

CENTRAL INFORMATION COMMISSION

Room No. 415, 4th Floor,
Block IV, Old JNU Campus,
New Delhi – 110067
Tel: +91 11 26161796

Decision No. CIC /SG/A/2008/00248/ 1596

Appeal No. CIC/SG/A/2008/00248/

Relevant Facts emerging from the Appeal

Appellant : Mr. Neeraj Kumar
House No. 845, Sraswatipuram,
JNU, New Delhi-67

Respondent : Mr. Jit Singh
Public Information Officer
DR(SC/ST Cell)
JNU,
New Delhi-67

RTI application filed on : 12/08/2008
PIO replied : No Reply
First appeal filed on : 16/09/2008
First Appellate Authority order : 10/10/2008
Second Appeal filed on : 21/10/2008

The information Sought:

1. Ms. Abha Yadav was appointed as a Assistant Registrar against the advertised positions in the Advertisement No. Admn. I/1/2005 under the OBC category. Provide me the certified copy of her Educational Qualification and caste certificate.
2. Provide me the certified copy of the recommendation of the selection committee.
3. Whether she belonged to the creamy layer of OBC category at the time of application, if no, then provide me a certified copy of the enquiry report by which it was found that she does not belong to the creamy layer of the OBC category.
4. Provide me the information about her father's designation, promotions with scale of pay for the last 10 years and his net family income in the year 2005 and 2006.
5. Provide me the certified copy of the rules and regulations under which a person can be appointed to the public office who has pursued the two qualifying degrees courses simultaneously from same university or from different Universities from Jamia Millia Islamia, New Delhi in the year 2001-2003 and LLB Centre –II, Faculty of Law, Delhi University, Delhi in the year 2002-2005.
6. Mr. J.P.S. Dhaka was appointed as a Deputy Registrar against the advertised positions in the Advertisement under the OBC category. Provide me the certified copy of his caste certificate.
7. Provide me the certified copy of the recommendation of the selection committee.
8. To the best of my Knowledge the information sought does not fall with in the restrictions contained in Section 8 & 9 of the Act and it pertains to your office.

POI Reply:

Since No Reply was received from the PIO the appellant filed a First Appeal on 16/09/2008.

The First Appellate Authority Ordered:

'Relying on the decisions of the Central Information Commission and also taking in view the submission of the third party the certificates/ caste certificates cannot be disclosed under section 8(1)(j) of the RTI Act.'

Relevant facts emerging during hearing on 3 February 2009.:

The following were present.

Appellant: Mr. Neeraj Kumar

Respondent: Mr. Jit Singh PIO Prof. Jain first appellate authority
And Mr. Sebastian deemed PIO

Third party: Ms. Abha Yadav

Some of the information was supplied after the First appeal but copies of educational qualification and caste certificates were not given, since the First appellate authority had ruled that these were exempt. Ms. Abha Yadav as third party had objected claiming that giving these would be an invasion on her privacy.

The PIO had asked the third party Ms. Abha Yadav whether she had any objection to the information relating to her being disclosed. Ms. Abha Yadav claimed that the information should not be given since it is exempt under Section 8 (1) (j). Ms. Abha Yadav quoted two decisions of the Commission – decision number CIC/MA/A/2008/1067 of 4/9/2008 and CIC/OK/A/2007/00770 of 21/9/2007 in support of her contentions.

The appellant relies on a CIC decision CIC/WB/A/2007/0178 of 23/2/2007 to contend that the information must be given. The appellant had contended in his appeal, " The third party viz. Ms. Abha Yadav, Asst. Registrar (Legal cell)/JNU is holding a public office, getting salary from the public exchequer and discharging public functions in a public institution, therefore whatever documents she has submitted in pursuance of her appointment to public office in a public institution falls in public domain."

The order is reserved

Decision delivered on 10 February 2009:**Decisions cited by the Third party Ms. Abha Yadav:**

1. Decision No. 1258/IC (A)/2007, F. No. CIC/OK/A/2007/00770 dated 21st September, 2007;
"The copies of certificates submitted by the candidates however denied by the CPIO on the ground of personal information of third parties. The marks obtained by him have been revealed to him. As regards disclosure of the copies of certificates submitted by the selection candidates, the denial of information, u/s 8(1) (j) of the Act, is justified on the ground that the information asked for is not an outcome of any public activity of the respondent."
2. Decision No. 3231/IC(A)/2008, F. No. CIC/MA/A/2007/01067 dated 4th September, 2008;
"The appellant had asked for copies of certificates submitted by a retired employee of the respondent and other related information. The CPIO has furnished partial information . while the remaining information has been denied u/s 8(1) (j) of the Act....."

The information asked for has no relationship with any public activity of the respondents. Moreover, it pertains to personal information of a retired employee. The denial of information u/s 8(1) (j) of the Act is therefore justified.”

Decision cited by the Appellant

The appellant Mr. Neeraj Kumar has relied on the decision in CIC/WB/A/2007/00178 dated 23rd Feb. 2007. In this case the appellant had been denied following information about the selected candidates:

1. The educational, technical qualification and experience certificate of selection candidates.
2. File noting.
3. The Educational, Technical Qualification and experience certificate of selected candidates Ms. Rekha Barasha (SC).

In this case the Commission had ruled, “In the present case information sought is clearly information on a public activity which is selection for the post of HRM on 13th & 14th Sep. 2006. Recourse, therefore, cannot be taken to sec. 8(1) (j) in providing information. Shri R.R. Kakde, CPIO is therefore, directed to supply point wise information to each question sought by appellant.

While deciding this case, the Commission agrees with the contention of the appellant that when a person “is holding a public office, getting salary from the public exchequer and discharging public functions in a public institution, therefore whatever documents she has submitted in pursuance of her appointment to public office in a public institution falls in public domain.” The act of applying for a job or a selection process is not a private activity but is clearly a Public activity, and disclosure of the documents and papers submitted to obtain the job cannot be held to be an invasion on privacy. This has also been held by the Commission earlier in decision CIC/WB/A/2007/00178, and the Commission agrees with the same. The Commission respectfully disagrees with the decisions relied on by the third party.

The Appeal is allowed.

The PIO will provide the copies of educational qualification and caste certificates to the appellant before 28 February 2009.

Notice of this decision be given free of cost to the parties

Shailesh Gandhi
Information Commissioner
10 February 2009

(For any further correspondence, please mention the decision number for a quick disposal)

(SP)