

OFFICE OF THE FIRST APPELLATE AUTHORITY
(Appointed under the Right to Information Act, 2005)
The Institute of Company Secretaries of India
ICSI House, C-36, Sector-62, Institutional Area,
Noida - 201 309 (U.P.)

Appeal No.90/2022

IN THE MATTER OF:

Rama Krishna Mukharjee
K/6, Netaji Subash Enclave
Gadakan Bhubaneswar- 751017
Odisha

Appellant

Vs.

Central Public Information Officer
The Institute of Company Secretaries of India
C-37, Sector 62, NOIDA- 201309

Respondent

Date of Order: 23rd November, 2022

ORDER

1. The Appellant has filed first appeal on 25.10.2022 under Section 19(1) of the Right to Information Act, 2005 in connection with Response Ref. No: Registration Number: ICSOI/R/E/22/05253 dated 13.09.2022 against the Central Public Information Officer (CPIO) (hereinafter referred to as Respondent) of the Institute of Company Secretaries of India.
2. The Appellant vide his RTI application dated 24.08.2022 had requested to provide the various information related to empanelment of Examiners including their terms of payment, no. of sheets evaluated by an examiner, marking guidelines and disciplinary action for examiners etc.
3. The Appellant has informed in the instant appeals that "Refused access to Information Requested". The information have been declined by wrongly claiming exemption u/s. 8(1)(d) of the RTI Act. The information sought are the general rules and guidelines framed by the institute and does not, by any stretch of imagination include any information relating to commercial confidence, trade secret or intellectual property.
These information would no way affect the functioning and standing of the Institute, particularly after the examinations have been conducted and results are declared. Moreover, disclosure of these information would be a step forward in the directions of bringing transparency and accountability. Appellant has requested to provide the information.

4. The reply of the Respondent against the instant appeal is as under: -

1. "It is submitted that the Applicant (Appellant hereinafter) has filed the Appeal on 25.10.2022 in response to the information supplied to him on 13.09.2022 for his RTI Application No. ICSOI/R/E/22/05253 dated 24.08.2022 beyond the time limit as specified under Section 19(1) of the Right to Information Act, 2005.
2. It is further submitted that the information sought under Query Nos. 2,3,5,6 and 7 by the Appellant in the aforementioned RTI Application is exempted from disclosure under Section 8 (1)(d) of the RTI Act, 2005.
3. The Appellant has stated that, "The information have been declined wrongly claiming exemption..... The Information sought are the general rules and guidelines framed by the Institute and does not, by any stretch of imagination include any information relating to commercial confidence, trade secret or intellectual property. These information would no way affect the functioning and standing of the Institute, particularly after the examinations have been conducted and results are declared. Moreover, disclosure of these information would be a step forward in the directions of bringing transparency and accountability."
4. In this regard, we would like to submit that the Rules, Regulations and guidelines for empanelment as examiners are not general rules framed by the Institute but are the part of integrated examination system. These are created over a period through use of mind, continuing experience of handling crucial examination activities and conduct of examinations over the decades. These are not for one time use but continuously used, and reviewed for continuously strengthening the system from time to time. Moreover, examiners related minute details, guidelines and processes related thereto are having absolute bearing on the examination system and disclosure of the same shall be leading to harm the interests of the examiners and other persons associated with evaluation of answer books in many ways.
5. Disclosure of examiners related information has no relation with transparency as the system in itself is transparent having internal control and approval mechanism. The examination system is transparent in its boundaries and access in certain cases connected with the candidates or public at large has already made available suo motu by the Institute through its website www.icsi.edu and public disclosure of the matter related to examiners has no relation with transparency and accountability but an attempt to enter into the examination arena by the persons non associated with the examination activities. Related information necessary for empanelment as examiner is made available by the Institute on its website stated above while inviting application through announcement.

6. The Appellant sought information regarding Examiners i.e. Empanelment of Examiners, their payment terms, marking guidelines and disciplinary action for examiners. Owing to the highly competitive, confidential, recurring and extensive nature of examination, it is essential to preserve the secrecy of examiners related information/guidelines meant for examiners for fair and impartial conduct of examination.
7. Therefore, in pursuance to the section 8(1)(d) of the RTI Act, 2005 the CPIO is satisfied that larger public interest does not warrant the disclosure of such information and can not be provided.

The contents as above made in the RTI reply stands as it is and are candid.

Therefore, the appeal deserves to be dismissed in-limine.”

5. This Office has carefully considered the application, the response, the appeal and the records made available and finds that the matter can be decided based on the material available on record.

The Office concurs with the submission of the Respondent. In view of the above, desired information cannot be provided to the Appellant pursuant to Section 8(1)(d) under the Right to Information Act, 2005.

The appeal is accordingly disposed of.

Sd/-

(Ankur Yadav)
First Appellate Authority

Copy to :

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Odisha
2. Shri Santosh Kumar Sharma
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3. Directorate of IT - For publishing on the website