

AD-17
Ct No.09
11.03.2024
TN

WPA No. 28104 of 2023

Chaiti Datta
Vs.
The State of West Bengal and others

Ms. Rita Patra,
Ms. Pusmita Das

.... for the petitioner

Mr. Sirsanya Bandopadhyay

.... for the State

Mr. Raja Saha,
Mr. Sanjay Mukherjee

.... for the respondent nos. 2 & 5

Ms. Piyali Sengupta,
Mr. Victor Chatterjee

.... for the PSC

- 1.** The present challenge has been preferred against the order of all the three hierarchical authorities under the Right to Information Act, 2005 (for short “the 2005 Act”) to give certain portion only of the information sought by the petitioner.
- 2.** The petitioner sought for information regarding the Miscellaneous Service Recruitment Examination, 2008 as well as the interview-sheet and tabulation-sheet with regard thereto.
- 3.** The respondent-authorities have furnished the information pertaining to the petitioner personally with regard to the said examination but have withheld further information or copies of tabulation-sheet or

the interview-sheet on the ground of the bar of Section 11 of the 2005 Act.

- 4.** Learned counsel for the petitioner submits that such reliance is misplaced and relies on the provisions of Section 11 of the 2005 Act to bolster her argument.
- 5.** Learned counsel for the respondent no. 5 contends that the information sought by the petitioner is protected under Section 8(1)(j) as well as Section 11 of the 2005 Act. It is submitted that the said third party information regarding the other candidates is confidential and, as such, could not be granted to the petitioner in the absence of any disclosure of public interest or any public interest ingredient being there in such query.
- 6.** Learned counsel for the second appellate authority also submits that it would be an immense task to give notice to each of the candidates, even if the court is of the opinion that the SPIO ought to have given the information after ascertaining whether there was any objection on the part of the third parties.
- 7.** The issue involved in the present writ petition is whether the respondent-authorities could have withheld the tabulation-sheet and the interview-sheet for the Miscellaneous Service Recruitment Examination of the year 2008. It cannot be denied that the petitioner has only recently, in the year 2022, applied for the said information. However, since the

portion of the information pertaining to the petitioner herself has been already disclosed by the respondents, delay itself cannot be a relevant factor here.

- 8.** A scrutiny of Section 8(1)(j) indicates that the same carves out an exception to the obligation of the authorities to furnish information which relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual, unless the CPIO or the SPIO or the appellate authority, as the case may be, is satisfied that larger public interest justifies the disclosure of such information.
- 9.** Section 11 contemplates a somewhat similar scenario.
- 10.** As per sub-section (1) of Section 11, where a CPIO or SPIO intends to disclose any information or record or part thereof on a request made under the Act which relates to or has been supplied by a third party and has been treated as confidential by that third party, the CPIO or the SPIO shall, within five days of the request, give a written notice to such third party of the request and proceed in accordance with the section.
- 11.** The proviso to Section 11(1) stipulates that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party. Insofar

as Section 11 is concerned, for the said section to be attracted, the pre-condition is that the information, in the first place, relates to or has been supplied by a third party and *has been treated as confidential by that third party*.

- 12.** In the present case, both the interview-sheet and the tabulation-sheet and the information sought pertain to a public examination. There has to be transparency in public examinations and each and every candidate and the public at large are entitled to be in the know as to how the said examinations have been held.
- 13.** There is no question of any confidentiality involved, nor was the information treated to be confidential by the third parties, that is, the other candidates, as it could not be since the said documents and queries pertain to the larger process of a public examination.
- 14.** Insofar as Section 8(1)(j) is concerned, the information sought does not relate to any personal information at all. As such, the question of Section 8(1)(j) being attracted does not arise at all.
- 15.** Thus, the respondent-authorities are obligated under the provisions of the 2005 Act to furnish the documents sought by the petitioner in its entirety.
- 16.** Accordingly, WPA No. 28104 of 2023 is allowed on contest, thereby directing the respondent nos. 3 and 4 to immediately disclose the rest of the information than that supplied to the petitioner in terms of the

query of the petitioner, including copies of the interview-sheet as well as the tabulation-sheet duly signed by the members of the selection committee of the Miscellaneous Service Recruitment Examination, 2008 at the earliest.

- 17.** It is expected that such information and copies shall be handed over to the petitioner within four weeks from date.
- 18.** There will be no order as to costs.
- 19.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)