

**IN THE CIRCUIT BENCH CALCUTTA HIGH COURT
AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 1371 of 2025

Mostafa Jahangir Alam.

Vs.

The State of West Bengal & Ors.

For the petitioners : Mr. Sayan Banerjee, Adv.
Ms. Rishita Chakraborty, Adv.
Mr. Bibhash Kr. Nandi, Adv.

For the State respondent : Mr. Subir Kr. Saha, Adv.
Mr. Bikash Singha, Adv.

For the State Information
Commission : Mr. Raja Saha, Adv.
Ms. Bedashruti Bose, Adv.
Mr. Subham Chanda, Adv.

Heard On : 09.07.2025

Order On : 09.07.2025

Om Narayan Rai, J.

1. The writ petitioner is aggrieved by an order dated June 10, 2025 passed by the State Chief Information Commissioner on the petitioner's second appeal under the Right to Information Act, 2005.

2. Following an advertisement vide Employment Notification dated December 5, 2013, inviting applications for appointment to various posts including the post of Executive Assistant in the office of the District Magistrate, Cooch Behar, the petitioner applied for being appointed to the post.

3. The petitioner participated in the examination conducted for such purpose and successfully qualified in the written examination, whereafter, the petitioner appeared for interview.

4. Merit list of selected candidates was published on the relevant website. The petitioner found his name appearing in the waiting list under the Category-OBC(A). The merit list published did not disclose the marks obtained by the candidates whose names had been published therein.

5. The petitioner therefore submitted an application under the Right to Information Act, 2005 seeking information regarding the qualification and the marks obtained by the selected candidates in both written as well as viva voce examination. The State Public Information Officer did not provide such information. The petitioner therefore preferred an appeal before the appellate authority. The appellate authority also did not provide the information sought.

6. Feeling aggrieved, the petitioner approached the Information Commission by way of a second appeal. The second appeal of the petitioner was disposed of by the order dated June 10, 2025 holding as follows:-

“6. It is seen that the appellant wrote Gram Panchayat Executive Assistant Recruitment Examination, 2017 but did not qualify. His name is listed in the Waiting List at number one in OBC (A) category. The appellant wants to know qualification and academic score of selected candidates. The Commission observed that the appellant is

entitled to know the list of selected candidates which he already knows. The rest of the information sought by him is personal information which is exempted u/s 8 (1) (j) RTI Act. The case is closed.”

7. Feeling aggrieved by the said order, the petitioner has approached this Court by way of the instant writ petition.

8. Mr. Banerjee, learned Advocate appearing for the petitioner has submitted that since the examination wherein the petitioner has participated is a public examination, therefore, the petitioner is entitled to know the marks of the candidates whose names appeared in the merit list as selected candidates.

9. In support of his submissions, he relies on the following judgments;

i. *Central Board of Secondary Education and Anr. Vs. Aditya Bandopadhyay & Ors.* reported at (2011) 8 SCC 497

ii. *K. Jain Vs. Union of India & Anr.* reported at (2013) 14 SCC 794

iii. *State of Maharashtra v. Jalgaon Municipal Council*, (2003) 9 SCC 731 para- 37.

10. It has been submitted by Mr. Banerjee relying on the aforesaid judgments for the purpose of transparency and good governance, it was necessary for the information authorities to provide the information sought for by the petitioner.

11. Mr. Saha, learned Advocate appearing for the respondent no. 6 i.e. the West Bengal Information Commission has submitted that larger public interest is not involved in the matter inasmuch as only one candidate has sought for information of others.

12. He has relied on a judgment of the Hon'ble Supreme Court in the case of *Central Public Information Officer, Supreme Court of India v. Subhash Chandra*

Agarwal, reported at (2020) 5 SCC 481 and submitted that only in cases of larger public interest personal information relating to others can be supplied.

13. Learned Advocate appearing for the respondent State authorities has handed up to Court the instructions forwarded to him by the District Panchayat Rural Development Officer, Cooch Behar which only indicates the facts of the case.

14. Having heard the learned Advocates appearing for the respective parties and having considered the material on record, this Court is of the view that the information regarding the academic qualification and the marks obtained by the selected candidates in the written examination and the *viva voce* for the post of Executive Assistant ought to have been supplied to the writ petitioner.

15. While the provisions of Section 8 (1) (j) of the Right to Information Act, 2005 exempt personal information of a third party from being disclosed by the information authorities to an applicant, such exemption is not absolute and is overridden by matters pertaining to public interest. The said provision itself makes room for the same by mentioning that information can be provided if the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

16. In the facts of the case, the examination wherein the petitioner has participated is one for recruitment to various posts at Gram Panchayat and Panchayat Samiti in Cooch Behar district. One of such posts advertised was the post of Executive Assistant for which the petitioner has applied and has participated. The eligibility criteria of the persons who aspire to participate in

such examination has been prescribed in the relevant notification that was advertised for inviting applications. In such view of the matter, every person aspiring for a given post would be a competitor of every other persons applying for the same post. If a person who has applied for a post is disqualified or does not emerge successful in the examination while the other co-applicant/co-aspirant does, the unsuccessful person would always like and would have right to know as to whether he has been surpassed by the successful candidates in a fairly or not. The only way to know this would be to have knowledge of the marks obtained by such persons and to have knowledge of the qualification that such person has so as to ascertain whether the eligibility criteria was fulfilled by him or not. Provision for such information in public competitive examination ensures transparency and indeed serves larger public interest.

17. Very recently, the Division Bench of Bombay High Court had an occasion to consider a similar matter. The Bombay High Court has by an order dated November 11, 2024 passed in the case *Shri Onkar Datttray Kalmankar Vs. Public Information Officer (Writ Petition No. 9648 of 2021)* directed the information authorities to provide the marks of the competing candidates to the applicant therein in terms of the information sought for. The said judgment was challenged before the Hon'ble Supreme Court by way of a special leave petition being Special Leave Petition (C) No. 2783/2025. Such challenge was repealed by the Hon'ble Supreme Court by an order dated February 7, 2025 in the following words:-

“We see absolutely no reason to interfere with the impugned order passed by the High Court of Bombay, which has correctly interpreted the provisions of Section 8(1) (j) of the Right to Information Act 2005 (for short ‘the RTI Act, 2005’). The issue relates to disclosure of marks of other candidate in an examination. We are

also of the view that the disclosure of the marks though may fall in the category of personal information, yet the disclosure of this personal information is presently necessary in public interest, and therefore, it is not an information which cannot be given by the Information Officer under the RTI Act, 2005. To the contrary, such an information must be disclosed in order to maintain transparency in the process.”

18. The issue therefore is no longer res integra. In such view of the matter, the writ petition being WPA No. 1371 of 2025 is disposed of by directing the respondent no. 4 i.e. the Deputy District Panchayat and Rural Development Officer, Cooch Behar being the S.P.I.O to disclose to the petitioner the academic qualification as well as the marks obtained by the selected candidates in the written examination and in the viva voce for the post of Executive Assistant within a period of four weeks from the date of petitioner putting in the requisite fees for obtaining such information under the Right to Information Act, 2005.

19. Urgent certified photo copy of this order, if applied for, be supplied as expeditiously as possible.

[Om Narayan Rai, J.]