

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1793 of 2014

Ku. Bhumeshwari Patel D/o Shri Brijbhushan Patel Aged About 17 years (Minor) Through Natural Guardian her father Brijbhushan Patel S/o Mahesh Ram Patel , aged about 50 years, R/o Village Bhanwarpur Tahsil Basna Distt. Mahasamund C.G.

---- Petitioner

Versus

1. The Chhattisgarh Board Of Secondary Education Through its Secretary, Pension Bada, Raipur, Distt. Raipur C.G.
2. Principal Govt. Girls Higher Secondary School Bhanwarpur, Distt. Mahasamund C.G.

---- Respondents

For Petitioner	:	Shri Sanjay Patel, Advocate
For Respondent No.1/Board	:	Shri Manoj Paranjpe, Advocate
For Respondent No.2/State	:	Shri Manish Nigam, Panel Lawyer

Order On Board

12/08/2015

With the consent of learned counsel appearing for the parties, the matter is heard finally.

1. A short issue arises for consideration in this petition whether the petitioner is entitled to copies of her own answer sheets under the provisions of Right to Information Act, 2005 (for short "*RTI Act*").
2. Learned counsel for the petitioner submits that right of a candidate to get copy of his/her own answer sheet under the provisions of RTI Act is no longer *res integra*. This issue has been decided by this Court in the case of **Kewal Singh Gautam Vs. State of Chhattisgarh & Ors. (AIR 2011 Chh. 143)**. He submits that the provision contained in the Regulations of the Board are subsidiary delegated legislation and cannot override the provision of RTI Act under which the petitioner is entitled to copy of her own answer sheets from the Chhattisgarh Board of Secondary Education. He submits that under the RTI Act, there is no time limit prescribed within which application for supply of copy should be made.
3. Learned counsel appearing for respondent No.1-Board submits that the

authorities are bound by their Regulations. The Regulations do not permit grant of copy of answer sheet to the candidate where an application is moved after 15 days beyond the date of declaration of results.

4. The right to get information under the provisions of RTI Act stands on much high pedestal then the provisions contained in the Regulations framed by the Board of Secondary Education in exercise of powers conferred on it under the provisions of School Shiksha Adhiniyam, 1975. This Court in the case of **Kewal Singh Gautam**(supra), has held that a candidate is entitled to copy of his own answer sheet under the provisions of RTI Act.
5. The only operative reason for rejection of petitioner's application is that the application was made after 15 days. Except this, there is no other reason assigned either in the impugned order rejecting application or in the reply of the respondent-Board. Therefore, even though there exists remedy of appeal, I am inclined to interfere with the impugned order.
6. In the result, impugned order is declared illegal and is therefore set aside. The respondent-Board shall provide necessary information to the petitioner as prayed for, subject to petitioner's depositing necessary fee as required under the provisions of RTI Act and rules made thereunder.
7. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge