

OD 10

WPO/345/2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ANIRBAN TEWARI
VS
THE CHIEF INFORMATION COMMISSIONER,
STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 29th April, 2024.

Appearance:
Mr. Konak Kiran Bandhopadhyay, Adv.
Ms. Chandana Ghosh, Adv.
Ms. Dona Saha, Adv.
...for the petitioner

Mr. Raja Saha, Adv.
Mr. Sanjay Mukherji, Adv.
...for the respondent no.1

The Court: Affidavit of service filed today be kept on record.

The scope of the present writ petition is limited. The writ petitioner sought two pieces of information, out of which one has been granted to the petitioner. Having not been granted the other up to the second Appellate Authority, the petitioner has knocked the doors of this Court.

The information which has not been granted is the details of marks scored by another candidate than the petitioner who appeared in the interview for the post of 'Sahayak' in the MSP category vide a particular Notification dated December 8, 2016. The ground of rejection was that the same was exempted under Section 8(1)(e) of the Right to Information Act, 2005.

Learned counsel for the petitioner submits that the information is public information and cannot be withheld on the ground of fiduciary relationship.

Learned counsel for the Second Appellate Authority submits that the information was refused on the second limb of Section 8(1)(e) of the Right to Information Act, 2005 which provides that the competent authority, unless satisfied that the larger public interest warrants the disclosure of such information, shall not furnish such information.

A perusal of Section 8(1)(e) shows that the same provides an exemption from giving information where the information available to a person is in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information. The use of the expression “unless” links the first part of the said provision with the second.

For the competent authority to refuse on the ground of the information not being in larger public interest, the same has to be available to the authority in its fiduciary relationship in the first place. Unless there is a fiduciary relationship vis-à-vis the information, the question of the authority’s satisfaction on larger public interest does not arise at all.

In the present case, the marks and details regarding the same of all the candidates in a public examination is public knowledge and there is no reason why the same should come within the purview of any ‘fiduciary’ relationship between the authority holding the examination and the candidate. As such, the very premise of the refusal in the impugned order of the Second Appellate Authority was bad in law.

Accordingly, WPO/345/2024 is allowed on contest, thereby setting aside the order dated March 1, 2024 passed in Appeal No.100133(A) of 2024 under the

Right to Information Act, 2005 and directing the respondent no.2, that is, the SPIO to furnish the information in terms of the second query of the petitioner, that is, detail of marks scored by the candidate in question who appeared in the interview for the post of 'Sahayak' in the MSP category vide Notification No.DLSC/GP/PS/Malda/02/1372/P dated December 8, 2016 within four weeks from the date of communication of this order to the SPIO.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)