

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17428 of 2015

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1. Shashank Shekhar Son of Krishna Bihari Sahay Resident of Magistrate Colony,
Ashiyana Digha Road, P.S. Rajeev Nagar, District - Patna 800014, Bihar

.... Petitioner/s

Versus

1. Union Public Service Commission through the Chairman, Dholpur House,
Shahjahan Road New Delhi
2. The Chairman, Union Public Service Commission, Dholpur House, Shahjahan
Road New Delhi
3. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan
Road New Delhi
4. The Central Public Information officer, Union Public Service Commission,
Dholpur House, Shahjahan Road New Delhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Kaushik

For the Respondent/s : Mr. Kaushal Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 06-01-2016

Petitioner filed the present writ application when the respondent Union Public Service Commission (hereinafter referred to as 'UPSC') refused or failed to provide him the necessary information under the Right to Information Act. He was one of the candidates, who appeared in the Preliminary Examination held by UPSC and he wanted the details of his performance after he was not successful in the Preliminary Examination.

One of the clauses, which is held out against the petitioner or comes in the way of providing such input or information, is said to be clause 7 (iii) of the advertisement, which has been

annexed as Annexure- 1 to the writ application, which is reproduced herein below :

“7 (iii) Candidates are informed that as the Preliminary Examination is only a screening test, no marks sheets will be supplied to successful or unsuccessful candidates and no correspondence will be entertained by the Commission, in this regard.”

Learned counsel for the petitioner submits that such a clause quoted above is unsustainable as a concept and requires to be struck down keeping in view the obligation created upon all the organizations in this country to provide information under Right to Information Act, which is a Central legislation. UPSC cannot shirk his responsibility since it is not one of the organizations, which are exempted under the Right to Information Act in matter of providing information.

As a proposition of law, the Court does not disagree with the submission of the counsel for the petitioner. The obligation to provide information, which is supposed to be in public domain and conduct of examination for recruitment on a public post, does not come under any of the exemption clause of the Right to Information Act.

The question, however, is whether UPSC can be faulted for not providing information at every juncture or stage when such



information is demanded during the course of conduct of the examination held by them. UPSC now takes a clear and categorical stand that it is not that they do not want to provide information but they would like to do so only after the process of examination and selection is over. Many a reasons and apprehension have been expressed in this regard.

Those apprehensions or reasons cannot be said to be totally irrational nor can it be said that it is a ploy to defeat the right of the petitioner guaranteed under the Right to Information Act. However, there has to be a balancing between public interest and statutory provision. UPSC has categorically taken a stand that they will provide all the inputs or information which the petitioner is seeking after the examination is over. To that extent, therefore, clause 7 (iii) cannot be said to be violative in nature or in conflict with the provisions of the Right to Information Act in view of the stand categorically taken in the counter affidavit that it is not a case of refusal but a case of providing inputs or information after a time span.

In addition to that, the Court would also like to take note of the fact that similar matter is pending for consideration and adjudication before the Hon'ble Apex Court in which notices had already been issued way back on 5.11.2012. It is hoped and expected that the Hon'ble Apex Court will get an opportunity to decide the

matter which will have significance for the institution as well as all such candidates spread across the country.

This writ application, therefore, stands disposed of with an observation that the input, which the petitioner has sought through RTI, will be provided by UPSC no sooner the process of conduct of the examination in question is over as is their stand.

(Ajay Kumar Tripathi, J)

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