

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No.1814 of 2006 (M/S)

Uttaranchal Public Service Commission

... Petitioner

Vs.

Chief Information Commissioner & Ors.

...Respondents

Hon'ble B.S.Verma, J. (Oral)

Mr. B.D. Kandpal, learned counsel for the petitioner.
None present for the respondents.

By means of this writ petition, the petitioner has sought following relief:-

- i) Issue a writ, order or direction in the nature of certiorari quashing the order dated 22.11.2006 (Annexure-1) passed by respondent no.1.
- ii) Issue a writ, order or directions in the nature of mandamus directing the respondent not to compel the petitioner to give the information which has been exempted under Section 8(1)(d) and 8(1)(j) of Right to Information Act, 2005.
- iii) Issue any suitable writ, order or direction which this Hon'ble Court may deem just and proper in the circumstances of the case.
- iv) Award the cost of the writ petition to the petitioner.

Brief facts of the case are that Sri Mohd. Jakir (*the respondent no.2 herein*) moved an application dated

23.8.2006 under the Right to Information Act, 2005 (**for short, RTI Act**) before the Public Information Officer, Uttaranchal Public Service Commission, Haridwar and sought following information:-

- i) To provide the criteria applied in the selection procedure of the candidates to the post of Lecturer Biology in Inter College.
- ii) How many candidates appeared in the written examination for the post of lecturer Biology in Intermediate College and how many candidates were selected and how many candidates have appeared for interview before the Interview Board.
- iii) To provide the details of the marks obtained by the selected candidates in the written test along with their marks in the interview and the details of their experience, educational qualification etc. with their preference/ marks obtained by them.
- iv) To give the details of the marks obtained by Mohd. Asif Tyagi (129639) in written test, interview, educational qualification and experience etc. for the post of Lecturer Biology.

Vide letter dated 20.9.2006, information regarding point nos.1 and 2 were given to the respondent no.2 by the Secretary, Public Service Commission who was the then Public Information Officer. However, information with regards to point nos.3 and 4, were rejected on the ground that the said information cannot be provided in view of provisions of section 8(1)(d) and 8(1)(j) of the RTI

Act. Being dissatisfied, the respondent no.2 filed an appeal before the Appellate Authority/Chairman, Uttaranchal Public Service Commission, Haridwar which was also dismissed vide order dated 13.10.2006. Further aggrieved, the respondent no.2 preferred second appeal before the Chief Information Commissioner. Vide order dated 22.11.2006, appeal was allowed. Hence, this writ petition has been filed by the petitioner before this Court.

The information sought by the respondent no.2 was on four points. The controversy in the present case is only regarding point nos.3 and 4.

So far as the information on point no.3 is concerned, it is stated in para-10 of the writ petition that the respondent no.2 has sought information with respect to one candidate Mohd. Asif Tyagi under the RTI Act. It is further stated in the writ petition that Respondent no.2 was neither the candidate in the screening examination nor in the interview. Further, as per provision of Section 8(1)(j) of the Act, the information sought by respondent no.2 with respect to Mohd. Asif Tyagi, comes under the definition of third party as per the provisions of RTI Act and the provision of Section 8(1)(d) clearly provides that the disclosure of such information would harm the competitive position of third party and the same has been exempted from disclosure under RTI Act.

I have heard the learned counsel for the petitioner and perused the record.

By a perusal of the information sought by respondent no.2, it reveals that the information sought is of a general nature and the marks obtained in a competitive examination cannot be held to be an intellectual property of an individual. The petitioner cannot deny the information as to how many marks has been obtained by Asif Tyagi and other selected candidates and their educational qualification and experience. In my opinion, this information is not covered under section 8(1)(j) of the Act and the learned Chief Information Commissioner has rightly directed the petitioner to give information on point nos.3 and 4.

For the reasons recorded above, the writ petition is devoid of merit and is liable to be dismissed. The writ petition is dismissed accordingly.

(B.S.Verma,J.)
23.04.2013