

केन्द्रीय सूचना आयोग  
CENTRAL INFORMATION COMMISSION  
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File No. CIC/IARMY/A/2017/171046/SD

Date of Decision :27/07/2017

**Relevant facts emerging from the Appeal:**

Appellant	:	Ranjit H S 34/1382 C Saralalayam Pius Road Edapally PO Kochi – 682024
Respondent	:	CPIO RTI Cell G – 6 D – 1 Wing Sena Bhawan IHQ of MoD(Army) New Delhi
RTI application filed on	:	21/03/2016
PIO replied on	:	22/04/2016
First appeal filed on	:	18/05/2016
First Appellate Authority order	:	23/06/2016
Second Appeal dated	:	01/08/2016

सूचना आयुक्त : दिव्य प्रकाश सिन्हा  
INFORMATION COMMISSIONER : DIVYA PRAKASH SINHA

**Information sought:**

The Appellant sought information regarding details of his answer sheet & marks given to him in the subject 'Military History' of Promotion Exam Part D held in October, 2015.

**Grounds for the Second Appeal:**

The CPIO has not provided the desired information.

**Relevant Facts emerging during Hearing:**

The following were present:-

**Appellant:** Present through VC.

**Respondent:** Col. R. Balaji, Director (RTI Cell) & CPIO and Lt Col Gurtej, IHQ of MoD (Army) present in person.

Appellant stated that he is aggrieved with the reply of the CPIO and in general his failure in Promotion Exam despite having an exemplary ACR to his credit and having spent financially and mentally on the preparation of this exam. He also stated that the reliance of the CPIO on an AFT judgment (OA 190/2014) is irrelevant to his case as he has no qualms against the evaluation system, which was the actual argument of the petitioner in the said AFT case. He insisted that he wants the copy of his answer sheet to only obliterate his suspicion regarding the number of questions answered by him as per his memory serves juxtaposed to what is mentioned in DGMT letter dated 01.06.2016. He also brought on record that in a subsequent RTI Application dated 18.05.2016 filed with Army, where he had sought the duration stipulated for destruction of his answer sheet, he was informed that the duration is of one month after declaration of result, he thus aimed to question the ambiguity, wherein at the time of replying to his RTI Application dated 21.03.2016 under reference in April, 2016, CPIO had the custody of his answer sheet, whose results had been announced in January 2016, i.e to say that the answers sheet was being retained much beyond the period of one month from the stipulated time for destruction of answer sheet.

CPIO submitted that the denial of answer sheet is valid in the light of a stay order in W.P.(C) 3935/2017 of Hon'ble Delhi High Court on an earlier decision dated 20.09.2016 of the Commission in the matter of Maj. Manoharan, wherein Commission had directed the disclosure of answer sheet of the RTI Applicant. It was stressed that the commonly accepted precedent of the Hon'ble Supreme Court in Aditya Bandhyopadhyay case (CIVIL APPEAL NO.6454 OF 2011) is primarily for examinations of a qualifying nature and not promotion exams such as those conducted in the Army. Evaluation of the promotion exams involves the basis of ACRs of concerned officers as well. He also submitted that generally the answer sheets are open for inspection, but copy of the same cannot be provided even as per relevant Army rules. Another contention that was sought to be explored at this stage, was the application of Section 8(1)(a) in the matter, as Lt. Col Gurtej submitted that the questions of Military History or ancillary papers entail written material on several sensitive

and secure facets of the Indian Army, putting these open in public domain, may be prejudicial to the nation's security as such.

## Decision

Commission has heard both the parties, and opines that the denial of the answer sheet of the Appellant has been premised on far stretched objections by the CPIO. Commission perused the stay order (supra) of the Hon'ble Delhi High Court and observed that there is considerable difference in the context therein. The stay was granted on the primary objection of the petitioner (Union of India) that the answer scripts ordered to be disclosed had been already weeded out as per relevant policy. The stay order mentions the petitioner's submission to the extent that *'there are several other grounds on which disclosure of answer sheet cannot be permitted'*, but none of these grounds have been named. In the circumstances, Commission fails to appreciate the contention of the CPIO, as to how the said stay order is being stretched to justify denial of answer sheet in the present case. Similarly, the claim that Aditya Bandhopadhyay case applies for answer scripts of qualifying exams is unsubstantiated. The said precedent does not anywhere differentiate between a qualifying exam and a promotion exam. The basic rationale of the judgement of Hon'ble Supreme Court in the said case is reproduced as under

*"...Resultantly, unless the examining bodies are able to demonstrate that the evaluated answer-books fall under any of the categories of exempted 'information' enumerated in clauses (a) to (j) of sub-section (1) section 8, they will be bound to provide access to the information and any applicant can either inspect the document/record, take notes, extracts or obtain certified copies thereof.."*

It follows then, the exemption of Section 8(1)(a) brought out at the hearing stage of the Appeal can only be considered for denial of information. However, the arguments of the Respondents for invoking Section 8(1)(a) is also untenable and rather it appears laboured.

Commission is also not going into the merits of the statement of the Appellant regarding his subsequent RTI Application seeking duration of destruction of answer sheet as for the RTI Application under reference CPIO has at no stage pleaded weeding out of record as being the reason for denial of information.

In view of the foregoing, Commission directs the CPIO to provide a copy of the answer sheet of the Appellant of Military History, Part-D to him within 15 days from the date of receipt of this order.

**The appeal is disposed of accordingly.**

**(Divya Prakash Sinha)**  
Information Commissioner

Authenticated true copy

**(H P Sen)**  
Dy. Registrar/Designated Officer

