

(2010) 05 JH CK 0007

Jharkhand High Court

Case No: None

Jharkhand Public Service
Commission

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: May 19, 2010

Acts Referred:

- Right to Information Act, 2005 - Section 8(1)(G)

Citation: AIR 2011 Jhar 7 : (2011) 2 RCR(Civil) 455 : (2011) 2 RCR(Civil) 455

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Judgement

D.G.R. Patnaik, J.

It appears that despite service of notice, Respondent No. 3 has not appeared at all and neither has the Respondent-State Information Commission appeared. Rather, from the letter which has been received from the office of the Information Commission, it is declared that the State Information Commission is not interested to defend the impugned order which it had passed.

2. Counsel for the Respondent-State, however, is present offering assistance, for deciding the issues raised by the petitioner in this writ application.

3. Heard Counsel for the petitioner and Counsel for the State.

4. The petitioner in this writ application has challenged the impugned orders contained in Annexures-6, 6/1 and 6/2 dated 22.08.2007, 18.09.2007 and 10.10.2007 respectively passed by the Chief Information Commissioner in Appeal No. 498 of 2007, whereby a direction has been given to the petitioner to furnish the various informations sought for by the Respondent No. 3, vide Item Nos. 4 and 5 of the application filed by him.

5. Counsel for the petitioner submits that the impugned order of the Information Commission is bad in law and is violative of the provisions of Section 8(1)(G) of the Right to Information Act. Learned Counsel explains that vide Item Nos. 4 and 5, the Respondent No. 3 had sought information regarding the names of the candidates who were selected for the post of Lecturers and Professors, in response to the Advertisement No. 9/2006 dated 26.05.2007 and had also sought information regarding the names of the members of the Interview Board.

6. Learned Counsel submits that the information sought for by the Respondent No. 3 cannot possibly be given. Learned Counsel explains that though the process for selection of the candidates who had applied against the advertisement No. 9/2006 was initiated, but by a subsequent notification on 26.05.2007, the entire selection process which was initiated in respect of the earlier advertisement, was cancelled. As such, no such selection of any candidate was finally made and, therefore, the question of furnishing the names of the selected candidates did not arise.

As per the information sought for regarding the names of the members of the Interview Board, constitutes confidential information and the disclosure of such confidential information have been exempted under the provisions of Section 8(1)(G) of the Right to Information Act.

Referring to the order passed by the Chief Information Commissioner in Appeal No. 875 of 2008 in the case of Meera Sinha and Ors. v. Public Information Officer, Learned Counsel submits that the names of the members of the Interview Board, cannot be allowed to be disclosed.

7. Counsel for the Respondent-State would argue on the other hand that the directions to furnish the names of the members of the Interview Board cannot possibly be assailed in view of the fact that the constitution of the members depends upon various criteria including their educational qualification, the expertise which they have acquired in the relevant field for which they are supposed to conduct interviews of the candidates and these informations cannot be claimed to be confidential information.

8. Counsel for the petitioner on the other hand would submit that the members of the Interview Board, as pointed out in the case under reference, are those, who were appointed by the Medical Council of India and the confidentiality regarding the names is needed to be maintained in order to prevent the external sources to influence the members.

9. From the rival submissions, the facts which emerge are firstly, that the selection process for which the advertisement was issued earlier in respect of which the informations have been sought by the Respondent No. 3, has been cancelled by the petitioner-J.P.S.C. As such, the informations sought for by the Respondent No. 3 are of no relevance and uncalled for.

As regards the information regarding the names and identities of the members of the Interview Board, the same cannot possibly be furnished in view of the fact that confidentiality regarding the names and identities of the members of the Interview Board needs to be preserved.

In the case of *Rakesh Kumar Singh and Ors. v. Harish Chandra, Assistant Director, Lok Seva Secretariate*, vide Appeal No. CIC/WP/A/06/00469, the Central Information Commission, while considering the grievance of the complainant therein regarding furnishing of the information relating to evaluated answer sheets, has held as follows:

...The identity of the examiner, supervisor or any other person associated with the process of examination, the concerned authorities should ensure that the name and identity of the examiner, supervisor or any other person associated with the process of examination is in no way disclosed so as to endanger the life and physical safety of such person. If it is not possible to do so in such case, the authority concerned may decline to disclosure of the evaluated answer sheets (Annexure- A/1/G)

10. Considering the facts and circumstances of the case and also in the light of the discussions made above, the claim of the petitioner that the information sought for in respect of the names of the members of the Interview Board cannot furnished since it would violate the confidentiality, appears to be a reasonable objection. The refusal to disclose the information related to Item Nos. 4 and 5 raised by Respondent No. 3, on the ground that such informations are redundant in view of the cancellation of entire selection process earlier advertised for, is also reasonable and legitimate.

11. From the impugned orders, I find that the Information Commission has not considered the above objections of the petitioner in proper perspective and has not applied its judicial mind to the issues involved.

12. In the aforesaid circumstances, the impugned orders passed by the State Information Commission, are hereby quashed.