

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Prasenjit Biswas

**M.A.T. 1029 of 2024
with
CAN 2 of 2024**

**State Public Information Officer, Kolkata Police Head Quarters
vs.
Avijit Gope**

For the Appellant : Mr. Sirsanya Bandopadhyay,
Ld. Senior Standing Counsel
Mr. Debangshu Dinda, Advocate

Respondent (in person) : Mr. Avijit Gope

Hearing & Judgment on : July 29, 2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the State Public Information Officer and directed against an order dated July 13, 2023 passed in WPA 14742 of 2023.
2. By the impugned order, learned Single Judge directed the appellant to furnish the information in terms of the query of the writ petitioner/private respondent.
3. Learned Advocate appearing for the appellant submits that, the private respondent made a request for information under the Right to Information Act, 2005 on September 22, 2022 in relation to a selection

process undertaken by the police, through Kolkata Police Recruitment Board for the year 2009. He submits that, after a period of about 13 years, such informations were sought for.

4. Learned Advocate appearing for the appellant draws the attention of the Court to the fact that, whatever little information was available with the authorities, was provided. In this regard, attention of the Court was drawn to a letter dated September 20, 2022 by which, it was stated that, answers to all the questions excepting the question no.8 could not be provided.
5. Learned Advocate appearing for the appellant draws the attention of the Court to a notice dated May 27, 2021 and submits that, the Recruitment Board stood dissolved on May 27, 2021. He also draws the attention of the Court to the provisions of the Right to Information Act, 2005 and submits that, the authorities decided to maintain documents for a period of one year in the year 2016. In the present case, the private respondent/writ petitioner did not seek informations within one year from 2016 and, therefore, no records are available.
6. In support of the contention that, provisions of the Right to Information Act, 2005 should not be misused, learned Advocate appearing for the appellant relies upon **(2011) 8 Supreme Court Cases 781 (Institute of Chartered Accountants of India vs. Shaunak H. Satya and Others)** and **(2011) 8 Supreme Court Cases 497 (Central Board of Secondary Education and Another vs. Aditya Bandopadhyay and Others)**.
7. Writ petitioner/private respondent appears in person. He submits that, no objection as to providing the informations sought for was

raised before the learned Single Judge. Therefore, learned Single Judge directed the information sought for by him to be given. He submits that, since the appellant did not raise any objection before the learned Single Judge, the appeal is not maintainable. He points out that, in a contempt petition filed, contempt Rule was issued. Thereafter, the instant appeal was preferred. According to him, the appeal is not maintainable.

8. Respondent apparently, participated in selection process undertaken by the Kolkata Police Recruitment Board in 2009. By a letter received by the authorities on September 22, 2022, respondent sought various information with regard to such selection process.
9. There is internal writing in the Kolkata Police on September 20, 2022 which states that, office maintained vacancy position periodical monthwise yearwise etc. This apparently in relation to query no.8 raised by the respondent in the writing which was received on September 22, 2022.
10. By a notification dated May 27, 2021, State decided to dissolve Kolkata Police Recruitment Board with immediate effect.
11. There is a writing dated September 16, 2022 by which, it is stated that, the examination for recruitment in the year 2009 and 2012 conducted by Kolkata Police Recruitment Board stood dissolved and therefore, no record regarding the examination held in 2009 and 2012 are available at the moment.
12. Coordinate Bench, considered the issue as to whether, the queries raised by the respondent falls within the purview of the Act of 2005 or not.

13. Section 2(f) defines information within the Act of 2005. It specifies that such information within the meaning of the Act of 2005 are such that can be accessed by a public authority under any law for the time being in force.
14. Section 2(j) defines “right to information” as accessible under the Act of 2005. It specifies that, such information within the meaning of the Act of 2005 and which is held or under the control of any public authority.
15. Relevant provisions of the Act of 2005 are as follows:-

“8. Exemption from disclosure of information.-

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.”

16. Section 8(1)(a) (c) and (i) relates to information which we are not concerned in the facts and circumstances of the present case. Consequently, requirement of preservation of such information under sub-section 3 of Section 8 of the Act of 2005 does not arise.
17. In **Aditya Bandopadhyay and Others (supra)**, while considering the provisions of the Act of 2005, Supreme Court held that, Act of 2005 provides access to all information that is available and existing.
18. In **Shaunak H. Satya and Others (supra)** Supreme Court is of the following view:-

“39. We however agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Sections 4(1)(b) and (c) and other information which may not have bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public

authorities and the Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources.”

19. In the facts and circumstances of the present case, respondent participated in a selection process undertaken by the Kolkata Police Recruitment Board in 2009. He sought such information in 2022. Prior to the respondent seeking such information, Kolkata Police Recruitment Board was dissolved in May 2021. Records with regard thereto were decided to be destroyed within one year from the date of dissolution of such Board. Therefore, when, the respondent applied for information under Act of 2002 the same cannot be held to be available with the respondent authorities within the meaning of the Act of 2005.
20. Respondent approached the State Information Officer for information. Respondent not being provided with such information, approached the Information Commission without preferring the first appeal. Respondent thereafter, approached the High Court in which the impugned order was passed.
21. By the impugned order, learned Single Judge directed the appellant to provide the information as sought for by the letter dated September 22, 2022 of the respondent.
22. There are substances in the contention of the appellant that, the records are no longer available for the appellant to provide information directed by the impugned order. The appellant waited for about 13 years to seek the information. Prior to the respondent seeking such information, Kolkata Police Recruitment Board stood dissolved. It was also decided that, the records relating to the recruitment process of

2009 and 2012 undertaken by the Kolkata Police Recruitment Board would be destroyed. The time period for retention was for a period of one year. Such power of retention expired prior to the respondent applied for information under the Act of 2005.

23. In such circumstances, the impugned order is set aside.
24. **MAT 1029 of 2024** alongwith connected applications are disposed of without any order as to costs.
25. Our attention is drawn to an order dated January 17, 2025 passed in W.P.A. 30910 of 2024 by the learned Single Judge directing the writ petition to appear alongwith MAT 1029 of 2024.
26. In view of the fact that, our determination is limited to hearing of appeals and does not relate to hearing of writ petition, we direct that W.P.A. 30910 of 2024 be listed before the appropriate Court.

(Debangsu Basak, J.)

27. I agree.

(Prasenjit Biswas, J.)