

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

WPA 535 of 2023

**Swagata Sengupta
-versus
The State of West Bengal & Ors.**

Mr. Gopal Sah
...for the Petitioner.

Mr. Subir Kumar Saha,
Mr. Momenur Rahman
...for the State.

Mr. Bikramaditya Ghosh
...for SSC.

Mr. Raja Saha,
Ms. Bedashruti Bose,
Mr. Subham Chanda
....for State Information Commission.

Supplementary affidavit filed in Court today be kept with the record.

The petitioner appeared in the 1st State Level Selection Test (Assistant Teacher), 2016. On 1st September, 2020, the petitioner made an application under the Right to Information Act, 2005 seeking the following information:-

1. The marks obtained by the petitioner in the written examination with photocopy of supporting documents.
2. Photocopy of the answer script.
3. What was the lowest marks under general category obtained by a candidate in the written examination who was called for the interview.

4. The lowest marks of the candidate in general category who was allowed to join for the said post.

Initially, the petitioner did not receive any information. As a consequence whereof, the petitioner made a first appeal under the provisions of Section 19(1) of the right to Information Act, 2005 (hereinafter referred to as the said Act). This was made on 25th April, 2022. No information was also given by the appellate authority. Being aggrieved by such action of the appellate authority, the petitioner preferred a writ petition, being WPA 2137 of 2022. The said writ petition was disposed of on 10th November, 2022 granting the petitioner liberty to seek appropriate remedy under the said Act.

Under Section 19(3) of 2005 Act, the petitioner has the right to make a second appeal. The petitioner made a second appeal on 14th November, 2022. As no information was available even after preferring the second appeal, the petitioner has filed this writ petition on 28th February, 2023.

During the pendency of the writ petition, a set of information was made available to the petitioner by the Assistant Secretary & SPIO, West Bengal Central School Service commission (WBCSSC) vide letter dated 28th March, 2023. A second set of information was made available on 10th April, 2023 by the said authority. The

two letters respectively dated 28th March, 2023 and 10th April, 2023 issued by the Assistant Secretary & SPIO, West Bengal Central School Service commission have been disclosed by the petitioner in the supplementary affidavit.

On a perusal of the information supplied on 28th March, 2023, it will appear that the petitioner in written examination had scored 39 marks as per OMR sheet and 31 marks as academic score, the aggregate whereof was 70 marks. The letter also provides the information that under general category the marks obtained by the last candidate called for personality test is 83 (OMR = 53 + Academic 30) while in general female category, marks obtained by the last empanelled is 88.67. The marks obtained by the said candidate as per OMR sheet is 53 while on academic score 30 and personality test score, being 5.67. In the same category, marks obtained by the last candidate from the waitlist is 88. The copy of the petitioner's OMR sheet, bearing serial no.2013901, was also enclosed with the letter. By the letter dated 10th April, 2023, copy of the petitioner's OMR sheet was again sent.

The petitioner says that from the OMR sheet, a copy whereof is annexed to the writ petition, only certain dots are reflected. The OMR sheet is analysed and only thereafter, the marks obtained by the petitioner can be ascertained. The analysis wherefrom it will appear that

the petitioner has received 39 marks was also required to be supplied as part of the documents sought for by the petitioner. The petitioner, therefor, seeks the OMR analysis sheet, if any, from the WBCSSC.

On behalf of the respondent nos.3 and 4, it is submitted that all information as sought for by the petitioner has been duly supplied, though belatedly. The petitioner, therefor, cannot have any grievance to maintain the writ petition.

On behalf of the respondent no.2, it is submitted that the appeal under Section 19(1) as also the appeal said to be made under the provisions of Section 19(3) of the 2005 Act were neither in form nor made within the statutory time period provided for preferring such appeal. The respondent no.2, therefor, had no obligation to entertain the appeal preferred by the petitioner.

Be that as it may, if the Court directs any further information to be supplied, the respondent no.2 is willing to consider the petitioner's second appeal and pass necessary directions.

After hearing the parties and considering the materials on record, I find that the information sought for has been given to the petitioner along with supporting documents. It is not known to this Court whether any separate OMR analysis sheet is available with WBCSSC to provide the same to the petitioner.

The learned advocate representing the respondent nos. 2, 3 and 4 are also unable to throw any light in this regard.

The learned advocate for the petitioner, however, submits that there has to be a OMR sheet analysis report otherwise the marks as per the OMR sheet cannot be computed and ascertained.

In the aforesaid facts and circumstances, without going into the form of the appeal or the time period available for filing the same, since the information has already been provided, the respondent no.3 shall, within 3 weeks from date, inform the petitioner as to whether any OMR sheet analysis report is available with WBCSSC and, if so, a copy of such analysis report shall be given to the petitioner so that the petitioner can know on what basis he has received 39 marks in the written examination.

With the directions aforesaid, WPA 535 of 2023 is disposed of.

Since no affidavits have been called for, allegations contained in the writ petition are deemed not to have been admitted.

All parties, including the respondent no.3, shall act on a server copy of this order duly downloaded from the official website of this Court without insisting upon production of certified copy thereof.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of usual formalities.

(Arindam Mukherjee, J.)