination or deprivation of life or personal liberty, the invocation of Articles 14 and 21 is wholly misconceived.*

8. *That the reliefs prayed for by the petitioner, namely, quashing of the RTI reply, direction to disclose information and direction to decide the First Appeal, fall squarely within the statutory jurisdiction of authorities constituted under the RTI Act, and not within the writ jurisdiction of this Hon'ble Court in the first instance. Where a statutory forum is created for redressal of grievances, a writ petition bypassing such forum is not maintainable.*
 9. *That the issuance of a writ of mandamus directing disclosure of information would amount to circumventing the statutory appellate hierarchy, which is impermissible in law.*
 10. *That during the pendency of the present writ petition, the petitioner has already been called upon by the respondents to appear before the First Appellate Authority on 30-12-2025 for disposal of the First Appeal. Once the competent statutory authority has seized of the matter and a date of hearing has been duly fixed, the statutory process stands set in motion and is actively underway. In such a situation, the grievance regarding non-disposal of the appeal ceases to exist, as the very object sought to be achieved through a writ of mandamus-namely, consideration and adjudication of the appeal-is already being fulfilled.*
 11. *That it is a settled principle of public law that a writ of mandamus lies only where there is a clear failure to perform a statutory duty. Once the appellate authority has fixed a hearing and assumed jurisdiction over the appeal, there can be no allegation of inaction, abdication of duty, or refusal to exercise jurisdiction.*
 12. *That the petitioner, having prayed for the writ of mandamus for disposal of the appeal thus become infructuous, academic, and devoid of any surviving cause of action, and therefore does not warrant consideration by this Hon'ble Court.*
 13. *That mere dis-satisfaction with the pace or outcome of the statutory process does not confer a right to invoke Article 226 of the Constitution of India.*
 14. *That the present writ petition, which seeks to bypass the statutory appellate mechanism under the RTI Act, is not maintainable and deserves dismissal in limine with costs”.*
4. Through the medium of the petition in hand, the petitioner has sought the issuance of writs in the nature of certiorari and mandamus for quashing the impugned reply dated 19.10.2025 issued by the Respondent No. 3 (Public Information Officer) under RTI Act, and for directing the respondents to provide complete information sought by the petitioner in his RTI Application No. JKPSC/R/2025/60558, including:

- i. Number of questions attempted;
- ii. Correct and incorrect responses;
- iii. Marks after negative marking;
- iv. Status of evaluation; and
- v. Cut-off marks for EWS category, after disposal of his First Appeal to that effect.

5. In the facts and circumstances of this case, especially having regard to the pleadings of the parties, this Court is of the opinion that it may meet the ends of justice, in case the instant petition is disposed of with the direction to the respondents especially the Respondent No. 4 to address the First Appeal of the petitioner already filed by him in terms of Provisions of Section 19(1) of the RTI Act, strictly in accordance with the law and in an expeditious manner within a period of one week.

6. It is accordingly directed.

7. *Disposed of.*

(MOHD YOUSUF WANI)
JUDGE

SRINAGAR
11.02.2026
"Sakeena-PS"