

Central Information Commission

Room No.307, II Floor, B Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066
website-cic.gov.in

Appeal No. CIC/CBSE/A/2017/314169/MP Appeal No. CIC/CBSED/A/2017/102121/MP

Appellant : Shri Sirajul Hasan, Aligarh
Public Authority : CBSE, New Delhi

Date of Hearing : September 7, 2017
Date of Decision : September 20, 2017

Present:

Appellant : Present – through VC
Respondent : Smt. S. Dharini Arun, Deputy Secretary, NEET Unit –
through VC

RTI application : 18.8.2016
CPIO's reply : 21.9.2016
First appeal : 27.9.2016
FAA's Order : 5.10.2016
Second appeal : 13.10.2016

ORDER

Appeal No. CIC/CBSE/A/2017/314169/MP

1. Shri Sirajul Hasan, the appellant, sought the certified copy of OMR sheet of Master Aatif Hasan along with the answer key for NEET-2016; total no. of questions attempted by Master Aatif Hasan in Physics paper along with the number of questions correctly and incorrectly answered by the said applicant; details of negative marking system; procedure for application for revaluation of OMR sheet.

2. The Central Public Information Officer (CPIO) gave a point wise response to the appellant further informing him that OMR sheet of the candidate concerned and final answer key were uploaded on the CBSE's website www.aipmt.nic.in and the candidate could access his OMR sheet by logging into his account. The appellant, being dissatisfied with the CPIO's response to point 1 & 2 of his RTI application, approached the First Appellate Authority (FAA) with a request to provide complete and correct information specifically sought by the appellant in his RTI application. The FAA upheld the decision of the CPIO. Aggrieved, the appellant filed appeal before the Commission stating that the CPIO did not provide certified copies of the documents as specifically sought by the appellant in his RTI application and requested the Commission to direct the CPIO to provide complete and correct information on point 2.

Appeal No. CIC/CBSE/A/2017/102121/MP

RTI application	:	7.11.2016
CPIO's reply	:	30.11.2016
First appeal	:	5.12.2016
FAA's Order	:	27.12.2016
Second appeal	:	3.1.2017

1. Shri Sirajul Hasan, the appellant, had preferred the RTI application before the Chief Minister Office, Govt. of NCT of Delhi, seeking inspection and certified copy of physics paper of Master Aatif Hasan along with the answer key for NEET-2016 as Shri Aatif Hasan had been given 'zero' marks in the said subject.

2. The Dy. Secretary (RTI) transferred the appellant's RTI application u/s 6(3) to the CPIO, CBSE, for providing the information sought to the appellant, directly, as the information sought did not pertain to CMO. The Central Public Information Officer (CPIO) informed the appellant that OMR sheet of the candidate and final answer key were uploaded on the CBSE's website www.aipmt.nic.in and the candidate concerned could access his OMR sheet by logging into his account and also provided a copy of the final answer key for NEET-II. The appellant, being dissatisfied with the CPIO's response, approached the First Appellate Authority (FAA) with a request to provide the information specifically sought by the appellant in his RTI application. The FAA upheld the decision of the CPIO. Aggrieved, the appellant filed appeal before the Commission with a request to direct the CPIO to provide complete and correct information as per the appellant's RTI application.

3. The matter was heard by the Commission. The appellant submitted that no information was given to him by the CPIO on points 1 & 2 of his RTI application dated 18.8.2016 while, in his second RTI application dated 7.11.2016, the CPIO did not provide the desired information, specifically sought by him.

4. The respondent stated that CBSE had conducted NEET-I and NEET-II on 1.5.2016 & 24.7.2016 on Hon'ble Supreme Court's order in which almost 7 lacs candidates had appeared and the result was declared on 16.8.2017. The respondent added that after the exam was over, OMR sheets of the candidates were uploaded on the account of the candidate concerned and before declaration of the result, objections relating to exam papers/OMR were invited from the candidates. Further, only after settling all the objections, final answer key was put up and result was declared. The Board had already commenced action for the next examination's process. Additionally, at the time of launch of the exam, complete information relating to it was also placed on the information bulletin and thus, the CPIO had already provided the available information, as per the records, to the appellant.

5. On hearing both the parties and perusing the available records, the Commission observes that the CPIO has appropriately responded in the matter and provided the available information, as per the records, to the appellant. The Commission further observes that the respondent authority had maintained complete transparency in the procedure. Sufficient time frame was also given by the Board to the candidates for putting forth their objections regarding the paper/OMR in NEET 2016 and the result was declared only after settlement of the objections received. As also stated by the

respondent that complete information was also placed in public domain on the Information Bulletin of the Board, it was for the appellant and Master Aatif Hasan, in respect of whom the information was sought by the appellant, to avail of their rights within the given time frame. In this regard it is worth noting the decision of Hon'ble High Court of Delhi in **Registrar of Companies & Ors vs. Dharemendra Kumar Garg & Ors.**, which has held as under:

"9. Section 2(j) of the RTI Act speaks of "the right to information accessible under this Act which is held by or under the control of any public authority". This should mean that unless an information is exclusively held and controlled by a public authority, that information cannot be said to be an information accessible under the RTI Act. Inferentially it would mean that once a certain information is placed in the public domain accessible to the citizens either freely, or on payment of a pre-determined price, that information cannot be said to be 'held' or 'under the control of' the public authority and, thus would cease to be an information accessible under the RTI Act."

In any case, the appellant had sought third party information as answer copy/OMR of Master Aatif Hasan could not have been provided to the appellant which was exempt from disclosure u/s 8(1)(j) of the RTI Act, 2005. This also disposes of *Appeal No. CIC/CBSE/A/2017/102121/MP* in the instant case.

**(Manjula Prasher)
Information Commissioner**

Authenticated true copy:

Dy Registrar

Copy to:

The Central Public Information Officer
Central Board of Secondary Education,
Under Secretary (NEET),
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi – 110 092

The First Appellate Authority
Central Board of Secondary Education,
OSD (NEET),
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