In the Central Information Commission
at
New Delhi

Date of Hearing: February 17, 2011
Date of Decision: February 17, 2011

Parties:

Applicant

Dr. Pramod Kumar
S/o Dr. K.N. Gupta
A-3/159-160
Second Floor
Sector-16
Rohini
New Delhi

The Applicant was present during the hearing.

Respondents

The Public Information Officer
National Board of Examinations
Ansari Nagar
New Delhi 110 029

Represented by: Dr. Rakesh Gosain, Standing Counsel

Information Commissioner: Mrs. Annapurna Dixit

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Decision Notice

As given in the decision
In the Central Information Commission  
at  
New Delhi

File No: CIC/AD/A/2011/000200

ORDER

Background

1. The Applicant filed an RTI application dt.3.9.10 with the PIO, NBE seeking the photocopies of his answer sheets for all four papers of DNB Theory Orthopedic exams held in June 2010. Capt. K.Paul James, PIO replied on 21.9.10 stating the answer sheets are confidential and hence the same cannot be provided. However, question wise break up of marks can be provided and if desired, the Applicant may apply as per scheme, a copy of which was also enclosed. The Applicant filed an appeal dt.6.10.10 with the Appellate Authority reiterating his request for information. Dr.A.K.Sood, Appellate Authority replied on 13.10.10 informing the Applicant once again that there is no provision of providing answer sheets to candidates and that details of questionwise marks can be provided to him. Being aggrieved with the reply, the Applicant filed a second appeal dt.11.11.10 before CIC requesting for question wise break up of marks in the fourth paper. In his appeal the Applicant alleged that the Appellate Authority has manipulated the marks in his answer sheets and has failed him in the fourth paper although he has done very well in it.

Decision

2. During the hearing, the Appellant leveled serious charges against the Appellate Authority. He stated that he had received a telephone call from Mr.Sood (Exec. Director and AA) asking him (the Appellant) to pay up some amount if he wanted copies of answer sheets and threatening him with dire consequences if he failed to pay up including ruining of the Appellant's career. Dr.Rakesh Gosain, the Counsel representing the Respondents protested against the allegation leveled against the Appellate Authority by the Appellant without any material evidence. He also informed the Commission that the Appellant had been requested in writing to inspect the answer sheets if he so desires and that the Appellant had failed to turn up.
3. The allegation leveled against the AA, MCI by the Appellant is extremely serious in nature and the Commission has taken on record the Appellant’s complaint in this regard while noting that the Appellant has made his submission to the Commission while being fully conscious of the repercussions that might follow if his allegations are found to be false.

4. The Appellant is hereby advised to make a formal complaint in this regard to the Board of Directors, MCI and the PIO/Respondent Counsel may wish to place this complaint before the Board. The Commission recommends an immediate enquiry into this matter and also appropriate action based on the outcome of the enquiry.

5. Since the Appellant is only interested in the answer sheets of the fourth paper, the Commission keeping in mind the Full Bench decision of the Commission in Complaint No. CIC/WB/C2006/00223; Appeal Nos. CIC/WB/A/2006/00469; & 00394 ; Appeal Nos. CIC/OK/A/2006/00266 / 00058/00066/00315 dated 23.4.07 which states as follows:

……In regard to public examinations conducted by institutions established by the Constitution like UPSC or institutions established by any enactment by the Parliament or Rules made thereunder like CBSE, Staff Selection Commission, Universities., etc, the function of which is mainly to conduct examinations and which have an established system as fool-proof as that can be, and which, by their own rules or regulations prohibit disclosure of evaluated answer sheets or where the disclosure of evaluated answer sheets would result in rendering the system unworkable in practice and on the basis of the rationale followed by the Supreme Court in the above two cases, we would like to put at rest the matter of disclosure of answer sheets. **We therefore decide that in such cases, a citizen cannot seek disclosure of the evaluated answer sheets under the RTI Act, 2005.**

directs the PIO to allow the Appellant to inspect the same as per extant rules and as already offered by the PIO NBE, on payment of required fees and to take down notes if he so desires. As decided during the hearing, the inspection for the 4th paper of the June 2010 exam may be done on 22.2.11 at 3.00 p.m.
6. The Appellant at this stage submitted that he had already paid Rs.500/- twice. submitted that he is interested only in the answer sheets of the fourth paper for which he had paid Rs.500/- twice towards cost of inspection of the answer sheets. The details of the payments made by the Appellant were noted by the Respondent Counsel during the hearing and it was agreed that any additional amount paid will be returned to the Appellant after adjusting the cost laid down for inspection. The Commission directs the PIO to look into the matter and if the same is not encashed to return the same to the Appellant.

7. The appeal is disposed of with the above directions.

(Annapurna Dixit)
Information Commissioner

Authenticated true copy

(G.Subramanian)
Deputy Registrar

Cc:

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2. The Public Information Officer
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4. Officer Incharge, NIC