

(2013) 02 JH CK 0115
Jharkhand High Court
Case No: WP (C) No. 1923 of 2008

Jharkhand Public
Service Commission

APPELLANT

Vs

The State of
Jharkhand and Others

RESPONDENT

Date of Decision: Feb. 1, 2013

Acts Referred:

- Right to Information Act, 2005 - Section 6, 8(i)(d), 9

Citation: (2013) 2 JLJR 290

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: Sanjoy Piprawall, Mahadeo Thakur and Amitabh, for the Appellant; Yogendra Prasad for the Respondent No. 1, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Aparesh Kumar Singh, J.

Heard learned counsel for the petitioner as well as State. Although, private respondent has appeared through his counsel, on notice, by filing vakalatnama, but no one appears on his behalf to contest his case.

2. The petitioner is aggrieved by order dated 31.3.2008 passed in Appeal No. 799 of 2007 by learned Chief Information Commissioner, Jharkhand State Information Commission, Ranchi, Annexure-9, whereby it has directed the petitioner-JPSC to furnish question-wise answer to the respondent no. 3 failing which the Public Information Officer shall be held guilty under the R.T.I. Act.

3. The impugned order has been assailed on the sole, ground that the commission has travelled beyond the scope of the query made in the application, vide

Annexure-1, by information seeker respondent no. 3. The said information sought for at (ka) of the application dated 7.6.2007, related to furnishing of correct answer of the written examination of Mechanical Engineering paper for the relevant examination held in Advertisement No. 3/2003-04. The petitioner-JPSC provided the said information by making statement vide Annexure-6 that the correct answer of the said paper has been published on the website of the Commission thereafter, the respondent no. 3 made a further request to provide questions in respect of which answers were furnished earlier on his request. The same were replied by Annexure-8 in the appeal before the State Information Commission being Appeal No. 799 of 2007 inter alia stating that the scope of the original application seeking information has been enlarged, which is not permissible under the RTI Act and further that the questions prepared by the Commission for the respective examination is protected under the Copyright Act as also provisions of Sections 8(i)(d) and 9 of the RTI Act, 2005. However, by the impugned order, the State Information Commission has proceeded to direct the petitioner-Commission that the petitioner-Commission should provide question-wise answer to the applicant failing which Public Information Officer would be held guilty under the RTI Act for suppressing correct information and furnishing misleading information.

4. After hearing learned counsel for the petitioner and after going through the relevant materials on record, it is apparent that originally the request, for information, was made only in respect of answers for the Mechanical Engineering Examination conducted by the petitioner-JPSC under the Advertisement No. 3/2003-04. The answer of such written examination were, thereafter, loaded on the website of the petitioner-Commission and the applicant was also informed about the same. He has, thereafter, made a further request to provide the questions relating to such answer. The requests made by the respondent no. 3 obviously has gone beyond the scope of the original information sought by him vide Annexure-1 and were adequately replied by the petitioner-Commission before the State Information Commission. However, the State Information Commission has directed the petitioner to provide even questions, which were not originally asked in the RTI Application by the respondent no. 3. Prima facie, it appears that the Appellate Authority has gone beyond the original prayer made by the respondent no. 3 application seeking information.

5. Section 6 of the Right to Information Act, 2005 provides, for making provisions for request for obtaining information. It states that a person, who desires to obtain any information under the Act, has to make a request in writing or through electronic means specifying the particulars of the information sought by him or her. It, therefore, appears that the Appellate Authority has proceeded to pass the impugned order asking it to show cause why it should not be held guilty for not providing correct information although the petitioner had supplied the relevant information on the original request. If the RTI applicant intended to seek further information, it was open to the applicant to make appropriate application in

accordance with law, which could be dealt with as per law. In that view of the matter, the impugned order cannot be sustained in law as well as on facts and it is, accordingly, set aside. The writ petition stands allowed.