



2025:DHC:7273



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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment pronounced on: 25.08.2025

+ W.P.(C) 600/2017  
and CM APPLs.6048/2018, 7942/2018, 18395/2018, 34218/2023

UNIVERSITY OF DELHI .....Petitioner

versus

NEERAJ & ANR .....Respondents

+ W.P.(C) 1051/2017 and CM APPL.4783/2017  
CENTRAL BOARD OF SECONDARY EDUCATION .....Petitioner

versus

MOHD NAUSHADUDIN AND ORS. ....Respondents

+ W.P.(C) 1077/2017 and CM APPL.4945/2017  
UNIVERSITY OF DELHI .....Petitioner

versus

MOHD IRSAD AND ANR .....Respondents

+ W.P.(C) 1091/2017 and CM APPL.5003/2017  
UNIVERSITY OF DELHI .....Petitioner

versus

R K JAIN AND ANR .....Respondents

+ W.P.(C) 1095/2017 and CM APPL.5012/2017  
UNIVERSITY OF DELHI .....Petitioner

versus

SANJAY SINGH AND ANR .....Respondents

+ W.P.(C) 13568/2023  
MOHD. IRSAD .....Petitioner



2025:DHC:7273



versus  
CENTRAL PUBLIC INFORMATION OFFICER & ANR.

.....Respondents

**Presence:**

Mr. Tushar Mehta, Solicitor General (SG) along with Mr. Anil Soni, Sr. Advocate and Mr. Rajat Nair, Mr. Dhruv Pande, Mr. Devvrat Yadav, Ms. Akshaja Singh and Mr. Alok Dubey, Advocates for petitioners in W.P.(C) 600/2017, W.P.(C) 1051/2017, W.P.(C) 1077/2017, W.P.(C) 1091/2017 and W.P.(C) 1095/2017.

Mr. Sanjay Hegde, Sr. Advocate along with Mr. Rishikesh Kumar, Ms. Sheenu Priya and Mr. Aman Kumar, Advocates for R-1 in W.P.(C) 600/2017.

Mr. Rahul Mehra, Sr. Advocate, Mr. Shadan Farasat, Sr. Advocate, Mr. Rishikesh Kumar, Mr. Chaitanya Gosain, Mr. Pranny Dhawan and Ms. Sheenu Priya, Advocates for R-1 in W.P.(C) 1077/2017.

Mr. Rahul Mehra, Sr. Advocate, Mr. Rishikesh Kumar, Mr. Chaitanya Gosain and Ms. Sheenu Priya, Advocates for R-1 in W.P.(C) 1095/2017.

Mr. Shadan Farasat, Sr. Advocate along with Mr. Rishikesh Kumar, Mr. Pranav Dhawan and Ms. Sheenu Priya, Adv. for petitioner in W.P.(C) 13568/2023.

Mr. Trideep Pias, Sr. Advocate along with Ms. Seema Misra, Advocate for Intervenors in W.P.(C) 600/2017.

Ms. Sheenu Priya, Advocate for R-1 in W.P.(C) 600/2017, W.P.(C) 1077/2017, W.P.(C) 1095/2017.

**CORAM:**

**HON'BLE MR. JUSTICE SACHIN DATTA**

**JUDGMENT**

**CM APPL.16060/2017 (Application for intervention)**

1. The present application for intervention is filed in W.P. (C) No. 600 of 2017, wherein the petitioner has challenged the order dated 21.12.2016



passed by the Central Information Commission (CIC). The applicants seek to intervene in order to assist the Court in the adjudication of the legal issues arising in the context of the concerned RTI application in that case.

2. It is submitted that the applicants are eminent RTI activists. It is submitted that the present case raises questions of significant public importance, hence the applicants seek an opportunity to be heard in the present matter.

3. Reliance has been placed on ***Shri J. R. Anand v. Delhi Transport Corporation***, 1981 SCC OnLine Del 43, orders dated 08.11.2016 and 29.11.2016 passed in RFA(OS) 81/2016 titled as ***The Chancellor, Masters & Scholars of University of Oxford & Ors v. Rameshwari Photocopy Services & Ors***, order dated 01.09.2015 passed in W.P.(C) 6010/2014, titled as ***Vinita Singla v. Union of India & Ors***, order dated 21.05.2015 and judgment dated 06.11.2015 passed in W.P.(C) 3386/2015, titled as ***R.K. Jain & Ors v. Union of India***, order dated 14.07.2017 passed in Civil Appeal No. 6083 of 2017 in ***Indian Wind Power Association (NRC) v. Central Electricity Regulatory Commission & Anr.*** and ***Novartis AG v. Union of India and Others***, (2013) 6 SCC 1.

4. While objecting to the intervention application the petitioner has averred that the applicants, contrary to their assertions, fall in the category of “busybody” or “meddlesome interloper”, seeking to intervene for extraneous reasons rather than to assist the Court on question/s of law. Reliance is placed on ***Jasbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed and Others***, 1976 1 SCC 671, wherein the Supreme Court has observed as under –

“37. It will be seen that in the context of locus standi to apply for a writ of



*certiorari, an applicant may ordinarily fall in any of these categories: (i) "person aggrieved"; (ii) "stranger"; (iii) busybody or meddlesome interloper. Persons in the last category are easily distinguishable from those coming under the first two categories. Such persons interfere in things which do not concern them. They masquerade as crusaders for justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect. They indulge in the pastime of meddling with the judicial process either by force of habit or from improper motives. Often, they are actuated by a desire to win notoriety or cheap popularity; while the ulterior intent of some applicants in this category, may be no more than spoking the wheels of administration. The High Court should do well to reject the applications of such busybodies at the threshold."*

5. It is submitted that the applicants have no *locus standi* to intervene in the present proceedings, either on the basis of their averments or the documents relied upon. The applicants are neither aggrieved/interested persons nor necessary or proper parties, but are acting with oblique motives.

6. It is submitted that the mere assertion that the applicants are public-spirited persons interested in the implementation of the Right to Information Act is insufficient to constitute grounds for intervention, as the present *lis* is in *personam* and not of a public nature.

7. Having considered the submissions advanced, this Court finds no cogent legal basis or rationale to allow the applicants to intervene in the present case. The petition in question involves a challenge to order/s passed by the CIC in the context of certain RTI application/s. Only the concerned parties would be entitled to agitate the issue of legality (or otherwise) of the impugned order/s. The present petitions do not partake the character of 'public interest litigation'. The applicants cannot be permitted to join these proceedings since no personal cause of action has accrued in their favour.

8. This Court is, therefore, of the view that the applicants have no *locus*



*standi* to intervene and that the application has been filed only to project themselves into a *lis* in which they have neither a legal right nor any enforceable interest. Allowing such an intervention would unduly expand the scope of the proceedings and open the floodgates to unconnected third parties.

9. As to the reliance placed on ***Shri J.R. Anand v. Delhi Transport Corporation*** (supra), this Court finds that the said decision, far from supporting the applicants, negates their prayer/s seeking intervention.

10. In that case, the issue was whether a relator in ongoing *quo warranto* proceedings could be permitted to intervene in connected *certiorari* proceeding. While dealing with the said controversy, the Court observed as under –

*“A few principles regarding intervention can be reduced from these illustrative cases:*

*(1) Intervention as well as its extent and scope is a matter of discretion of a writ Court.*

*(2) Intervention is permissible where two or more connected proceedings are pending in the High Court.*

*(3) Two or more proceedings should be so connected that decision in one is likely to conclude other proceedings.*

*(4) Importance of the questions involved is a necessary consideration in the exercise of the discretion.*

*(5) Discretion has to be exercised on the facts and circumstances of each case.*

*9. In both the petitions before me important question for decision is whether the two decisions of the DTC are vitiated because of the extraneous political considerations. As stated earlier the allegations in this regard are two sides of the same coin. They are inextricably connected. The importance of the question does not lie in the political facts as alleged. But the question is whether public utilities affecting very large number of its employees and citizens generally, can in law take vital decisions on extraneous considerations. This question is of paramount importance to the working and administration of public utilities. The incidental question is where the*



Vigilance Commissioner finds that an high official commits misconduct involving turpitude, a public utility like DTC can re-appoint such an official on an equivalent high post. In Anand's petition the DTC now wants to play a role of spectator. It had earlier filed a counter affidavit justifying the action of removal of Anand. It is also heavily relyin on Anand's allegation in his petition, for contesting the qua warranto petition. There is no doubt that if Anand's petition is allowed to go un-contesting and inevitably succeeded, the quo warranto proceedings would gravely suffer. If Anand succeeds in his petition in these circumstances, the DTC will on its own showing re-instate him as a Traffic Manager. The counsel for the DTC in the qua warranto proceeding has already submitted that on re-instatement of Anand the present appointment of Anand as a Deputy General Manager would be cancelled. In such any eventually qua warranto petition may become infructuous. These circumstances impel me to exercise discretion in favour of the petitioner in the qua qarranto proceeding. The said petitioner is the President of the Association of the workers and employees of the DTC. The Association is also a petitioner in the qua warranto proceedings. It cannot be said that the entire body of workers and employees of the DTC are merely busy bodies or professional litigants or 'middle-some interlopers' particularly when the principal of worker's participation in management is accepted by Government.

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10.....The serious difficulties faced on a question of impleading a third party is voiced by the Supreme Court in (1973) 2 SCC 696 : AIR 1973 SC 2720 (supra). After reviewing some decisions the Supreme Court observed: "In respect of persons who are strangers and who seek to invoke the jurisdiction of the High Court or of this Court, difficulty sometimes arises because of the nature and extent of the right or interest which is said to have been infringed, and whether the infringement in some way affects such persons. On this aspect there is no clear enunciation of principles on which the Court will exercise its jurisdiction." The Supreme Court, however, referred to the practice of the English Courts where the matter is left to the discretion of the Court. The Supreme Court observed: "In England also the Courts have taken the view that when the application is made by a party or by a person aggrieved the Court will intervene ex debito justitias, in justice to the applicant, and when it is made by a stranger the Court considerrrs whether the public interest demands its intervention. In either case it is a matter which rests ultimately in the discretion of the Court."

11. In **Shri J.R. Anand v. Delhi Transport Corporation** (supra), the Court allowed intervention because the concerned matters therein were inextricably linked, and the outcome of one would directly impact the other.



No such situation exists in the present case.

12. The other judgments/orders relied upon by the applicants are also of no avail to them.

13. The application is consequently dismissed.

14. Nevertheless, this Court has taken into account the submissions advanced by the applicants to the extent they bear upon the legal issues in controversy. Such consideration, however, does not and cannot cure the fundamental defect of lack of *locus standi* that vitiates the application.

**W.P.(C) 600/2017, W.P.(C) 1051/2017, W.P.(C) 1077/2017, W.P.(C) 1091/2017, W.P.(C) 1095/2017 and W.P.(C) 13568/2023**

15. The present petitions have been filed by the petitioners in W.P.(C) 600/2017, W.P.(C) 1051/2017, W.P.(C) 1077/2017, W.P.(C) 1091/2017, W.P.(C) 1095/2017 and W.P.(C) 13568/2023, *inter alia*, challenging the orders dated 21.12.2016, 17.01.2017, 27.12.2016, 23.12.2016, 22.12.2016 and 08.09.2017 respectively, passed by the Central Information Commission (CIC).

16. The factual background in each of the petitions is elucidated hereunder:-

**A. Brief Facts in W.P.(C) 600/2017**

- i. Respondent no. 1/ Neeraj filed an application under the Right to Information Act, 2005 (RTI Act) on 27.08.2015, bearing no. OA 1560 of 2015, before the Central Public Information Officer (CPIO) of the petitioner. The application, *inter alia*, seeks the “*result of all students appeared in Bachelor of ARTS, Year 1978 with Roll no, name of the student with Father name, marks & result pass or failed*”.



- ii. The CPIO, *vide* reply dated 22.09.2015, rejected the request for information made by respondent no. 1/ Neeraj. The denial was based on the reasoning that the information sought pertained to the personal data of individual students. The CPIO further noted that there was no larger public interest demonstrated by respondent no. 1/ Neeraj that could override the protection granted to such personal information under the law. Accordingly, the CPIO invoked the exemption under Section 8(1)(j) of the RTI Act, to justify the refusal to disclose the requested data. The reply dated 22.09.2015 is reproduced as under –

***“Subject: Sir, Original Application (OA) No. 1560 of 2015 under the Right to Information Act, 2005.***

Sir,

*This has reference to the above original application, which has been numbered as 1560 of 2015 as specified in the subject cited above. The applicant is required to quote the original application number in all future correspondence for proper correlation of the documents*

*The information sought by the applicant was endorsed to the Assistant Controller of Examination (Conduct, Assistant Controller of Examination (Results) and Statistical Officer (Planning Unit) of the University, who are the deemed PIOs under section 5(4) & 5(5) of the Act.*

*1,2&3. On perusal of the original application, it appears that the requests of the applicant is non-specific in terms of college, specific discipline subject, part etc., whereas the request for information is required to be specific as per Section 6(1) of the Act. However, Relevant input received from the Assistant Controller of Examination (Conduct) and Assistant Controller of Examination (Results) is enclosed in this regard. Applicant may go through and draw his conclusion accordingly.*

*4. Relevant input received from the Assistant Controller of Examination (Results) is enclosed in this regard. On perusal of the request and on the basis of the input received from the deemed PIO, it appears that the Information requested by the applicant is*



treated as personal information of the students concerned, the disclosure of which has no relationship to any public activity or interest. Further, it does not appear that any larger public interest would be served by disclosure of this information in the public domain. Disclosure of such information is exempt under section 8(1)(j) of the Act. Therefore, the request of the applicant attracts section 8(1)(j) of the Act.

*The applicant can prefer an appeal against the decision before the Appellate Authority within 30 days. The name and particulars of the Appellate Authority are as under:*

Shri. Z.V.S Prasad  
Finance Officer,  
University of Delhi,  
Delhi-110007  
Telephone: 27667878

Yours faithfully,

Sd/-

(Meenakshi Sahay)  
Deputy Registrar (Recruitment) & CPIO

Encl: As Above”

- iii. Aggrieved by the response of the CPIO, respondent no. 1/ Neeraj filed a First Appeal dated 08.10.2015, bearing no. 255 of 2015, before the First Appellate Authority of the petitioner. The appeal reiterated the request for disclosure and challenged the denial as being contrary to the object and spirit of the RTI Act.
- iv. The First Appellate Authority, after considering the matter, passed an order dated 18.12.2015 wherein it upheld the decision of the CPIO. The Authority reaffirmed that educational results of individual students constitute personal information protected under Section 8(1)(j) of the RTI Act and that disclosure was unwarranted in the



absence of larger public interest. The order dated 18.12.2015 is reproduced as under –

“Facts:-

1. The Appellant Shri Neeraj Sharma has filed an appeal against the reply of the Original Application (OA) No.1560 of 2015 before the First Appellate Authority of the University under the Right to Information Act, 2005 (hereinafter the Act). The appellant states that he is not satisfied with the reply of the CPIO.
2. The Appellant, Shri Neeraj Sharma had filed the original application dated 27.08.2015, received by the CPIO, University of Delhi on 01.09.2015 seeking information regarding Bachelor of Arts examination in the year 1978 and other related matters. The CPIO replied to the OA on 22.09.2015.
3. On perusal of the reply of the CPIO. It appears that the CPIO had endorsed the original Application to Assistant Controller of Examination (Conduct), Assistant Controller of Examination (Results) and Statistical Officer (Planning Unit who are the deemed PIOs under section 5(4) and 5(5) of the Act.

Decision:-

1. The Original Application and First Appeal have been perused vis-a-vis the input provided by the deemed PIO and the decision of the CPIO in this matter. On perusal of the file, it has been noticed that the CPIO has decided the matter based on the input of deemed PIO where the information is held as well as, as per relevant provisions of the Act, which is in order.
2. On perusal of the OA, input received from the deemed PIOs and decision of the CPIO, it has been observed that the CPIO has right decided the matter based on the input received from the deemed PIO as he has rightly invoked section 8(1) (j) of the Act as the result of the individual student is treated as personal information of the student concerned. Further, there is no larger public interest involved in disclosure of such information in the public domain. Therefore, no further relief can be granted to the Appellant under the Act and the decision of the CPIO is upheld in this matter.
3. The appeal is decided accordingly.”



- v. Not satisfied with the outcome, respondent no. 1/Neeraj proceeded to file a Second Appeal/Complaint before the CIC on 04.03.2016, bearing no. CIC/SA/C/2016/900122.
- vi. The CIC issued a notice of hearing dated 12.07.2016, which was received by the petitioner on 18.07.2016. The notice fixed the hearing for 20.07.2016 and directed respondent no. 1/ Neeraj to serve a copy of the appeal upon the petitioner within three (3) days of receiving the notice. However, it is submitted by the petitioner that no such copy was ever served.
- vii. It is submitted that the petitioner, in compliance with the notice, appeared before the CIC on the scheduled date through its representative. It is further submitted that CIC neither provided a copy of the appeal nor granted any time to the petitioner for filing its response.
- viii. Subsequently, the CIC passed the impugned order dated 21.12.2016. The relevant portion of the impugned order is reproduced as under –

*“Analysis:*

*8. There are two frequent questions coming up before the Commission: whether degree related information of a particular student is his or her personal information or third party information, and whether such information was given to University in fiduciary capacity, as contented by public authority?*

*9. A University that conducts various courses of education openly, registers the graduation of candidates is a public activity. Like registration of transfer of land or registration of a society, the registration of graduation details/degree details forms part of public record like the register. The purpose of register is to maintain a public record, and whenever there is a need, refer the register and the details could be accessed. Acquiring education qualification through process of registration, from admission to graduation with an authorised university is similar to acquiring*



property through authorised registration process. Like land or property documents, the degrees and related information is also in public domain. Though original degree certificate is given to the candidate, the authentication of the same along with details is available in the register. There is no provision, rule or regulation made by the university authorizing it to keep the degree related information as secret and prohibit the access to register. If the degree related Information sought is about an celebrity or an ordinary man, the access to information has to be provided by the public authority. The PIO did not come up with any basis for considering the degree related information of the students as third party information, except claiming so.

10. The Commission finds neither merit nor legality in the contention of the University that the degree related information about students was third party Information. The PIO of public authority should have applied his mind, understood the aims and objects of RTI Act before flatly denying the request.

11. It is relevant to refer to the judgment of Supreme Court Bench of Justice A R Dave and Justice L Nageswara Rao in Civil Appeal No. 2649 of 2016; in *Mairembam Prithviraj v. Pukhrem Sharat Chandra Singh*, quashing the election of Manipur Congress MLA, Mairembam Prithviraj for falsely declaring in his nomination papers that he had an MBA degree. The Supreme Court held that right to vote would be meaningless unless citizens were well informed about the antecedents of candidates, including their educational qualification. It said all information about a candidate contesting elections must be available in public domain as exposure to public scrutiny was one of the surest means to cleanse the democratic governing system and have competent legislators. The apex court has held that every voter has a fundamental right to know the educational qualifications of a candidate. The bench dismissed the appeals filed by Mairembam Prithviraj Singh and Pukhrem Sharatchandra Singh. Both of them contested the Manipur Legislative Assembly elections from the Moirang constituency. While Mairembam who contested on a Nationalist Congress Party ticket won, his election was declared void by the High Court of Manipur. Both the appeals challenged the judgement of the High Court. The High Court said:

A voter is first citizen of this country and apart from statutory rights, he is having fundamental rights conferred by the Constitution. Members of a democratic society should be sufficiently informed so that they may cast their votes



*intelligently in favour of persons who are to govern them. Right to vote would be meaningless unless the citizens are well informed about the antecedents of a candidate. There can be little doubt that exposure to public gaze and scrutiny is one of the surest means to cleanse our democratic governing system and to have competent legislatures.*

*It is also clear from the provisions of the Representation of the People Act 1951, Rules and Form 26 that there is a duty cast on the candidates to give correct information about their educational qualifications.*

*12. The Congress MLA, in this case contended that there was a "clerical error" on the part of his lawyer and agent who had filed the nomination papers in 2012 and pleaded to the court not to quash his election as the defect was not of substantial nature. Mr. Prithviraj had mentioned in the nomination papers that he had passed MBA in 2004 from Mysore University. The bench, however, rejected his plea saying that the election result was materially affected by the false declaration and it had to be quashed. The court noted that,*

*He had made the false declaration in the 2008 assembly election as well. The contention of the appellant that the declaration relating to his educational qualification in the affidavit is a clerical error cannot be accepted. It is not an error committed once. Since 2008, he was making the statement that he has an MBA degree. The information provided by him in the affidavit filed in form 26 would amount to a false declaration. The said false declaration cannot be said to be a defect which is not substantial. An educated person cannot hide his education. He will necessarily incorporate his academic qualifications, as his achievements and if he secures any gold medal or rank, he will definitely display that in his bio-data papers. Education being a qualification concerning the society in general, can never be treated as personal information. If someone chooses not to disclose his educational qualifications, it could be his personal choice, but if he uses those qualifications for achieving an employment or higher education or a position, that becomes public information. It is no more res integra (issue not decided by the court) that every candidate has to disclose his educational qualification to subserve the right to information of the voter. Having made a false declaration relating to his*



*educational qualification, he cannot be permitted to contend that the declaration is not of a substantial character.*

13. The educational qualification of an individual is conferred to that individual in convocation, meaning thereby that such a qualification is publicly celebrated and there is nothing which affects the privacy of an individual by such disclosure. The Commission has in its earlier order dated 01-11-2016, CIC/SA/A/2016/001065, **Harkrishan Das Nijhawan v. Dept of Legal Affairs, GOI** held that the eligibility & educational qualification required for a post, and other information showing merit for appointment etc, cannot be considered as personal and access to that cannot be denied. Every University celebrates Convocation each year, where degrees to the qualified students are awarded by the hands of the Chancellor, who generally is the Governor of the State. Every graduate is expected to attend the ceremony and take an oath that he/she would conduct as worthy of the education/degree. The Governor administers the oath to students, like he administers to the Chief Ministers and Ministers. The graduation ceremony i.e. Convocation is, thus, an open public activity. The people who attended convocation are supposed to take notice of the graduation of young persons, who are going into the society as educated citizen. The registration of public activity in a register makes that register a public document and access to that cannot be denied. Registering itself means notice to public in general about a public activity. The oath makes the celebration of convocation very significant one, reminding the educated person of his responsibility.

14. For instance, the National Academy of Legal Studies and Research, (NALSAR) University of Law, Hyderabad, administers oath as follows:

*The Chancellor, NALSAR University of Law ... says: "Let the candidates for other Degrees and Diplomas stand forward." All the candidates standing, the Chancellor puts to them the following question: "**Do you sincerely promise** and declare that, If admitted to the Degree or Diploma for which you are candidates, and for which you have been recommended, you will in your daily life and conversation **conduct yourselves as worthy members of this University?**"*

*All the candidates will collectively answer: "**I do promise.**" With this, the candidates resume their seats. Then the Chancellor says: "Let the candidates be now presented."*



15. If one could not attend the degree in absentia, for which he has to sign an under taking that he would live worthy of education attained, in a mandatory declaration. NALSAR prescribed following declaration degree/diploma in absentia):

*I hereby solemnly declare and promise that if admitted to the Degree / Diploma of \_\_\_\_\_ for which I have been recommended, I shall in my professional as well as personal life and conversation **conduct myself as befits member of this University**; that I shall, to the utmost of my capacity and opportunity, support the cause of justice, fairness and peace; and that as far as in me lies, **I shall uphold and advance the social order** constitutionally established and well being of all human beings everywhere and rule of law within the country and outside.*

16. The parents, relatives and friends will attend the ceremony and bless/greet the graduate. This being a public function, the society will come to know that a particular person became a graduate and took an oath to live worthy of that degree/education. The people will get a chance to check whether such a graduate is living up to the expectation or is he worthy of the degree he possessed.

17. Thus, the Commission finds no basis for considering the educational qualification related information as personal to the particular candidate.

18. The present CPIO has not verified his own record before contending that the information sought was third party information. Once a student passes an examination and qualifies to secure a degree, the degree and passing details cannot be treated as private or third party information. Passing an examination is a qualification and awarding the degree such as 10th Class, 12th Class or Intermediate, graduation or post graduation, is a public activity and that certificate is a public document generated by a public institution. The academic institutions awarding such degrees under a statutory authority are discharging their statutory duties such as registering the qualification details and degree related information.

19. The Commission has earlier in file no. CIC/SA/A/2016/001451, **Subhash Chandra Tyagi vs CBSE** on 21 July, 2016 observed that "when there is an apprehension or doubt about validity or existence of a qualification, it is necessary to verify genuineness of the same. If verification proves that it is a genuine degree, it



*vindicates the qualification of the candidate. If it is proved to be a wrong degree, it will serve a larger public interest. Hence the degree or academic qualification related information need to be accessible to the citizen. If a student fails in an examination and attempts again to finally clear the test and secure qualification, there are two kinds of information one, public information i.e. the tested qualification, two, private information i.e. the details of failure or disqualification, which is personal to the candidate which has nothing to do with public activity, disclosure of which would cause unwarranted invasion of privacy and thus it has to be treated as third party information."*

*20. Whoever claims a benefit of restriction under section 8 of RTI Act has a duty to substantiate or justify withholding of the information sought, which was clearly stated in section 19(5): "In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request."*

*21. Generally every student who graduated will use the degree of graduation for pursuing post graduate studies or for any employment which required graduation as an eligibility criterion. For instance: If BA degree is a requirement for studying MA, the student who wants to study MA has to prove that he graduated. If he does not have that qualifying degree and manipulates to secure admission MA or an employment where it is prescribed as qualification, it has to be checked. For higher education or employment, he has to reveal his details of education details. If a candidate wants to treat the patients as doctor, he has to prove medical graduation. In such cases, it is the duty of the student to disclose or share details of his graduation with the concerned authorities etc. The record of this educational qualification is maintained for the general information of public and for verification of the genuineness of the degree, if needed. Any competing student whose opportunity in higher studies or employment is expected to share his degree related information and see the competitor's degree related information. All this is happening in routine. It was never considered as private or personal information. Another important factor is that every student aspiring for career advancement will necessarily disclose his qualifications, percentage of marks, distinctions or awards if any, in his CV or Bio data voluntarily. Only the information relating to failure or when marks obtained were less than required for passing or qualifying, is not disclosed by the concerned*



*candidate, because none likes to project that he failed in examination. If a candidate passed his examination and obtained graduation degree, his earlier failures become irrelevant, unless they are specifically declared as disqualifications for any specific purpose. (For instance, candidate needs to obtain distinction in the first instance itself for claiming a gold medal or rank).*

*Hence, the degree or academic-qualification-related-information needs to be accessible to the citizen. If student fails and attempts again to finally clear the test and secure qualification, final result could be public information. Every academic/educational qualification at land mark stages like 10th class, Intermediate, Graduation, Post Graduation or Ph.D. and clearing of every annual examination that promotes the student into next year, cannot be stated to be private information, they are in public domain. Keeping this degree related information secret might lead to manipulations and frauds.*

22. Thus, every university is a public body and the activity of awarding degrees is a public activity and it can be concluded that all degree related information as available in the permanent register of the university is accessible public document. This basic principle of public record was laid down in the Indian Evidence Act, 1872. The right to information was made available in Section 76 of Indian Evidence Act, 1872. Further, section 74 of Evidence Act, gave list of "public documents":

- (1) The following documents are public documents: (i) of the sovereign authority, (ii) of official bodies and tribunals, and (iii) of public officers, legislative, judicial and executive, of any part of India or of the Commonwealth, or of a foreign country; (2) public records kept in India or private documents.

23. Section 76 provides for right to inspect and to obtain certified copies, as now provided by the RTI Act. Section 76 says:

*Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefore, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use*



*of a seal; and such copies so certified shall be called certified copies.*

*24. The degree related information of students is considered as directory information in the United States of America and it is disclosable. It was not considered as personal information. The United States has a law called the Family Educational Rights Protection Act (FERPA) relating to the disclosure of Student related information. The FERPA is aimed at protecting information related to students. The FERPA has clearly put three distinctions on the information of a student: educational information, personally identifiable information, and directory information. Each of which will vary in the limitations subjected to by the FERPA.*

*25. Cases involving request for disclosure of educational records fall under the ambit of directory information which is defined as "information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed." Directory information is public information and will be made available to the public unless the student has restricted it. In no way does the disclosure of the information of a student's educational records or his achievements or honours during his tenure at the institution, amounts to his breach of privacy.*

*26. In Zumbun v. University of Southern California, 101 Cal. Rptr. 499, 506 (Ct. App. 1972) (<https://casetext.com/case/zumbun-v-university-of-southern-california>) the Court of Appeal in California, Second District, Division Five, [25 Cal.App.3d 1 (Cal.Ct.App.1972)] held that "finding that facts giving rise to a fiduciary duty had not been pleaded and that "[t]he mere placing of trust in another person does not create a fiduciary relationship". And in paragraph 10 it held: "(10) The basic legal relation between a student and a private university or college is contractual in nature. The catalogues, bulletins, circulars, and regulations of the Institution made available to the matriculant become a part of the contract." (This conclusion was based on following cases: Carrv. St. John's University, New York (1962) 17 A.D.2d 632, 633 [231 N.Y.S.2d 410, 413], *affd.* 12 N.Y.2d 802 [235 N.Y.S.2d 834]; Anthony v. Syracuse University (1928) 224 App. Div. 487, 489- 490 [231 N.Y.S. 435, 438-439]; Goldstein v. New York University (1902) 76 App. Div. 80, 82- 83 [78 N.Y.S. 739, 740]; People ex rel. Cecil v. Bellevue Hospital Medical College (1891) 60 Hun 107 [14 N.Y.S. 490], *affd.* 128 N.Y. 621 [28 N.E. 253]; John B. Stetson*



*University v. Hunt* (1925) 88 Fla. 510, 517 [102 So. 637, 640]; *University of Miami v. Militana* (Fla.App. 1966) 184 So.2d 701, 703-704; *Barker v. Trustees of Bryn Mawr College* (1923) 278 Pa. 121, 122 [122 A. 220, 221]; *Greene v. Howard University* (D.C. Dist. Col. 1967) 271 F. Supp. 609, 613; see *Dixon v. Alabama State Board of Education* (5th Cir. 1961) 294 F.2d 150,157, cert. den. 368 U.S. 930 [7L.Ed. 2d193, 82 S.Ct. 368]; *Searlev. Regents of the University of California* (1972) 23 Cal.App.3d 448, 452 [100 Cal.Rptr. 194].) Kaus, P.J., and Reppy, J., concurred.

27. In *Shapiro v. Butterfield*, 921 S.W.2d 649, 651-52 (Mo. Ct. App. 1996) it was held that that no fiduciary relationship between faculty advisor and student existed; In *Nigro v. Research College of Nursing*, 876 S.W.2d 681, 686-87 (Mo. Ct. App. 1994) it was held that "there is no fiduciary relationship between an educational institution and its applicants". Similar judicial orders were given in following cases: *President and Bd. of Trustees v. Smith*, 1999 WL 51799, at 2 (Ohio Ct. App. Feb. 1, 1999) (finding that there was no support for the existence of a "fiduciary relationship between an educational institution and a prospective student"); *Ho v. University of Tex.*, 984 S.W.2d 672, 693 (Tex. App. 1998) (finding, as a matter of law, that no fiduciary duty between student and faculty member/advisor existed); *Abrams v. Mary Washington College*, 1994 WL 1031166, at 4 (Va. Cir. Ct. Apr. 27, 1994) (finding no basis in common law for creating a fiduciary relationship between senior college officials and students).

28. The Central Information Commissioner Smt. Annapurna Dixit in Case No: CIC/AD/A/2012/000256, stated, "In relation to the marks obtained by a principal, it was held that: "The educational qualifications cannot be considered as personal in nature ....."

29. The Commission verified official website of Delhi University and found declaration of results of B.A. Honors (Humanities and Social Sciences), Part II (Semester IV) examination 2016, Sr.No / SEM / 2016 / 530 available at [http://www.du.ac.in/du/uploads/Examination/Result/2016/UG/03102016\\_HUMANITIES-IV-SEM.pdf](http://www.du.ac.in/du/uploads/Examination/Result/2016/UG/03102016_HUMANITIES-IV-SEM.pdf) (accessed on 09.12.2016 at 16:44 hrs), which shows the roll no, name of the candidate, marks, passed or failed at a particular center. This shows the contention of the CPIO is totally wrong as the Delhi University is placing the result of every candidate in public domain so, that each student or any citizen can verify the marks/result of students along with their name and roll number. There is a merit in the contention of the appellant that the CPIO invented these contentions only to deny the information in



*this case and they are totally in conflict with their own practice of publication of results.*

*30. Thus the contention of the CPIO that 'the information of students is personal' is not correct. Other contention that 'the information furnished by the students to the public authority in fiduciary capacity' is also not correct, because the marks obtained by students, whether passed or not is the information generated by the university, and that was not given by the students. Father's name will be necessary to identify the degree-holding student as there might be several students with the same name; students' roll numbers and other ancillary details are also essential for specific identification of the degree-holder.*

*31. The identification details of the graduates are in the public domain. They should be made available for verification and the results and marks obtained is also relevant public information, which is necessary for the society to know whether a particular candidate is an eligible graduate or not.*

*32. With regard to question whether disclosure of such identification related information causes invasion of privacy, or is that unwarranted invasion of privacy, the PIO has not put forward any evidence or explained possibility to show that disclosure of degree related information infringes the privacy or causes unwarranted invasion of privacy. If name and father's name, degree obtained, the date or the marks or the roll number are revealed, how can that cause invasion of privacy? The Commission observes that the disclosure of details of educational records of a student, maintained at University in no way infringes his/her right to privacy, hence there cannot be any violation of section 8(1)(j) of the Right to Information Act, 2005. This is primarily because the matters relating to educational qualifications of a student (former/current) fall under the public domain.*

*33. Having examined the case, the synonymous legislations and previous decisions, the Commission states that matters relating to education of a student (current/former) fall under the public domain and hence order the relevant public authority to disclose information accordingly.*

*34. In view of above observations, the Commission directs the respondent authority, Delhi University to facilitate inspection of relevant register where complete information about result of all students who passed in Bachelor of Arts, in year 1978 along with*



roll number, names of the students, father's name and marks obtained as available with the University and provide certified copy of the extract of relevant pages from the register, free of cost, before 30.12.2016.

Sd/-

(M. Sridhar Acharyulu)

Central Information Commissioner”

- ix. It is submitted that despite the passage of considerable time since the order was purportedly passed on 21.12.2016, the petitioner has not been served with a certified or even an uncertified copy of the second appeal or the impugned order.
- x. Being aggrieved with the order dated 21.12.2016, the petitioner has filed the present petition challenging the same.

**B. Brief Facts in W.P.(C) 1051/2017**

- i. On 27.08.2015, the respondent no. 1/ Mohd. Naushadudin submitted an application under the RTI Act, seeking certain information from the petitioner/ the Central Board of Secondary Education (CBSE). The English translated version of the same (annexed with the petition) reads as under –

*“1. Whether the Union HRD Minister Smt. Smriti Irani has cleared the Matriculation Examination in the year 1991 and Intermediate Examination in the year 1993 from your Board?*

*2. If yes, then I want Xerox Copies of her Class X and XII admit card (hall ticket) and mark-sheet.”*

- ii. The Public Information Officer (PIO) of the petitioner, vide reply dated 20.10.2015, denied the requested information. The denial was primarily on two grounds; (i) invoking Section 8(1)(e) of the RTI Act, the PIO stated that the information sought pertained to confidential third-party data held by the Board, the disclosure of which required the third party's consent; and (ii) it was pointed out that the records



maintained by CBSE were organized on the basis of Roll Number, Class, and Year. Since these specific details were not provided by the applicant, the PIO expressed the Board's inability to retrieve and provide the information. The English translated version of the reply dated 20.10.2015 (annexed with the petition) is reproduced as under –

*“Sub:- Application received under Right to Information Act, 2005.*

*Sir/Madam,*

*This has reference to your letter dated 27.08.2015 which was received in this office on 28.09.2015 through Public Information Officer, Delhi, the information in the light of information sought, mentioned purpose is as follows:-*

| S. No. | Information sought                                                                                                                                                                                                                                                                                                                          | Reply                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.     | <i>Whether the Union HRD Minister Smt. Smriti Irani has cleared the Matriculation Examination in the year 1991 and Intermediate Examination in the year 1993 from your Board?</i>                                                                                                                                                           | <i>The information sought under Right to Information Act, 2005 is confidential information in respect of the party, no information can be supplied without the prior permission/consent of the third party. Hence, the application is rejected under Section 8(1)(e) of RTI Act. Further it is also informed that “All the records and documents in this office are organized according to Roll No. Class and Year” Therefore, any type of</i> |
| 2.     | <i>If yes, then I want Xerox Copies of her Class X and XII admit card (hall ticket) and mark-sheet.</i><br><br><i>In respect of which the following information:-</i><br><br><i>Name : Smriti Irani</i><br><br><i>Father: Ajay Kumar Malhotra</i><br><br><i>DOB: 23 March 1976</i><br><br><i>School: Holy Child Auxilium, Vasant Vihar,</i> |                                                                                                                                                                                                                                                                                                                                                                                                                                                |



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|  |                                                                              |                                            |
|--|------------------------------------------------------------------------------|--------------------------------------------|
|  | New Delhi<br>Class or passing year : 10 <sup>th</sup><br>-1991, Inter - 1993 | information is not possible without these. |
|--|------------------------------------------------------------------------------|--------------------------------------------|

Accordingly your application received under Right to Information Act, 2005 is disposed off with the above.

If you are not satisfied with the reply, you can file an appeal under Section 19 of Right to Information Act, 2005 before the First Appellate Authority (FAA) within 30 days as per rules, whose address is given below:

**Regional Director/Appellate Authority  
Central Board of Secondary Education,  
Todarmal Marg, Ajmer  
Rajasthan - 305030**  
Yours faithfully,

Sd/-  
(Vikas Arora)  
Public Information Officer”

- iii. Aggrieved by the denial, respondent no. 1/ Mohd. Naushadudin filed a First Appeal on 27.10.2015 before the First Appellate Authority of CBSE. However, vide order dated 20.11.2015, the First Appellate Authority upheld the PIO's decision. The English translated version of Order dated 20.11.2015 (annexed with the petition) is reproduced as under –

*“Sub: - First Appeal dated 27.10.2015 received under Right to Information Act, 2005 from Mohd. Naushadudin, Dhanbad (Jharkhand).*

*Matter- The applicant Mohd. Naushadudin sent an application dated 27.08.2015 received in this office on 28.09.2015 through Public Information Officer, Delhi, in continuation of which the following information was given vide this office letter dated 20.10.2015:-*

| S. No. | Information sought                                               | Reply           |
|--------|------------------------------------------------------------------|-----------------|
| 1.     | Whether the Union HRD Minister Smt. Smriti Irani has cleared the | The information |



|    |                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | Matriculation Examination in the year 1991 and Intermediate Examination in the year 1993 from your Board?                                                                                                                                                                                                                                               | sought under Right to Information Act, 2005 is confidential information in respect of the party, no information can be supplied without the prior permission/consent of the third party. Hence, the application is rejected under Section 8(1)(e) of RTI Act. Further it is also informed that "All the records and documents in this office are organized according to Roll No., Class and Year" Therefore, any type of information is not possible without these. |
| 2. | If yes, then I want Xerox Copies of her Class X and XII admit card (hall ticket) and mark-sheet.<br>In respect of which the following information:-<br>Name : Smriti Irani<br>Father: Ajay Kumar Malhotra<br>DOB: 23 March 1976<br>School: Holy Child Auxilium, Vasant Vihar, New Delhi<br>Class or passing year: 10 <sup>th</sup> - 1991, Inter - 1993 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

**Facts:-** Applicant Sh. Mohd. Naushadudin, Dhanbad in his first application dated 27.08.2015 which was received in this office on 28.09.2015 through Public Information Officer, CBSE, Delhi. In response to which the applicant while showing his dissatisfaction preferred an appeal against this office letter dated 20.10.2015 raised following objections:-

1. The information sought was not given as per Section 8(1)(j) of RTI Act. The information sought pertains to the public interest and can be given and the detailed information is enclosed.

**Decision:-** After looking at complete facts i.e., your first application dated 27.08.2015, reply of Public Information Officer dated 20.10.2015 and your First Appeal dated 27.10.2015 the conclusion is drawn that the reply given by PIO, CBSE, Ajmer vide letter dated 20.10.2015 is complete. Further it is also informed that all the old result records and documents are organized in this office according to Roll No., Class and Year, without the availability of these records, it is difficult to provide the information.



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*Your appeal is disposed off according to above facts and rules. If you are not satisfied with the reply, you can file an appeal before the Second Appellate Authority as per rules, whose address is given below;*

***Central Information Commissioner,  
Central Information Commission,  
Room No.326, 2<sup>nd</sup> Floor,  
August Kranti Bhawan,  
Bhikaji Cama Place, New Delhi-110066***

*(Kamal Pathak)  
Appellate Officer/Regional Director”*

- iv. Dissatisfied with the outcome, respondent no. 1/ Mohd. Naushadudin filed a Second Appeal on 18.01.2016 before the Central Information Commission (CIC), registered as CIC/SA/A/2016/000591. It is submitted that the petitioner was never served a copy of the Second Appeal, neither by respondent no. 1/ Mohd. Naushadudin nor by the Commission.
- v. On 29.12.2016, the CIC issued a notice scheduling a hearing on 11.01.2017. The notice, received by the petitioner on 04.01.2017, directed the petitioner to appear for the hearing and further directed respondent no. 1/ Mohd. Naushadudin to provide a copy of any written submission at least seven days prior to the hearing date. However, it is submitted that no copy of the Second Appeal was served upon the petitioner by the stipulated date or at any time thereafter.
- vi. It is submitted that in compliance with the notice, the petitioner appeared before the Commission on 11.01.2017
- vii. Subsequently, the CIC had passed an order dated 17.01.2017 directing CBSE to “*facilitate inspection of relevant records and provide*



*certified copies of documents selected by the appellant free of cost, except personal details in admit card and mark sheet...". Order dated 17.01.2017 is reproduced as under –*

***“Analysis & Decision:***

*4. The excuse of the practical difficulty in searching from huge volume of records for the year 1991 and 1993 to furnish the information sought by the appellant is not valid. The PIO cannot make RTI applicant to wait until the digitization of 1991 records. They have to adhere to 30 days timeline as per RTI Act to provide information sought.*

*5. This right to information was provided as well in section 74 and 76 of the Indian Evidence Act, 1872 wherein the basic principle of public record was laid down. Section 74 of Evidence Act, gave list of "public documents":*

*(1) The following documents are public documents: (i) of the sovereign authority, (ii) of official bodies and tribunals, and (iii) of public officers, legislative, judicial and executive, of any part of India or of the Commonwealth, or of a foreign country; (2) public records kept in India or private documents.*

*6. Section 76 provides for right to inspect and to obtain certified copies, as now provided by the RTI Act. Section 76 says:*

*Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefore, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal; and such copies so certified shall be called certified copies.*

*7. The official website says that "the main objectives of the Central Board of Secondary Education (CBSE) were those of: serving the educational institutions more effectively and to be responsive to the educational needs of those students whose parents were employed in the Central Government services and had frequently transferable*



jobs across the country. The CBSE was formed officially in 1962 with the sole purpose to make a common standard and platform for every student in the country. From only 302 affiliated schools in 1962 CBSE is today affiliated with a whopping 18000+ schools in the country. The CBSE in all these years has set a good standard of education in India. With its influential educational policies, the CBSE has reformed the education system of the country, (<http://www.indiaeducation.net/cbse/objectives.aspx>). Today the Board has 5119 schools affiliated to it, which include 784 Kendriya Vidyalayas, 1381 Government schools, 2486 independent schools, 355 Jawahar Navodaya Vidyalaya and 13 Adhoc schools". Its objectives and functions are:

1. To prescribe conditions of examinations and conduct public examinations at the end of Class X and XII. To grant qualifying certificates to successful candidates of the affiliated schools,
2. To fulfil the educational requirements of those students, whose parents were employed in transferable jobs.
3. To prescribe and update the courses of instructions for examinations.
4. To affiliate institutions for the purpose of examination and raise the academic standards of the country.

8. Thus the CBSE is involved in a public activity like affiliating the institutions prescribing the courses of instructions, conducting examinations and certifying results of candidates. Applicants need to follow an open procedure to secure admission and thereafter, instruction and examination is processed by the CBSE resulting in certification of the result. Every such information or certification is generated by the CBSE in public domain through common process. It maintains a register recording the details of all admitted students, their results whether passed or failure and awarding of certificates. This register is a public record supposed to be accessed whenever necessary and also used for verification. As per Section 74 and 76 of Evidence Act, this register is a public document, wherein all degree related information is authentically available as permanent register of CBSE.

9. It is not correct to say that once a student passes an examination and qualifies to secure a certificate or degree, information about result will be his personal information. Disclosure of the details of a particular candidate contained in the degree or certificate register cannot cause any unwarranted invasion of privacy of the certificate holder. The CPIO has not put forward any material or justification to say that such disclosure of academic qualification



*related information shall cause unwarranted invasion of privacy of Ms. Smriti Irani in this case. In fact, that information about her CBSE certificate was already in public domain, when CBSE announced results, documented in the register, and also because the candidate, the Minister has submitted same in the form of affidavits along with nomination whenever she had contested elections.*

*10. Next question is: Is it third party information given in fiduciary capacity by the students to the educational institution? As explained above, it cannot be defended as information given in 'fiduciary capacity' because the result of examination given after securing education through a public admission process is the information generated and given by public authority to the student and not vice versa. Except the answer-sheet given in response to question paper in examination no other information is given by the student to the public authority in fiduciary capacity. Hence, except the answer sheets of the candidates, no information can be withheld from disclosure. It cannot also be considered as third party information. Public authority has a statutory function to process answer-sheets and declare the result. Through declaration of results, the institution is not disclosing any private information or information of third party'*

*11. Now we need to deal with admit card or marks sheet, if they contain some information given by the individual candidate which could be personal. If admit card contains personal information like address, contact number and email id, it is the personal information of the candidate and need not be given. Even in marks sheet, if any such information is incorporated, it could be denied. But result or contents of certificate, division acquired, year and number along with father's name cannot be treated as personal or third party information. The academic institutions while awarding such academic qualification certificate for class 10<sup>th</sup> and 12<sup>th</sup> are discharging their statutory duties and registering the qualification details.*

*12. The Commission held in Subhash Chandra Tyagi vs CBSE on 21 July, 2016 that when there was an apprehension or doubt about validity or existence of a qualification or degree, it is necessary to verify genuineness of the same. If verification proves that it is a genuine degree, it vindicates the qualification of the candidate. If it is proved to be a wrong degree, it will be essential to probe the matter further to take it to logical consequences as per law. In that way it will serve a larger public interest. Especially when fake*



*certificates and degrees are increasing, transparency to facilitate verification is essential.*

*13. If it is proved that elected public representative has given wrong information about their education, financial status and crimes, in the affidavits, it would invalidate the election. This was held in Hon'ble Supreme Court bench comprising of Justice Anil Dave and Justice L Nageshwar Rao in case of Mairembam Prithviraj Singh vs. Pukhrem Sharatchandra Singh in November 2016, held:*

*A voter is first citizen of this country and apart from statutory rights; he is having fundamental rights conferred by the Constitution. Members of a democratic society should be sufficiently informed so that they may cast their votes intelligently in favour of persons who are to govern them. Right to vote would be meaningless unless the citizens are well informed about the antecedents of a candidate. There can be little doubt that exposure to public gaze and scrutiny is one of the surest means to cleanse our democratic governing system and to have competent legislatures....It is also clear from the provisions of the Representation of the People Act 1951, Rules and Form 26 that there is a duty cast on the candidates to give correct information about their educational qualifications.*

*14. When a public representative declares his educational qualifications, the voter has a right to check up that declaration. The RTI Act has provided right to access which is similar and supplementary to the voter's right to information about certificates and degrees of the contestants upheld by the Supreme Court and the Parliament in 2002.*

*15. In Naresh Trehan v Rakesh Kumar Gupta, (2015) 216 DLT 156; Justice Vibhu Bhakru said: "The information provided by an assessee in its Income tax return is in compliance of the provisions of the Income Tax Act, 1961 and thus, could not be stated to be information provided in course of a fiduciary relationship" (Paragraph 16).*

*16. If there is a statutory duty to provide information that has to be distinguished from the fiduciary relation. This was explained by Supreme Court in Reserve Bank of India vs. Jayantilal. N. Mistry and others; T.S (C) No. 91-101/2015;*



58. In the instant case, the RBI does not place itself in a fiduciary relationship with the Financial institutions (though, in word it puts itself to be in that position) because, the reports of the inspections, statements of the bank. Information related to the business obtained by the RBI are not under the pretext of confidence or trust. In this case neither the RBI nor the Banks act in the Interest of each other. By attaching an additional "fiduciary" label to the statutory duty, the Regulatory authorities have intentionally or unintentionally created an In terrorem effect.

17. Ms. Smriti Zubin Irani being an elected MP and holding the Constitutional office of the Union Minister, is a public authority under RTI act. Under the RPA, 1951 she must have fulfilled her statutory responsibility to submit an affidavit declaring educational status. The information to be furnished under a statute cannot be claimed to be given in fiduciary capacity.

18. In fulfilment of obligation under Representation of People's Act 1951, the Minister for Textiles filed affidavits stating that she has passed class X and XII from the Holy Child Auxilium School (see at page 10 at <http://docs.myneta.info/affidavits/raisab09aff/318/Smriti%20Irani.pdf>).

19. Hence, the Commission directs the office of Minister for textiles (Ms Smriti Zubin Irani) and the Holy Child Auxilium School, Delhi to provide the roll number or reference number of Ms Smriti Zubin Irani to CBSE, Ajmer, which possess the records for the years 1991 and 1993 to facilitate search from huge records which is yet to be digitized, sympathizing the staff for their practical difficulties in the CBSE, within 30 days from the date of receipt of this order.

20. However the defence under Section 8(1)(j) could be available to deny copies of 'admit card' and 'marks sheet', if they contain certain personal details of the student unrelated to public activity of education, disclosure of which might cause unwarranted invasion of privacy.

21. The Commission directs the respondent authority, the CBSE to facilitate inspection of relevant records and provide certified copies of documents selected by the appellant free of cost, except personal details in admit card and mark sheet, within 60 days from the date of receipt of this order.

Sd/-



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(M.Sridhar Acharyulu)  
Central Information Commissioner”

- viii. It is submitted that the petitioner has not been served a copy of the Second Appeal or the certified copy of the impugned order either by respondent no. 1/ Mohd. Naushadudin or by the CIC.
- ix. Being aggrieved with the order dated 17.01.2017, the petitioner has filed the present petition.

**C. Brief Facts in W.P.(C) 1077/2017**

- i. The present case arises from a dispute concerning the rejection of two RTI applications submitted by the respondent no. 1/Mohd. Irsad to the petitioner, and the consequential penalty imposed upon the CPIO by the CIC.
- ii. On 13.05.2016, the petitioner received two RTI applications bearing diary nos. 10496 and 10497 both dated 11.05.2016 from the respondent no. 1/Mohd. Irsad, each accompanied by Indian Postal Orders (IPOs) of ₹10. Application bearing diary no. 10496 dated 11.05.2016 is reproduced as under –

“To,  
The Public Information Officer,  
New Administrative Building,  
University of Delhi,  
North campus,  
Delhi-110007.

**Subject:- Application under Section 2(j) of The RTI Act 2005**

Sir,

A. I wish to inspect the following documents of the student with Enrol no-CC-5594/74 and the registers which contain this enrol no.:

1. Admission form and enrolment form filled in student's handwriting along with all its annexure/enclosures.



2. Enrolment register which contains this enrol no.
  3. ACC register which contains this enrol no.
  4. All mark sheets of the student with this enrol no.
  5. Did the student ever apply for duplicate copy of his mark sheet or degree? If yes, I wish to inspect the application with all its annexure.
  6. Degree entry register of Exam IV branch which contains the entry of the student with this enrol no.
  7. Degree entry register of SOL, which contains entry of the student with this enrol no.
  8. Register which contains signature of receipt of degree of the student with this enrol no.
  9. Convocation list of 1979.
  10. Signature of the student of receipt of degree at convocation.
  11. Photograph of receipt of degree by this student at convocation.
  12. Announcement list at convocation of 1979.
- B. After inspection, I should be provided copies of all the above documents.
- Note - Postal Order No.244788 has been attached herewith this application as requisite fee required under RTI Act 2005."

Application bearing diary no. 10496 dated 11.05.2016 is reproduced as under -

"To,  
The Public Information Officer,  
New Administrative Building,  
University of Delhi,  
North campus,  
Delhi-110007.  
Subject:- Application under Section 2(j) of The RTI Act 2005  
Sir,

- A. I wish to inspect the following documents of the student with Enrol no -CC-2366/74 and the registers which contain this enrol no.:
1. Admission form and enrolment form filled in student's handwriting along with all its annexure/enclosures.
  2. Enrolment register which contains this enrol no.
  3. ACC register which contains this enrol no.
  4. All mark sheets of the student with this enrol no.
  5. Did the student ever apply for duplicate copy of his mark sheet or degree? If yes, I wish to inspect the application with all its annexure.
  6. Degree entry register of Exam IV branch which contains the



*entry of the student with this enrol no.*

*7. Degree entry register of SOL, which contains entry of the student with this enrol no.*

*8. Register which contains signature of receipt of degree of the student with this enrol no.*

*9. Convocation list of 1979.*

*10. Signature of the student of receipt of degree at convocation.*

*11. Photograph of receipt of degree by this student at convocation.*

*12. Announcement list at convocation of 1979.*

*B. After inspection, I should be provided copies of all the above documents.*

*Note - Postal Order No.244787 has been attached herewith this application as requisite fee required under RTI Act 2005."*

- iii. It is submitted that following the University's established internal procedure, the applications were forwarded to the Cash Section of the petitioner for verification and generation of fee receipts. However, it is submitted that the Section Officer (Finance VII) returned the applications along with the IPOs on 16.05.2016 to Section Officer (Information), noting that IPOs were incorrectly addressed in favour of "PIO, DU" instead of the "Registrar, University of Delhi,".
- iv. Subsequently, the RTI applications along with the IPOs were returned to the respondent no. 1 vide letters bearing nos. Info./ROA/228/2016/2471 and Info./ROA/229/2016/2472 both dated 16.05.2016, passed by the CPIO. The letter bearing no. Info./ROA/228/2016/2471 is reproduced as under –

*Sir,*

*The Information Section of the University has received your application dated 11<sup>th</sup> May, 2016 under the Right to Information Act, 2005 on 13<sup>th</sup> May, 2016. The instrument No. 32F 244788 for Rs. 10/- sent by the applicant is not in favour of "Registrar, University of Delhi" and therefore, the application is returned herewith in original alongwith IPO.*



*The relevant para regarding fees for admissibility of the application under Right to Information Act, 2005, which is available on the website of the University [www.du.ac.in](http://www.du.ac.in) under the Head 'Useful Links'-'RTI' under Manual 17 under section 4 (1)(b) (xvii) of the Act, reads as under:*

*The person seeking information may apply on a plain paper giving particulars of information being sought and his/her correct address for communication.*

*A request for obtaining information under sub-section (1) of section 6 shall be accompanied by an application fee of rupees ten by way of cash against proper receipt or by demand draft or bankers cheque or Indian Postal Order payable to the Registrar, University of Delhi. The IPO can also be in favour of Accounts Officer, University of Delhi.*

*Therefore, the applicant may send a fresh instrument of Rs 10/- accordingly payable at Delhi alongwith the application, so that the application can be admitted under the Right to Information Act, 2005. Alternatively, the applicant may visit the Information Section, 1<sup>st</sup> Floor, New Administrative Block, University of Delhi, Delhi-110007 in person and deposit the fees with the University Cashier as mentioned above against proper receipt. The applicant should not send any currency note or blank instrument alongwith the application as it is not permissible.*

*The date of receipt of the signed application alongwith fees as mentioned above would be treated as the date of admission of the application under the Right to Information Act, 2005.*

*Yours faithfully,  
(Meenakshi Sahay)  
Central Public Information Officer”*

- v. Subsequently, the University received notices of hearing, both dated 20.07.2016, from the CIC on 02.08.2016 for complaints filed by the respondent no. 1 (Complaint nos. CIC/SA/C/2016/000234 and CIC/SA/C/2016/000235) and copies of the complaints were received on 08.08.2016. The initial hearing was scheduled for 24.08.2016 but was later rescheduled to 08.09.2016.



- vi. It is submitted that the hearings were duly attended by the CPIO. The written submissions and additional written submissions were also submitted as per the directions.
- vii. Subsequently, the CPIO was issued two show-cause notices both dated 11.11.2016, in Complaint nos. CIC/SA/C/2016/000234 and CIC/SA/C/2016/000235, asking why a maximum penalty should not be imposed for the alleged denial of information. The show-cause notice issued in Complaint no. CIC/SA/C/2016/000234 is reproduced as under –

***“CENTRAL INFORMATION COMMISSION***

*(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)*

***Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)***

***Central Information Commissioner***

***CIC/SA/C/2016/000234***

***Mohd. Irsad v. PIO, Delhi University***

***Important dates and time taken:***

*Date of hearing : 05.10.2016*  
*Decided on : 11.11.2016*  
*Result : Show cause and posted to 14.12.2016 at 1200 noon.*

***Parties Present:***

- 1. Appellant: Present.*  
*Public authority; Ms. Meenakshi Sahay, CPIO and Mr. P. Roy Chaudhuri, Advocate*

***FACTS:***

*2. Complainant had sought for inspection of documents of student with enrolment number CC-2366/74. PIO replied on 16.05.2016 stating that the IPO was not correctly marked in favour of Registrar, university of Delhi. Complainant approached the Commission.*

- 3. The Commission's order dated 08.09.2016:*



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3. Case is adjourned and posted to 5.10.2016 at 2:30 PM, as agreed by both the parties for submission of their written statements and further directions. Both the parties shall exchange their submissions with each other, before filing the same to the Commission.

**Decision:**

4. The Counsel for Delhi University submitted a detailed response. Appellant's counsel said that they had nothing to submit in addition to the complaint. The Commission directs the CPIO of Delhi University to show cause why maximum penalty should not be imposed against him/her for alleged wrongful rejection of RTI application and denial of information to the appellant, within 21 days from the date of receipt of this order.

5. The case is posted to 14.12.2016 at 1200 noon.

(M. Sridhar Acharyulu)  
Central Information Commissioner"

The show-cause notice issued in Complaint no. CIC/SA/C/2016/000235 is reproduced as under –

**"CENTRAL INFORMATION COMMISSION**

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)**

**Central Information Commissioner**

**CIC/SA/C/2016/000235**

**Mohd. Irsad v. PIO, Delhi University**

**Important dates and time taken:**

|                 |   |                                                   |
|-----------------|---|---------------------------------------------------|
| Date of hearing | : | 05.10.2016                                        |
| Decided on      | : | 11.11.2016                                        |
| Result          | : | Show cause and posted to 14.12.2016 at 1200 noon. |

**Parties Present:**

1. Appellant:  
Public authority: Ms. Meenakshi Sahay, CPIO and Mr. P. Roy Chaudhuri, Advocate

**FACTS:**



2. Complainant had sought for inspection of documents of student with enrolment number CC-5594/74. PIO replied on 16.05.2016 stating that the IPO was not correctly marked in favour of Registrar, university of Delhi. Complainant approached the Commission.

3. The Commission's order dated 08.09.2016:

3. Case is adjourned and posted to 5.10.2016 at 2:30 PM, as agreed by both the parties for submission of their written statements and further directions. Both the parties shall exchange their submissions with each other, before filing the same to the Commission.

**Decision:**

4. The Counsel for Delhi University submitted a detailed response. Appellant's counsel said that they had nothing to submit in addition to the complaint. The Commission directs the CPIO of Delhi University to show cause why maximum penalty should not be imposed against him/her for alleged wrongful rejection of RTI application and denial of information to the appellant, within 21 days from the date of receipt of this order.

5. The case is posted to **14.12.2016 at 1200 noon.**

(M. Sridhar Acharyulu)  
Central Information Commissioner"

- viii. The CPIO responded to the show-cause notices on 14.12.2016.
- ix. Subsequently, the CIC issued a combined impugned order dated 27.12.2016, directing recovery of ₹25,000 as penalty from the salary of the CPIO. The relevant portion of the Order dated 27.12.2016 is reproduced as under –

***"Analysis and Decision***

8. The Question before the Commission are: Whether rejection of RTI application along with the IPO is illegal? Will it form ground for complaint? Answer to both is 'yes'.

9. The fact of returning of the RTI request is admitted by the CPIO.



*The CPIO also gave a list of seven cases during 2009 to 2013, wherein the RTI application along with the IPO was returned on the ground that IPO was left blank. Thus it is proved that several RTI applications are being rejected on such grounds.*

*10. The CPIO justified her action stating that Delhi University has a procedure for admissibility of RTI application (they called it Institutional Procedure of Admission of RTI Applications). The point 9 of this procedure as submitted by the CPIO authorizes the CPIO to return the original RTI application. The text of the point 9 is as follows:*

*9. On receipt of the applications with the inadmissible financial instruments from the Section Officer (Finance VII), a letter is prepared by the Information Section addressed to the applicant forwarding the application and financial instrument in original for the purpose of rectification. This communication is sent by the University through the Deputy Registrar (Information) & CPIO to facilitate its return to the individual concerned through a systematic procedure of returning such applications as a routine in the University over the years.*

*11. The CPIO did not explain the basis of this 'institutional procedure for admissibility of RTI applications', who authored it who authorized it and when etc. The public authority has not published this 'procedure' on its official website. They claimed it as internal procedure. It is not shown to be a regulation passed by appropriate body of the public authority. The rule 9 of that procedure proves that there is merit in the contention of complainant that Delhi University habitually rejects the RTI application on illegal grounds. Pretending to be dedicated and committed to earn Rs 10 to the public authority, the CPIO is causing the drain of public funds in getting letters of rejection posted with approximate cost of Rs 50 or more, makes the authorities to appoint lawyers to argue this case at huge cost and harass the RTI applicants without giving any information and litigating on that to any extent. It appears that there is a set of people in the University who bent upon denying information and harass the seekers by misusing their discretionary authority both under their original office and under RTI Act. It is highly deplorable.*

*12. The Right to Information (Regulation of Fee and Cost) Rules, 2012 prescribed under Rule 6(b) that fee may be paid by....IPO payable to Accounts Officer of the Public Authority.*



13. The 'Office Memorandum' of DoPT dated 5<sup>th</sup> December 2008 directed the public authorities not to reject the RTI applications if IPO is addressed to accounts officer. The OM also cautioned that such non-acceptance of IPOs may amount to refusal to accept the application which may result into imposition of penalty by the CIC on the concerned CPIO.

11. Returning/rejecting of application for RTI could be a ground for complaint under Section 18(1), which says;

Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—

a) .....

b) who has been refused access to any information requested under this Act;

c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;

d) who has been required to pay an amount of fee which he or she considers unreasonable;

e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

12. The CPIO stated that "since the application is not maintainable as per the RTI Act, the question of any further deliberation on the application does not arise at all under any circumstances". According to her neither application, nor complaint is maintainable. Facts and submissions of the CPIO proved that the University's CPIOs are adamant in rejecting RTI applications and violating RTI Act. The CPIO was also supported by the standing counsel of the University to plead this point and justify the rejection.

13. The public authority cannot impose exemptions and substitute new or additional grounds other than those provided in the RTI Act. The Act leaves no such liberty with the public authorities and PIOs to read law beyond what it is stated explicitly. There is absolutely no ambiguity in the Act and tinkering with it in the name



of larger public interest is beyond the scope of the Public information officers. In *Kanchi Kohli v. M/o Environment & Forest* in Case No. CIC/SA/A/2016/000209, the Commission held that the public authority cannot invent a new defence or exemption such as 'the report is under submission', 'file is pending consideration' and 'unless approved it cannot be given', etc, which are not available under RTI Act, 2005, such an illegal refusal will amount to denial of information which would invite penal proceedings under Section 20 of RTI Act, 2005. If public authority introduces a policy or practice which prescribed additional grounds beyond RTI Act for rejecting RTI application, public authority PIO as designated independent officer it cannot be justified under RTI Act.

14. Explaining the disposal of request, the RTI Act, Section 7(1) clearly said that the CPIO either provides the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9. The issue remained is the point of payment of fee. Whether appellant/complainant paid the fee of Rs. 10? Only point repeatedly argued and heavily dependent upon by the CPIO was that IPO was not properly filled, No other reason for rejection was mentioned by the CPIO in all of her explanations. The IPO stands proof of his payment of fee. Writing 'PIO' in IPO does not render the entire RTI application as 'no application' as alleged by the CPIO. The IPO in this case is not invalid.

15. The CPIO has every authority to collect the fee prescribed. But when IPO indicates that Rs 10 paid to Government of India, the RTI application cannot be considered as 'without payment' and be rejected. Even non-payment of fee was not prescribed as a ground for rejection of RTI application. Only grounds for rejection are specifically provided under section 8 and 9. Reading Section 6 and 7 together and understanding spirit of RTI Act as a whole should make CPIO to act reasonably and provide information rather than searching for excuses to reject. Expression "on payment of such fee" means both fee of Rs 10 and further fee representing cost of copying. For that the CPIO has to accept and study the RTI Application, get ready to give the information sought, if not exempted, and seek payment of cost of copying and on receipt of additional fee, if needed, and then the information need to be provided. What is the significance of fee of Rs. 10? Does it represent the value of the information, cost of its searching, labour charge for preparing the information or consideration for it? No. If CPIO- has any issues with realization of that fee for his authority, she has every chance of addressing those issues or communicating



same with appellant. By returning application along with IPO she has closed all those chances. One sms or email or phone call from public authority would have helped appellant to resolve the issue and facilitated public authority to consider RTI request. The CPIOs action of rejection resulted in denial of RTI and harassment of applicant. It appears RTI wing of public authority is bent upon rejecting RTI requests on some or the other ground,

16. There is a point in the contention of the complainant that according to the RTI Act, Rs. 10 is fee prescribed only at the threshold level and nowhere a fee is prescribed at first and second appellate stages. The Public authority should know that the fee does not mean the cost for their services in giving information. The information is not generated for RTI Act but it was developed during its core activity. The public authority cannot spend unreasonable amounts for gaining Rs.10 when it is already paid in the account of Government of India. In this case one can easily say that Delhi University has spent more than Rs. 10 in writing a rejection letter and more than Rs. 1 lakh in defending the illegal rejection upto second appeal. Once fee is paid to the Government of India through IPO, it is the duty of the public authority to examine whether information demanded could be disclosed or exempted under Section 8 and 9 of RTI Act. By rejecting the request the CPIO refused to perform this statutory function.

17. On the question whether four orders of CIC will bind this Commission, we need to consider the contention of the complainant that 'the CIC is not an appellate body over the State Information Commission, there is no hierarchy within the Commission to file appeals over order of one commission before a two member bench, etc, therefore a Bench of Commissioners, is not empowered to hear appeals like LPAs over writ petitions in High Courts and no where precedential character was prescribed to the decisions of CIC. The order of one Information Commissioner is not binding on another Information Commissioner except that it might have a strong persuasive value. As there is no internal appellate authority in Commission, the rule 'per incuriam' is not available. Therefore the four orders of CIC cited by CPIO cannot stop this Commission from independently examining the issue in this complaint and decide according to the provisions of the law and facts of the case.

### **Decision**

19. Guide on Right to Information Act, 2005, issued by DoPT with caption, "Applications received without fee", in which it is stated at point 2 "Soon after receiving the application, the Public



*Information Officer should check whether the applicant has made the payment of application fee or whether the applicant is a person belonging to a Below Poverty Line (BPL) category. If application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as an application under the RTI Act. It may, however, be noted that the Public Information Officer should consider such an application sympathetically and try to supply information sought by way of such an application".*

*20. From these guidelines it is clear that 'fee' is not material factor to throw out the RTI request. Non- payment of fee is not prescribed ground for rejection of request. In fact, this is not at all a case of RTI request without payment of fee. Applicant is also not claiming BPL status. The very fact that he has paid fee through court fee stamps proves his intention to pay. When guidelines goad the public authority to be sympathetic to an applicant without paying fee, it does not need special mention that it cannot take technical excuse about form of payment to deny or delay the information.*

*21. Thus the Commission finds no justification to apprehend audit objection to giving information disputing the mode of payment. In fact, audit will surely object this way of unmindful spending of huge amount for Rs. 10. There is a duty cast upon the public authority to simplify the process of payment of fee of Rs 10. In Patna, public authority accepts the RTI application on phone though it is not accompanied with Rs. 10, which is added to telephone bill. Some states accept court stamps for payment of fee. It is pathetic that such a simple request for information has been dragged to the level of second appeal building heaps of documents with multiple files consuming reams of paper spending huge amount of money besides consuming precious time of public servants including that of the Commission.*

*22. After hearing story of spending for legal battles to deny information up to amount of thousands for an IPO of Rs 10, the proverb '**penny wise pound foolish**' has to be rewritten as 'rupee wise and thousand foolish'. Thus it is apparent denial of information and that too without any reasonable cause that attracts Section 20 of RTI Act. The Commission is vexed with non-response of CPIO to number of its penalty notices and thus finds it is a fit case to impose penalty on CPIO.*

*23. The Commission finds that the rejections of RTI applications by Delhi University reminds the saying 'penny wise pound foolish', the rejection of RTI application of the complainant is against the Right to Information Act, rules and OM of DoPT, their institutional rules*



*of procedure, even if existed with any authority, is not valid to the extent of its contradiction to RTI Act and Rules. The explanation of the CPIO confirms the fact of rejection and totally fails to present any merit or justification. Hence the Commission considers the CPIO is liable. The Commission requires under Section 19(8)(a) the Public Authority to facilitate sufficient training to the entire staff including CPIO and First Appellate Authority in the matters of RTI law so that they do not adamantly reject RTI application in routine without application of mind and understanding the aims and objectives of RTI Act. The Commission also suggest public authority to arrange for sufficient training, for the RTI authorities, dealing officers and staff, provide latest books on RTI Act, and supply the classic text books on "Administrative Law" and "Right to Know" by late Professor S P Sathe, besides the "Five point someone: What not to do at IIT" a novel written by Shri Chetan Bhagat, an alumnus of IIT Delhi and IIM Ahmadabad to develop a positive mindset in disseminating information suo motu and on request, without wasting university money for collecting Rs 10. The training curriculum may also include the judgment of Mr. Justice Rajiv Sahai Endlaw of Hon'ble Delhi High Court in JP Agrawal v Union of India, WP(c) 7232/2009 decided on 4<sup>th</sup> August 2011. (also available on <https://indiankanoon.org/doc/104466988/>).*

*24. Hence, the Public Authority is directed to recover the amount of Rs.25,000/- from the salary payable to Mrs. Meenakshy Sahay, the CPIO by way of Demand Draft drawn in favour of 'PAO CAT' New Delhi in 5 equal monthly instalments. The first instalment should reach the Commission by 15.02.2017 and the last 51 instalment should reach by 15.06.2017. The Demand Draft should be sent to Shri S. P. Beck, Joint Secretary & Addl. Registrar, Room No. 302, Central Information Commission, B-Wing, 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066.*

*(M. Sridhar Acharyulu)*

*Central Information Commissioner)"*

- x. Being aggrieved with the order dated 27.12.2016, the petitioner has filed the present petition.
- xi. In the said petition, the petitioner has also filed an additional affidavit dated 25.04.2017, wherein it has been submitted that after receiving communication from the University regarding the procedural defect in



his initial RTI application, the respondent no. 1/ Mohd. Irsad filed two fresh RTI applications on 24.05.2016. These were submitted with valid and acceptable fee instruments and were duly registered by the petitioner as OA No. 794 of 2016 and OA No. 795 of 2016. The University accepted these applications without objection and proceeded to process them under the provisions of the RTI Act. RTI application bearing no. OA No. 794 of 2016 is reproduced as under –

“Sir,

*A. I wish to Inspect the following documents of the student with Enrol no-CC-5594/74 and the registers which contain this enrol no.:*

- 1. Admission form and enrolment form filled in student's handwriting along with all its annexure/enclosures.*
- 2. Enrolment register which contains this enrol no.*
- 3. ACC register which contains this enrol no.*
- 4. All mark sheets of the student with this enrol no.*
- 5. Did the student ever apply for duplicate copy of his mark sheet or degree? If yes, I wish to inspect the application with all its annexure.*
- 6. Degree entry register of Exam IV branch which contains the entry of the student with this enrol no.*
- 7. Degree entry register of SOL, which contains entry of the student with this enrol no.*
- 8. Register which contains signature of receipt of degree of the student with this enrol no.*
- 9. Convocation list of 1979.*
- 10. Signature of the student of receipt of degree at convocation.*
- 11. Photograph of receipt of degree by this student at convocation.*
- 12. Announcement list convocation of 1979.*

*B. After inspection, I should be provided copies of all the above documents.*

*Note- Postal Order No. 288059 has been attached herewith this application as requisite fee required under RTI Act 2005.”*

RTI application bearing no. OA No. 795 of 2016 is reproduced as under –

“Sir,



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*A. I wish to Inspect the following documents of the student with Enrol no -CC-2366/74 and the registers which contain this enrol no.:*

- 1. Admission form and enrolment form filled in student's handwriting along with all its annexure/enclosures.*
- 2. Enrolment register which contains this enrol no.*
- 3. ACC register which contains this enrol no.*
- 4. All mark sheets of the student with this enrol no.*
- 5. Did the student ever apply for duplicate copy of his mark sheet or degree? If yes, I wish to inspect the application with all its annexure.*
- 6. Degree entry register of Exam IV branch which contains the entry of the student with this enrol no.*
- 7. Degree entry register of SOL, which contains entry of the student with this enrol no.*
- 8. Register which contains signature of receipt of degree of the student with this enrol no.*
- 9. Convocation list of 1979.*
- 10. Signature of the student of receipt of degree at convocation.*
- 11. Photograph of receipt of degree by this student at convocation.*
- 12. Announcement list convocation of 1979.*

*B. After inspection, I should be provided copies of all the above documents.*

*Note- Postal Order No. 288058 has been attached herewith this application as requisite fee required under RTI Act 2005."*

- xii. It is submitted that both RTI applications filed afresh by the respondent no. 1/ Mohd. Irsad were decided on their merits by the University. The University passed orders disposing of these applications on 13.06.2016. OA No. 794 of 2016 was decided vide Order No. Info/OA/794/2016/2884, and OA No. 795 of 2016 was disposed of vide Order No. Info/OA/795/2016/2883.
- xiii. Order bearing no. Info/OA/794/2016/2884 dated 13.06.2016 is reproduced as under –

*"To,  
Mohd. Irsad  
Advocate  
Chamber No-230, Patiala House Court,  
New Delhi*



*Subject: Original Application (OA) No. 794 of 2016 under the Right to Information Act, 2005.*

*Sir,*

*This has reference to the above original application, which has been numbered 794 of 2016 as specified in the subject cited above. The applicant is required to quote the original application number in all future correspondence for proper correlation of the documents.*

*The information sought by the applicant has already been transferred to the School of Open Learning under intimation to the applicant under section 6(3) of the Act. A copy of the original application was endorsed to the Dean (Examinations), OSD (Examinations), Joint Registrar (Degree), Joint Registrar (Result), Deputy Registrar (Academic) and Assistant Registrar (Results) SOL of the University, who are the deemed PIOs under section 5(4) & 5(5) of the Act.*

*Relevant input received from the Joint Registrar (Exams.)/OSD (Exams.)/Dean (Exams.) and Deputy Registrar (Academic) is enclosed in this regard.*

*On perusal of the original application, it appears that the applicant is seeking various admission and degree related information of another student. The documents sought by the applicant may also include data of other students of the University.*

*In this connection, it is informed that the University as a matter of policy seeks, to maintain the privacy of every student as it holds the data pertaining to a student in a fiduciary relationship with the student concerned, which can be disclosed only to the student concerned. The disclosure of such information is exempt under-section 8(1)(e) of the Act.*

*Again, the information pertaining to the students of the University is treated as personal information of the students concerned, the disclosure of which has no relationship to any public activity or interest. Disclosure of such information is exempt under section 8(1)(j) of the Act."*

*However, in this connection, it is informed that there is a systematic procedure for verification of degree by the University, the details of which are available on the website of the University, [www.du.ac.in](http://www.du.ac.in) under the head 'Useful Links' - 'Forms'. Therefore, the applicant may visit the website for this purpose.*



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*The applicant can prefer an appeal against the decision before the Appellate Authority within 30 days. The name and particulars of the Appellate Authority are as under:*

*Shri Jay Chanda  
Joint Registrar  
University of Delhi,  
Delhi-110007  
Telephone ; 011-27667623*

*Yours faithfully,  
Sd/-  
(Meenakshi Sahay)  
Central Public Information Officer”*

xiv. Order bearing no. Info/OA/795/2016/2883 dated 13.06.2016 is reproduced as under –

*“To,  
Mohd. Irsad  
Advocate  
Chamber No-230, Patiala House Court,  
New Delhi*

*Subject: Original Application (OA) No. 795 of 2016 under the Right to Information Act, 2005.*

*Sir,*

*This has reference to the above original application, which has been numbered 795 of 2016 as specified in the subject cited above. The applicant is required to quote the original application number in all future correspondence for proper correlation of the documents.*

*The information sought by the applicant has already been transferred to the School of Open Learning under intimation to the applicant under section 6(3) of the Act. A copy of the original application was endorsed to the Dean (Examinations), OSD (Examinations), Joint Registrar (Degree), Joint Registrar (Result), Deputy Registrar (Academic) and Assistant Registrar (Results) SOL of the University, who are the deemed PIOs under section 5(4) & 5(5) of the Act.*

*Relevant input received from the Joint Registrar (Exams.)/OSD (Exams.)/Dean (Exams.) and Deputy Registrar (Academic) is enclosed in this regard.*

*On perusal of the original application and on the basis of the input received from the deemed PIO, it appears that the*



*information requested by the applicant apparently concurs a student of the University. The University, in general, treats the data of the students as personal to the students concerned, the disclosure of which has no relationship to any public activity or interest. For It does not appear that any larger public interest would be served by disclosure of this information in the public domain. Disclosure of such information is exempt under section 8(1)(j) of the Act. Therefore, the request of applicant attract Section 8(1)(j) of the Act.*

*However, in this connection, it is informed that there is a systematic procedure for verification of degree by the University, the details of which are available on the website of the University, [www.du.ac.in](http://www.du.ac.in) under the head 'Useful Links' - 'Forms'. Therefore, the applicant may visit the website for this purpose.*

*The applicant can prefer an appeal against the decision before the Appellate Authority within 30 days. The name and particulars of the Appellate Authority are as under:*

*Shri Jay Chanda  
Joint Registrar  
University of Delhi,  
Delhi-110007  
Telephone : 011-27667623*

*Yours faithfully,  
Sd/-  
(Meenakshi Sahay)  
Central Public Information Officer”*

- xv. It is emphasized that the University did not reject the information sought arbitrarily or in bad faith, but merely acted upon a procedural requirement concerning the admissibility of the application under the RTI regime.
- xvi. In light of the above, it is asserted that the allegations and objections raised by the respondent against the petitioner in the CIC proceedings either no longer survive or have become academic and infructuous. It is submitted that the fact that the respondent was able to re-submit his RTI applications in a valid form and obtain a decision on merits



clearly nullifies the basis on which the impugned CIC order proceeded.

**D. Brief Facts in W.P.(C) 1091/2017**

- i. The petition arises out of an RTI application filed by respondent no. 1/ Mr. R.K. Jain, bearing reference no. RTI/P-822/7667/13 dated 23.12.2013. It is submitted that said application was addressed to a non-existent CPIO of the Faculty of Management Studies (FMS), University of Delhi. It is further submitted that the application was accompanied by an Indian Postal Order (IPO) for ₹10, with the “pay to” column left blank, thereby rendering the fee instrument defective and inadmissible under the RTI Act and the applicable rules framed thereunder. The application dated 23.12.2013 is reproduced as under –

*“Application under Section 6 of the Right to Information Act, 2005*

*Ref No. RTI/P-822/7667/13*

*Dated : 23-12-2013*

*To*

*CPIO*

*Faculty of Management Studies*

*Delhi University*

*North Campus*

*Maurice Nagar*

*New Delhi – 110007*

|    |                       |                                                            |
|----|-----------------------|------------------------------------------------------------|
| 1. | Name of the Applicant | R. K. Jain                                                 |
| 2. | Address               | 1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi – 110003 |
|    | (b) Phone Nos.        | 09810077977, 011-24651101, 011-24690707                    |
|    | (c) Fax No.           | 011-24635243                                               |



|    |                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3. | <i>Whether a Citizen of India</i>                                                                                                                                                | Yes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 4. | <i>Particulars of Information</i>                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|    | <i>Details of information required</i>                                                                                                                                           | <p>(A) Please provide details of the Thesis, Research Paper, Project Report or Study Report submitted by Shri Pankaj Kumar Pandey Shreyaskar, during his MBA/Part-time programme during Academic year 2009-2012 under Delhi University Roll No.13472 (copy of Provisional Certificate enclosed).</p> <p>(B) Please provide the title of the Thesis / Research Papers / Project Reports or Papers submitted by Shri Pankaj Kumar Pandey Shreyaskar with copy of the Title Page.</p> <p>(C) Please provide the copy of the Thesis / Project Report submitted by Shri Pankaj Kumar Pandey Shreyaskar and date of submission of the Thesis.</p> <p>(D) Please provide Rules and Regulations regarding publication of the Thesis / Research Paper submitted by a student as a part of the MBA Programme.</p> <p>Note:- Please provide pointwise information / response for each of above points.</p> |
| 5. | <i>I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to</i> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |



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|    |                                                                                                                                                                          |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | <i>Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.</i>                          |
| 6. | <i>A Postal Order No. 13F 874368 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.</i> |
| 8. | <i>As per Section 7 of the RTI Act, 2005 information is to be provided within 30 days of the Application.</i>                                                            |

*Signature of Applicant*

*Telephone No. : 9810077977*

*011-24651101, 24690707*

*Fax No. 011-24635243*

*Place: New Delhi*

*Encl: as above."*

- ii. It is submitted that subsequently, on 15.01.2014, the application was forwarded by the Section Officer, Faculty of Management Studies, of the petitioner, to the Deputy Registrar and CPIO of the University of Delhi vide letter no. FMS/1870 dated 15.01.2014 which was received by the Section Officer (Information Section). It is submitted that the RTI application and IPO were thereafter placed before the Section Officer (Finance - VII) for encashment and issuance of receipt. However, it is submitted that the application and IPO was returned by the Section Officer (Finance - VII) with the observation that IPO should be drawn in favour of the "Registrar, University of Delhi".
- iii. Subsequently, it is submitted that the Section Officer (Information Section) prepared a standard response/letter bearing reference no. Info/ROA/32/2014, dated 15.01.2014 explaining the procedural defects in the application and returned the IPO and application to the applicant for rectification. It is submitted that the CPIO signed and dispatched the letter bearing reference no. Info/ROA/32/2014, dated



15.01.2014 prepared by the Section Officer (Information Section), on 16.01.2014, within 24 hours of receipt of the file. This letter informed the applicant of two specific deficiencies: (i) the application was not addressed to the proper authority, i.e., the CPIO, University of Delhi; and (ii) the IPO was not made in favour of the “Registrar, University of Delhi.” The letter dated 15.01.2014 is reproduced as under –

*“Shri R.K. Jain*

*1512-B, Bhishm Pitamah Marg,*

*Wazir Nagar,*

*New Delhi-110003*

*Subject: Application under the Right to Information Act 2005*

*Sir,*

*The Information Section of the University has received an application from the applicant dated 23rd December, 2013 under the Right to Information Act, 2005 on 15th January, 2014. On perusal of the application, the following deficiencies have been found in the application for admittance of the application in the University of Delhi.*

*1. The Application is addressed to the CPIO, Faculty of Management Studies, New Delhi, whereas the application is required to be addressed to the 'CPIO, University of Delhi' for filing an application for seeking information under the RTI Act, 2005. This has been elaborated on the website of the University, [www.du.ac.in](http://www.du.ac.in) under the head 'RTI'.*

*2. The Instrument No. 13F 874368 for Rs. 10/- sent by the applicant is not in favour of 'Registrar, University of Delhi'. Therefore, the application is returned herewith alongwith the IPO.*

*The relevant para, regarding fees for admissibility of the application under Right to Information Act, 2005 which is available on the website of the University [www.du.ac.in](http://www.du.ac.in) under the Head RTI under Manual 17 under Section 4 (1)(b) (xvii) of the Act reads as under.*



*The person seeking information may apply on a plain paper giving particulars of information being sought and his/her correct address for communication.*

*A request for obtaining information under sub-section (1) of Section 6 shall be accompanied by an application fee of rupees ten by way of cash against proper receipt or by demand draft or bankers cheque or Indian Postal Order payable to the Registrar, University of Delhi.*

*Therefore, you may send a fresh instrument of Rs 10/- favouring 'The Registrar, University of Delhi' payable at Delhi alongwith your application, so that your application can be admitted under the Right to Information Act, 2005. Alternatively, you may visit the Information Section, 1st Floor, New Administrative Block, University of Delhi, Delhi-110007 in person and deposit the fees with the University Cashier as mentioned above against proper receipt. You should not send any currency note or blank instrument alongwith your application as it is not permissible.*

*The date of receipt of the application alongwith fees as mentioned above would be treated as the date of admission of the application under the Right to Information Act, 2005.*

*Yours faithfully,*

*Sd.-*

*(Jay Chanda)*

*Deputy Registrar (Information) & CPIO.”*

- iv. It is submitted that instead of correcting the deficiency and resubmitting the application, respondent no. 1 preferred a First Appeal on 06.02.2014, which was registered as First Appeal No. 44/2014 before the First Appellate Authority (FAA) of the University.
- v. Respondent No. 1 also filed a Complaint against CPIO, under Section 18 before the CIC on 10.02.2014, registered as CIC/RM/C/2014/000138.
- vi. It is the case of the petitioner that a complaint under Section 18 of the RTI Act is not maintainable where there is no refusal to provide information. In this case, it is submitted that the CPIO had clearly



stated that the application would be considered admitted upon rectification of the fee-related defect. Thus, there was no denial of information.

- vii. The First Appellate Authority (FAA) by an order dated 25.02.2014, upheld the decision of the CPIO. The FAA noted that the petitioner had acted in accordance with the rules detailed in the Information Handbook prepared under Section 4 of the RTI Act, and also relied upon prior decisions of the CIC in similar matters. Order dated 25.02.2014 is reproduced as under -

*“Proceedings before the 1<sup>st</sup> Appellate Authority under the Right to Information Act, 2005*

*Coram: Ms. Alka Sharma, Registrar & Appellate Authority*

*Date: 25-02-2014*

*Appellant Shri R K Jain*

*Respondent Section Officer (Information)*

*Central Public Information Officer (CPIO), University of Delhi*

*ROA No. 32 of 2014 dated 15.01.2014*

*Appeal No. 44 of 2014 dated 14.02.2014*

*Facts:-*

1. The Appellant, Shri R. K. Jain has filed an appeal dated 06.02.2014 before the Registrar & First Appellate Authority received on 14.02.2014 against an application filed under RTI Act, 2005, which was returned to the Appellant by the CPIO on 15.01.2014 as the instrument sent by the applicant was not in favour of “Registrar, University of Delhi”. The application was numbered as ROA 32 of 2014.

2. The Appellant, Shri R. K. Jain stated that the CPIO of the University has wrongfully returned the application and hence violated Section 5(3) of the Act in the process.



3. The Information Section had received the application dated 23.12.2013 on 15.01.2014 from the Faculty of Management Studies. The application was returned to the Appellant Immediately on 15.01.2014 itself alongwith a letter from the CPIO stating that the IPO is not in favour of the Registrar, University of Delhi. Further, the application was also not addressed to the CPIO, University of Delhi. The CPIO in his letter to the Appellant has categorically brought out the process of filing, a valid application under the Act alongwith fees and also provided a copy of the relevant rules of the University for this purpose to the Appellant for compliance. Suitable guidance has been extended by the CPIO to the Appellant for filing an application under the Act with the University.

Decision:-

1. On considering the Appeal, it has observed that the CPIO received a wrongly addressed application on 15.01.2014 with an inadmissible blank IPO from the Faculty of Management Studies and immediately sent a letter to the Appellant on 15.01.2014 itself stating therein the procedure for filing an application with the University under the Act and the rule framed thereunder. It was stated in the letter that the IPO is not in favour of Registrar, University of Delhi which is required as per Rules. Therefore, application alongwith the inadmissible IPO was returned by the CPIO to the Appellant with proper guidance. The CPIO has mentioned about the website of the University and relevant link of the Information Handbook under Section 4 of the Act. Therefore, the contention of the Appellant that the CPIO has wrongfully returned the application is untenable as the procedure followed in this matter is, a standard, procedure in the University for such incomplete Financial Instruments. Neither the CPIO nor any other official of the University is authorized to work on behalf of the Appellant in completing the formalities for filing an OA with the University under the Act as the onus of such completion of formality lies entirely with the Appellant who is seeking information under the Act.

3. The CPIO has acted with highest bonafide and given an elaborate systematic guidance to the Appellant to follow while obtaining information from the University under the Act. Further, there are a number of decisions of Hon'ble Central Information Commission, numbered as CIC/SG/C/2009/00:1351/5070 dated 07-10-2009 In the matter of Dr.Fazal Ul Haque vs. PIO & Deputy Registrar, University of Delhi, CIC/DS/A/2011/004344/RM: dated 07.02.2013 In the matter of Deepak Prasad Vs. University of Delhi



*and CIC/RM/A/2012/000773 dated 21.06.2013 In the matter of Anil Pathak vs. University of Delhi, which are relevant in this matter. According to these decisions, the financial instrument is required to be submitted as per Rules for seeking information from the University under the Act.*

*4. Since the Appellant has not followed the standard procedure of filing an application for seeking Information under the Act from the University, nor complied with the guidance of the CPIO, the application cannot be considered as an application for seeking information under Act. The Appellant is required to comply with the guidance of the CPIO dated 15.01.2014 which is self contained and only procedure for admissibility of an application for seeking information under the Act with the University.*

*5. The appeal is decided accordingly.*

*Sd/-*

*Registrar & Appellate/Authority”*

- viii. Thereafter, the respondent no. 1 filed a Second Appeal before the CIC on 11.03.2014 bearing no. CIC/RM/A/2014/001389-SA
- ix. In Second Appeal bearing no. CIC/RM/A/2014/001389-SA the Commission issued an order cum show cause notice dated 09.11.2015, proposing maximum penalty against the CPIO, compensation to the appellant, and initiation of disciplinary action. It is submitted that while issuing order cum show cause notice dated 09.11.2015, the respondent no. 2 failed to record or address any of the specific issues raised by the CPIO. Order cum show cause notice dated 09.11.2015 is reproduced as under –

**“CENTRAL INFORMATION COMMISSION**

*(Room No.315, B-Wing, August Kranti Bhawan, Bhikaj Cama Place, New Delhi 110 066)*

**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)**

**Information Commissioner**

**CIC/RM/A/2014/001389-SA**

**R.K. Jain vs. Delhi University****Important Dates and time taken:**

|                            |                        |                                    |
|----------------------------|------------------------|------------------------------------|
| RTI/CPIO;23-12/15-1-14(23) | FA/FAO:6-2/25-2-14(19) | 2 <sup>nd</sup> appeal : 11-3-2014 |
| Show cause Issued          | Hearing : 03-11-2015   | Decision : 9-11-2015               |

**Parties present:**

The appellant is present. The Public Authority represented by Mr. Jay Chandra, JR&CPIO.

**FACTS:**

2. The appellant through his RTI application, was seeking information regarding. (A) details of the thesis, research paper, etc. submitted by Shri Pankaj Kumar Pandey Shreyaskar during the MBA/Part time programme during 2009-2012 (B) copies of title pages of the same, (C) copy of thesis/ project about the inquiry report and (D) rules and regulations regarding publication of the thesis, etc. Claiming that no Information was received from the Public Authority, he approached the Commission in second appeal after exhausting the first appeal.

**DECISION:**

3. Both the parties made their submissions. The appellant submitted that he was denied information on the pretext of the IPO, in which the name of the payee was left blank, to be filled by the CPIO, whom he had authorized through his RTI application, as the appellant was not sure about the proper title of the Payee. But Instead of helping the appellant, the CPIO chose to routinely return back the RTI application stating that the name of the Payee should be filled up and the IPO should be sent afresh. The appellant alleged that this tantamount to the negative mind-set of the CPIO, not to furnish Information and deny the same on some technical grounds.

4. The respondent officer had submitted that there was no intention to deny the information. It was routinely returned to the appellant and not with mala fide intentions. This is as per the University rules/DOPT Instructions with regard to the RTI Act.

5. The Commission having heard the submissions and perused the record, considers that it is a case where the CPIO returned the original RTI application along with the IPO, which means a total and complete refusal to act under the provisions of RTI Act, which



*appears to be a serious breach of RTI Act. The Commission directs the CPIO to explain and show cause as to why maximum penalty should not be imposed against him and why compensation should not be granted to the appellant and disciplinary action should not be recommended against him. His explanation should reach the Commission within 21 days from the date of receipt of this order.*

6. The Commission orders accordingly.

(M. Sridhar Acharyulu)

Information Commissioner”

- x. Subsequently, a second order cum show cause notice dated 19.11.2015 was issued in the complaint proceedings again based on the same facts and RTI application. Order cum show cause notice dated 19.11.2015 is reproduced as under –

**“CENTRAL INFORMATION COMMISSION**

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaj Cama Place, New Delhi 110 066)

**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)**

**Information Commissioner**

**CIC/RM/C/2014/00138**

**R.K. Jain vs. Delhi University**

**Important Dates and time taken:**

|                                          |                     |                        |
|------------------------------------------|---------------------|------------------------|
| RTI:<br>23.12.2013                       | FAA:06.02.2014      |                        |
| SA:<br>10.02.2014                        | Hearing: 09.11.2015 | Decision: 19-<br>11-15 |
| Result: Posted on 23.12.2015 at 2:30 PM. |                     |                        |

**Parties Present:**

1. Complainant is present. Dr. K. Ratnabala, Dy. Dean (Legal) & Mr. Jay Chanda, CPIO represent Public Authority.

**FACTS:**

2. Appellant through his RTI application sought information on the following points :-



i) Details of the Thesis/ Research Paper, Project Report or Study Report submitted by Shri Pankaj Kumar Pandey Shreyaskar, during his MBA/Part time programme during Academic Year 2009-2012 under Delhi University Roll No. 13472.

ii) Titles of the Thesis/Research Papers/Project Reports or Papers submitted by Shri Pankaj Kumar Pandey Shreyaskar with copy of the Title Page.

iii) Copy of the Thesis/Project Report submitted by Shri Pankaj Kumar Pandey Shreyaskar and date of the submission of the Thesis.

iv) Rules and Regulations regarding publication of the Thesis/Research Paper submitted by a student as a part of the MBA Programme.

3. Claiming that RTI is returned on the pretext of blank IPO, appellant filed first appeal. Claiming non-furnishing of information, appellant approached the Commission.

**Proceedings Before the Commission:**

4. The University Registrar has sent a sealed cover which was handed over to the Commission by Dy. Dean (Legal), in which the Registrar requested the Commission to provide an opportunity of hearing in the case No. CIC/RM/A/2014/001389-SA which was heard earlier and case No. CIC/RM/C/2014/000138-SA. The Registrar in this sealed cover letter stated as follows:-

"It seems that there is a communication gap between what the law mandates and what has been verbally communicated to the University through its officers who attended the hearing on 03.11.2015.

Therefore, the University, as a Public Authority as per section 2 (h) of the Act strongly puts forward before the Central Commission to conduct a fresh hearing in this matter for it to be looked into in all its functional, operational and legal ramifications.

The University also submits that the Complaint Proceedings initiated by the CIC in the matter vide Notice No. CIC/RM/C/2014/000138-SA dated 21.10.2015 should be deferred till the time the Appeal proceedings are not concluded to meet the ends of justice.



*The University may kindly be given suitable date and time to present the matter under reference before the Hon'ble Central Information Commission through a notice of hearing".*

*5. The case has come up before the Commission today in the form of complaint on the subject matter which came up as an appeal in No. CIC/RM/A/2014/001389-SA, filed by same appellant against same authority on 03.09.2015 in the presence of both the parties. The Commission in case No. 001389 has directed the CPIO to explain and show cause as to why maximum penalty should not be imposed against him and why compensation should not be granted to the appellant and disciplinary action should not be recommended against him.*

*6. Appellant Mr. R. K. Jain sought copy of letter sent in the sealed cover saying that how he was kept in dark about this paper relating to the Second Appeal/Complaint filed by him. The Commission directed Dy. Dean to provide copy of letter to the appellant. The appellant has pointed out that the language in the letter wrote by the Registrar is not proper, as he contended that matter "should be deferred". He said that higher officer of the university should not have used such language. He should have made request instead of commanding.*

*7. The Commission after hearing both the parties in the presence of CPIO of Delhi University directed Dy. Registrar of the Commission to combine these cases together and posted on 23.12.2015 at 2.30 pm to give sufficient opportunity to the CPIO as requested by the Registrar.*

*8. The appellant filed some additional documents consisting various points including First Appellate Authority order, which reflected the fact that original postal order for Rs. 10/- and original RTI application with IPO was returned to the appellant. A copy of the additional submission was handed over to the CPIO of Delhi University. Appellant contended that returning the original application & IPO amounts to refusal of the request for Information.*

*9. The Commission, after hearing the submissions from both the sides, on their agreement, directs the CPIO Mr. Jay Chanda of the respondent authority to submit his explanation by 17th December, 2015 along with supplying a copy of the same to the appellant, to which the appellant shall file his written submission, serving a copy on the CPIO, before 23.12.2015. Accordingly, the appeal and*



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*complaint are posted for hearing on 23.12.2015 at 2.30 pm for show cause notice, as chosen by both.*

*(M. Sridhar Acharyulu)*

*Information Commissioner”*

- xi. The appeal and complaint proceedings were subsequently clubbed for hearing on 23.12.2015.
- xii. It is submitted that the respondent no. 1 thereafter filed eight more RTI applications with the University, all of which complied with the procedural requirements previously indicated by the CPIO. These were duly registered and replied to within the prescribed time limit.
- xiii. It is submitted that the former CPIO and Registrar of the petitioner made detailed written submissions to the CIC on 14.01.2016 and supplementary submission on 26.07.2016, none of which were given proper consideration in the final order dated 23.12.2016, which was passed by the CIC. Relevant portion of the final order dated 23.12.2016 passed in CIC/RM/C/2014/000138-SA is reproduced as under –

***“Decision in Appeal and Complaint***

*17. Facts are simple. Appellant sought some information along with IPO of Rs. 10/- leaving payee address blank, requesting to fill it with appropriate name. His RTI application was also returned along with IPO. Mr. Jain complained that returning amounts to rejection.*

*The Question: Whether the CPIO of public authority DU, can return/reject the original RTI application alleging the IPO as defective, wherein Rs 10 is already paid into account of Government of India? Answer is 'no'.*

*18. Following facts emerged out of submissions of CPIO:*

- a) The applicant should not leave the payee space blank, he should have addressed in favour of Registrar, University of*



*Delhi, and hence it was returned on 15.1.2014. The original RTI request dated 23.12.2013 was also returned.*

*b) The RTI wing of the University uses a standard drafted letter to reject the application and the IPO in original.*

*c) Applicant should not have addressed CPIO, Faculty of Management Studies, University of Delhi, but address CPIO, University of Delhi.*

*d) The CPIO claimed returning was as per guidance, and for smooth implementation of RTI Act.*

*e) First Appellate Authority upheld this action of CPIO. The CPIO agreed that no relief was granted to the appellant, and that appellant was told to comply with guidance available in letter dated 15.1.2014, by which both IPO and original RTI application was returned.*

*f) The University has a procedure for admissibility of RTI application (they called it Institutional Procedure of Admission of RTI Applications) which is reflected in this returning of application. The CPIO claims it was institutional decision and not his personal decision. Both the CPIO and Registrar presented more than dozen points of 'institutional procedure' for admissibility of RTI applications.*

*19. Each of the above factual points appear to be an impediment in the access to information as that happened in this case. Denial of access was admitted but the CPIO tried to justify. Neither the CPIO nor the Registrar could explain the basis of this 'institutional procedure for admissibility of RTI applications', who authored it, who authorized it and when etc. The public authority has not published this 'procedure' on its official website. They claimed it as internal procedure. It is not shown to be a regulation passed by appropriate body of the public authority. The point 9 of this procedure as submitted by the CPIO and reiterated by Registrar, authorizes the CPIO to return the original RTI application. The text of the point 9 is as follows:*

*On receipt of the applications with the inadmissible financial Instruments from the Section Officer (Finance VII), a letter is prepared by the Information Section addressed to the applicant forwarding the application and financial Instrument in original for the purpose of rectification. This communication is sent by the University through the Deputy Registrar (Information) & CPIO to*



*facilitate its return to the individual concerned through a systematic procedure of returning such applications as a routine in the University over the years.*

*20. The CPIO reiterated: "As already explained by the CPIO in his submissions, the application was not an RTI application, at the first instance as per the RTI Act and rules framed there under, and therefore cannot be treated as an application filed by an application as per section 6(1) of the RTI Act". The CPIO is not considering an applicant as RTI Applicant. All this reveal that RTI applications were returned routinely allegedly as per this unauthorized procedure. Even assuming that it was authorized procedure, RTI Act overrides it as per the Section 22 of RTI Act. It is not just denial of this RTI application, but a continuous practice of denying applications in routine, which appears to be seriously flawed.*

*21. The complainant explained that if his RTI request is being stone-walled by a self proclaimed 'institutional procedure'; a student, who is at the mercy of the University authorities may not venture to challenge them for fear of their stay in University, future and career, those students are in fact suffering a lot with this attitude of officers and hence he was seriously pursuing this issue. He also said that the CPIO being a public servant, expected to act in conformity of the law under which he was designated as an authority.*

*22. Another contention of the CPIO was that the appellant filed complaint, without waiting for the decision in first appeal. This cannot come to his rescue as Section 18 enables a citizen to file a complaint without filing first appeal.*

*23. The RTI Act specifically says that information request could be rejected on the grounds of exemptions prescribed under Section 8 or 9 of RTI Act. Section 5(2) of RTI Act says every public authority shall designate an officer to receive the applications for information... Act did not authorize such returning of RTI applications in routine, Section 5(2) also says that every CPIO shall deal with requests from persons seeking information and render reasonable assistance.... Section 5(4) says the CPIO may seek assistance of any other officers for proper discharge of his duties. Section 5(5) says any officer whose assistance is sought shall render all assistance to the CPIO and for the purposes of any contravention of provisions of this Act such officer shall be treated as CPIO. All these provisions of RTI Act were ignored.*



24. The fact of returning the RTI: application of complainant is admitted by the CPIO, First Appellate Authority, Deputy Dean (Law), and the new CPIO, etc. As the application has been returned, the complainant has left with no chance of getting any information. Thus the effect of this return of application is rejection and complete denial of information. The RTI Act has not provided for this kind of rejection. Returning/rejecting of application for RTI could be a ground for complaint under Section 18(1), which says;

Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,

- a) .....
- b) who has been refused access to any information requested under this Act;
- c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;
- d) who has been required to pay an amount of fee which he or she considers unreasonable;
- e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
- f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

25. The 'Office Memorandum' of DOPT dated 5th December 2008 directed the public authorities not to reject the RTI applications if IPO is addressed to accounts officer. The OM also cautioned that such non-acceptance of IPOs may amount to refusal to accept the application which may result into imposition of penalty by the CIC on the concerned CPIO. Returning of RTI application in this case amounts to refusing to receive an application. There is no need to invoke the provision of deemed refusal as information was not furnished within one month, because it was rejected in fact. The applicant lost chance of getting information because of returning. Hence it is established that the complaint is maintainable under Section 18.



26. While explaining the disposal of request, the RTI Act, Section 7(1) clearly said that the CPIO.....either provides the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9. The issue remained is the point of payment of fee. Whether appellant/complainant paid the fee of Rs. 10? Only point repeatedly argued and heavily dependent upon by the CPIO was that IPO was not completely filled. No other reason for rejection was mentioned by the CPIO in all of his explanations. The IPO stands proof of his payment of fee. Leaving space for addressee blank in IPO does not render the entire RTI application as 'no application' as alleged by the CPIO. The IPO in this case is not invalid.

28. The CPIO has every authority to collect the fee prescribed. But when IPO indicates that Rs 10 paid to Government of India, the RTI application cannot be considered as without payment. Even non-payment of fee cannot be a ground for rejection of RTI application. Only grounds for rejection are specifically provided under section 8 and 9. Reading Section 6 and 7 together and understanding 'spirit of RTI Act as a whole should make CPIO to act reasonably and provide information rather than searching for excuses to reject. Expression "on payment of such fee" means both fee of Rs 10 and further fee representing cost of copying. For that the CPIO has to accept and study the RTI Application, get ready to give the information sought, if not exempted, and seek payment of cost of copying and on receipt of additional fee, if needed, and then the information need to be provided. What is the significance of fee of 'Rs. 10'? Does it represent the value of the information, cost of its searching, labour charge for preparing the information or consideration for it? No. The decision of CPIO to return the entire application lock stock and barrel on the excuse that addressee space was left blank is without any legal base and totally unjustifiable. He refused application at threshold and was not inclined to arrange information. The mandatory 30 day limit is dismissed by this action. If CPIO has any issues with realization of that fee for his authority, he has every chance of addressing those issues. By returning application along with IPO he has closed all those chances.

29. The public authority and the CPIO have built up a huge case, dozens of lengthy letters, commissioning a council, spending huge amount in attending several adjournments over a period of 18 months, just for Rs. 10 remind the English maxim: 'penny wise and pound foolish'.



30. As demanded by the CPIO, Registrar, Deputy Dean (legal), appeal was heard first and then complaint was taken up for hearing, all their submissions were considered, the FAA/Registrar's request also was considered, their multiple and repeated complaints against the Commission were also patiently heard, the number of adjournments were meticulously granted as asked, the demand for large time gap was conceded with due respect and, all sympathy to the CPIO. Finally Mr. Jay Chanda also expressed satisfaction after using all time given, in the presence of all his colleagues, officers, and Commission reserved order only after Mr. Jay Chanda and his council expressed satisfaction.

33. The appeal is allowed because the information sought was not given and all the ways to get such information were closed by returning of RTI application. The CPIO is directed to provide the information sought, free of cost to the appellant and file compliance report to the Commission within 25 days from the date of receipt of this order.

34. The Commission requires under section 19(8)(iv) of RTI Act, the public authority to bring a change in the system not to reject or return IPOS and RTI applications citing the 'Institutional practice' in contradiction with RTI Act. The Commission also suggests public authority to arrange for sufficient training for the RTI authorities, dealing officers and staff, provide latest books on RTI Act, and supply the classic text books on "Administrative Law" and "Right to Know" by late Professor S P Sathe. The training curriculum may also include the judgment of Mr. Justice Rajiv Sahai Endlaw of Hon'ble Delhi High Court in JP Agrawal v Union of India, WP(c) 7232/2009 decided on 4th August 2011. (also available on <https://indiankanoon.org/doc/104466988/>).

36. After hearing the submissions CPIO, perusing the records, arguments by learned council, the submissions made by the Registrar who was also First Appellate Authority under RTI Act, the present CPIO, Deputy Dean of Law, and of the complainant, the Commission could not find any reasonable cause for rejection of RTI application. The allegations made by complainant case against CPIO Mr. Jay Chanda were proved by submissions of public authority as mentioned above.

37. Hence, the Public Authority is directed to recover the amount of Rs.25,000/- from the salary payable to Mr. Jay Chanda, Former CPIO by way of Demand Draft drawn in favour of 'PAO CAT' New Delhi in 5 equal monthly installments. The first installment should



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*reach the Commission by 15.02.2017 and the last installment should reach by 15.06.2017. The Demand Draft should be sent to Shri S. P. Beck, Joint Secretary & Addl. Registrar, Room No. 302, Central Information Commission, B-Wing, 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 068.*

*Sd/-*

*(M. Sridhar Acharyulu)  
Information Commissioner”*

- xiv. Aggrieved by this impugned Order dated 23.12.2016 and the two order cum show cause notices dated 09.11.2015 and 19.11.2015, the petitioner has filed the present petition.
- xv. It is noticed that the petitioner has filed an affidavit in compliance with the directions issued by this Court vide order dated 27.02.2025, whereby the petitioner was directed to file an affidavit clarifying the status of respondent no. 1 in light of his demise during the pendency of these proceedings.
- xvi. In the said affidavit it is submitted that the demise of respondent no. 1 had already been recorded by this Court by way of its earlier order dated 15.11.2022. On that date, the learned counsel appearing for respondent no. 1 had submitted before the Court that the respondent no. 1 in W.P.(C) 1091/2017 had passed away. In view of the same, the said counsel had sought to be discharged from further representing the deceased respondent in the matter. This Court allowed the said request and discharged the counsel accordingly.
- xvii. It is submitted that upon verification, it was confirmed that respondent no. 1 had indeed expired. However, since there existed no formal or jural relationship between the petitioner and the said respondent, the petitioner was not in a position to independently obtain a copy of the death certificate.



- xviii. It is pointed that since the passing of the order dated 15.11.2022, no counsel or legal representative has entered appearance or made any submission on behalf of respondent no. 1.
- xix. In view of the above circumstances, it is submitted that the present writ petition may be treated as having abated on account of the demise of the RTI applicant.

**E. Brief Facts in W.P.(C) 1095/2017**

- i. The present case arises out of an RTI application dated 05.05.2016 filed by respondent no. 1/Sanjay Singh, which was received by the petitioner on 09.05.2016. The application was accompanied by an Indian Postal Order (IPO) ₹100, submitted as the requisite application fee. It is submitted that as per the institutional procedure followed by the petitioner, all such applications, upon receipt, are forwarded to the Cash Section for generation of a receipt of application fees to ensure procedural compliance before registration of the application under the RTI Act. The RTI application dated 05.05.2016 is reproduced as under –

“Sir,

*The Times of India published photocopy of B.A. degree of Shri Narendra Modi on 04.05.2016. Copy of paper cutting is attached. Kindly provide following information -*

1. *Whether this degree is genuine or fake?*
2. *File-notings on movement of RTI petition.*

*Note – postal order no. 231813 has been attached herewith this application as requisite fee required under RTI Act 2005”*

- ii. It is submitted that upon examination, the Cash Section returned the application on 10.05.2016 with an observation that the IPO submitted by respondent no. 1/Sanjay Singh was inadmissible. The IPO was



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incorrectly made in favour of the “PIO, DU” rather than in favour of the “Registrar, University of Delhi” or “Accounts Officer”. Accordingly, the Finance Branch determined that the IPO could not be encashed and recommended returning the same to the applicant for rectification.

- iii. Subsequently, a letter bearing reference no. Info./ROA/216/2016/2401 dated 10.05.2016, was issued by the CPIO to the respondent no. 1/Sanjay Singh, enclosing the original application. The letter outlined the deficiency and provided guidance for rectification, including directions to refer to the University’s website where the RTI procedures are made publicly available. The letter clarified that IPOs drawn in favour of either the Registrar or Accounts Officer would be considered valid. Letter dated 10.05.2016 is reproduced as under –

“To,  
Shri Sanjay Singh S/o Shri Dinesh Kumar Singh  
4A/10, First Floor, Tilak Nagar,  
Delhi-110018

Subject: Application under the Right to Information Act 2005

Sir, The Information Section of the University has received your application dated 05 May, 2016 under the Right to Information Act, 2005 on 09th May, 2016. The instrument No. 32F 231813 for Rs. 10/- sent by the applicant is not in favour of "Registrar, University of Delhi" or Accounts Officer, as mention in the original application. Therefore, the application is returned herewith in original alongwith IPO.

The relevant para regarding fees for admissibility of the application under Right to Information Act, 2005, which is available on the website of the University [www.du.ac.in](http://www.du.ac.in) under the



*Head 'Useful Links'-'RTI' under Manual 17 under section 4 (1)(b) (xvii) of the Act, reads as under:*

*The person seeking information may apply on a plain paper giving particulars of information being sought and his/her correct address for communication.*

*A request for obtaining information under sub-section (1) of section 6 shall be accompanied by an application fee of rupees ten by way of cash against proper receipt or by demand draft or bankers cheque or Indian Postal Order payable to the Registrar, University of Delhi. The IPO can also be in favour of Accounts Officer, University of Delhi.*

*Therefore, the applicant may send a fresh instrument of Rs 10/- accordingly payable at Delhi alongwith the application, so that the application can be admitted under the Right to Information Act, 2005. Alternatively, the applicant may visit the Information Section, 1<sup>st</sup> Floor, New Administrative Block, University of Delhi, Delhi-110007 in person and deposit the fees with the University Cashier as mentioned above against proper receipt. The applicant should not send any currency note or blank instrument alongwith the application as it is not permissible.*

*The date of receipt of the signed application alongwith fees as mentioned above would be treated as the date of admission of the application under the Right to Information Act, 2005.*

*Yours faithfully,*

*Sd/-*

*(Meenakshi Sahay)*

*Central Public Information Officer”*

- iv. Thereafter, the petitioner received a notice of hearing dated 20.07.2016 from the CIC in relation to a complaint bearing no. CIC/SA/C/2016/000230 filed by respondent no. 1/ Sanjay Singh. This complaint was listed for hearing on 24.08.2016. It is submitted that a copy of the complaint itself was received on 09.08.2016, followed by a second notice of hearing dated 16.08.2016, rescheduling the hearing to 08.09.2016.



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- v. It is submitted that the CPIO of the petitioner attended the hearing on 08.09.2016, where she was directed to file written submissions by 05.10.2016 and to share the same with the respondent. It is submitted that these written submissions were filed in time. Additional Written Submissions were also filed on 19.10.2016.
- vi. Subsequently, on 11.11.2016, the CIC issued a show cause notice to the CPIO asking why the maximum penalty should not be imposed for allegedly rejecting the RTI application and failing to provide information. The said notice is reproduced as under –

***“CENTRAL INFORMATION COMMISSION***

*(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)*

***Prof M. Sridhar Acharyulu (Madabhushi Sridhar)***

***Central Information Commissioner***

**CIC/SA/C/2016/000230**

**Sanjay Singh v. PIO, Delhi University**

***Important Dates and time taken:***

|                        |   |                                                          |
|------------------------|---|----------------------------------------------------------|
| <i>Date of hearing</i> | : | <i>05.10.2016</i>                                        |
| <i>Decided on</i>      | : | <i>11.11.2016</i>                                        |
| <i>Result</i>          | : | <i>Show cause and posted to 14.12.2016 at 1200 noon.</i> |

***Parties Present:***

*1. Appellant: Mr. Rishikesh Kr.*

*Public authority: Ms. Meenakshi Sahay, CPIO and Mr. P. Roy Chaudhuri, Advocate.*

***FACTS:***



2. Complainant had sought for Information regarding copy of BA degree of Shri. Narendra Modi as appeared on 04.05.2016 in Times of India. He wanted to know whether this degree is genuine or fake, file notings on movement of RTI petition. PIO replied on 10.05.2016 stating that the IPO was not in favour of Registrar, Delhi University. Complainant approached the Commission.

3. The Commission's order dated 08.09.2016:

3. Case is adjourned and posted to 05.10.2016 at 2.30 PM, as agreed by both the parties for submission of their written statements and further directions. Both the parties shall exchange their submissions with each other, before filing the same to the Commission.

**Decision:**

4. The Counsel for Delhi University submitted a detailed response. Appellant's counsel said that they had nothing to submit in addition to the complaint. The Commission directs the CPIO of Delhi University to show cause why maximum penalty should not be imposed against him/her for alleged wrongful rejection of RTI application and denial of information to the appellant within 21 days from the date of receipt of this order.

5. The case is posted to 14.12.2016 at 1200 noon.

(M. Sridhar Acharyulu)

Central Information Commissioner”

- vii. On 14.12.2016, the CPIO submitted a reply to the Show Cause Notice.
- viii. Subsequently, CIC passed a final order dated 22.12.2016 imposing a penalty of ₹25,000 to be recovered from the salary of the CPIO. Relevant portion of the order dated 22.12.2016 is reproduced as under—

**“Analysis and Decision**



8. The Question before the Commission are: Whether rejection of RTI application along with the IPO is illegal? Will it form ground for complaint? Answer to both is 'yes'.

9. The fact of returning of the RTI request is admitted by the CPIO. The CPIO also gave a list of seven cases during 2009 to 2013, wherein the RTI application along with the IPO was returned on the ground that IPO was left blank. Thus it is proved that several RTI applications are being rejected on such grounds.

10. The CPIO justified her action stating that Delhi University has a procedure for admissibility of RTI application (they called it Institutional Procedure of Admission of RTI Applications). The point 9 of this procedure as submitted by the CPIO authorizes the CPIO to return the original RTI application. The text of the point 9-is as follows:

9. On receipt of the applications with the inadmissible financial instruments from the Section Officer (Finance VII), a letter is prepared by the Information Section addressed to the applicant forwarding the application and financial instrument in original for the purpose of rectification. This communication is sent by the University through the Deputy Registrar (Information) & CPIO to facilitate its return to the individual concerned through a systematic procedure of returning such applications as a routine in the University over the years.

11. The CPIO did not explain the basis of this 'institutional procedure for admissibility of RTI applications', who authored it who authorized it and when etc. The public authority has not published this 'procedure' on its official website. They claimed it as internal procedure. It is not shown to be a regulation passed by appropriate body of the public authority. The rule 9 of that procedure proves that there is merit in the contention of complainant that Delhi University habitually rejects the RTI application on illegal grounds. Pretending to be dedicated and committed to earn Rs 10 to the public authority, the CPIO is causing the drain of public funds in getting letters of rejection posted with approximate cost of Rs 50 or more, makes the authorities to appoint lawyers to argue this case at huge cost and harass the RTI applicants without giving any information and litigating on that to any extent. It appears that there is a set of people in the University who bent upon denying information and harass the seekers by misusing their discretionary authority both



*under their original office and under RTI Act. It is highly deplorable.*

*12. The Right to Information (Regulation of Fee and Cost) Rules, 2012 prescribed under Rule 6(b) that fee may be paid by....IPO payable to Accounts Officer of the Public Authority.*

*13. The 'Office Memorandum' of DoPT dated 5th December 2008 directed the public authorities not to reject the RTI applications if IPO is addressed to accounts officer. The OM also cautioned that such non-acceptance of IPOs may amount to refusal to accept the application which may result into imposition of penalty by the CIC on the concerned CPIO.*

*11. Returning/rejecting of application for RTI could be a ground for complaint under Section 18(1), which says; Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person, -*

*a) ...*

*b) who has been refused access to any information requested under this Act;*

*c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;*

*d) who has been required to pay an amount of fee which he or she considers unreasonable;*

*e) who believes that he or she has been given incomplete, misleading or false information under this Act; and*

*f) in respect of any other matter relating to requesting or obtaining access to records under this Act.*

*12. The CPIO stated that "since the application is not maintainable as per the RTI Act, the question of any further deliberation on the application does not arise at all under any circumstances". According to her neither application, nor complaint is maintainable. Facts and submissions of the CPIO proved that the University's CPIOs are adamant in rejecting RTI applications and violating RTI Act. The CPIO was also supported by the standing counsel of the University to plead this point and justify the rejection.*



13. The public authority cannot impose exemptions and substitute new or additional grounds other than those provided in the RTI Act. The Act leaves no such liberty with the public authorities and PIOs to read law beyond what it is stated explicitly. There is absolutely no ambiguity in the Act and tinkering with it in the name of larger public interest is beyond the scope of the Public information officers. In *Kanchi Kohli v. M/o Environment & Forest* in Case NO. CIC/SA/A/2016/000209, the Commission held that the public authority cannot invent a new defence or exemption such as 'the report is under submission', 'file is pending consideration' and 'unless approved it cannot be given', etc, which are not available under RTI Act, 2005, such an illegal refusal will amount to denial of information which would invite penal proceedings under Section 20 of RTI Act, 2005. If public authority introduces a policy or practice which prescribed additional grounds beyond RTI Act for rejecting RTI application, public authority PIO as designated independent officer it cannot be justified under RTI Act.

14. Explaining the disposal of request, the RTI Act, Section 7(1) clearly said that the CPIO either provides the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9. The issue remained is the point of payment of fee. Whether appellant/complainant paid the fee of Rs. 10? Only point repeatedly argued and heavily dependent upon by the CPIO was that IPO was not properly filled. No other reason for rejection was mentioned by the CPIO in all of her explanations. The IPO stands proof of his payment of fee. Writing 'PIO' in IPO does not render the entire RTI application as 'no application' as alleged by the CPIO. The IPO in this case is not invalid.

15. The CPIO has every authority to collect the fee prescribed. But when IPO indicates that Rs 10 paid to Government of India, the RTI application cannot be considered as 'without payment' and be rejected. Even non-payment of fee was not prescribed as a ground for rejection of RTI application. Only grounds for rejection are specifically provided under section 8 and 9. Reading Section 6 and 7 together and understanding spirit of RTI Act as a whole should make CPIO to act reasonably and provide information rather than searching for excuses to reject. Expression "on payment of such fee" means both fee of Rs 10 and further fee representing cost of copying. For that the CPIO has to accept and study the RTI Application, get ready to give the information sought, if not exempted, and seek payment of cost of copying and on receipt of additional fee, if needed, and then the information need to be



*provided. What is the significance of fee of 'Rs. 10'? Does it represent the value of the information, cost of its searching, labour charge 'for preparing the information or consideration for it? No. If CPIO has any issues with realization of that fee for his authority, she has every chance of addressing those issues or communicating same with appellant. By returning application along with IPO she has closed all those chances. The simple form of communication would have helped the appellant to resolve the issue and facilitated public authority to consider RTI request. The CPIO's action of rejection resulted in denial of RTI and harassment of applicant. It appears RTI wing of public authority is bent upon rejecting RTI requests on some or the other ground.*

*16. There is a point in the contention of the complainant that according to the RTI Act, Rs. 10 is fee prescribed only at the threshold level and nowhere a fee is prescribed at first and second appellate stages. The Public authority should know that the fee does not mean the cost for their services in giving information. The Information is not generated for RTI Act but it was developed during its core activity. The public authority cannot spend unreasonable amounts for gaining Rs. 10 when it is already paid in the account of Government of India. In this case one can easily say that Delhi University has spent more than Rs. 10 in writing a rejection letter and more than Rs. 1 lakh in defending the Illegal rejection upto second appeal. Once fee is paid to the Government of India through IPO, it is the duty of the public authority to examine whether information demanded could be disclosed or exempted under Section 8 and 9 of RTI Act. By rejecting the request the CPIO refused to perform this statutory function.*

*17. On the question whether four orders of CIC will bind this Commission, we need to consider the contention of the complainant that 'the CIC is not an appellate body over the State Information Commission, there is no hierarchy within the Commission to file appeals over order of one commission before a two member bench, etc, therefore a Bench of Commissioners is not empowered to hear appeals like LPAs over writ petitions in High Courts and no where precedential character was prescribed to the decisions of CIC'. The order of one Information Commissioner is not binding on another Information Commissioner except that it might have a strong persuasive value. As there is no internal appellate authority in Commission, the rule 'per incuriam' is not available. Therefore the four orders of CIC cited by CPIO cannot stop this Commission from independently examining the issue in this complaint and decide according to the provisions of the law and facts of the case.*



### **Decision**

19. Guide on. Right to Information Act, 2005, Issued by DoPT with caption, "Applications received without fee", in which it is stated at point 2 "Soon after receiving the application, the Public Information Officer should check whether the applicant has made the payment of application fee or whether the applicant is a person belonging to a Below Poverty Line (BPL) category. If application, is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as an application under the RTI Act. It may, however, be noted that the Public Information Officer should consider such an application sympathetically and try to supply information sought by way of such an application".

20. From these guidelines it is clear that 'fee' is not material factor to reject the RTI request. In fact, this is not at all a case of RTI request without payment of fee. Applicant is also not claiming BPL status. The very fact that he has paid fee through court fee stamps proves his intention to pay. When guidelines goad, the public authority to be sympathetic to an applicant without paying fee, it does not need special mention that it cannot take technical excuse about form of payment to deny or delay the information.

21. Thus the Commission finds no justification to apprehend audit objection to giving information disputing the mode of payment. In fact, audit will surely object this way of unmindful spending of huge amount for Rs. 10. There is a duty cast upon the public authority to simplify the process of payment of fee of Rs 10. In Patna, public authority accepts the RTI application on phone though it is not accompanied with Rs 10, which is added to telephone bill. Some states accept court stamps for payment of fee. It is condemnable that such a simple request for information has been dragged to the level of second appeal, building heaps of documents with multiple files, consuming reams of paper, spending huge amount of money besides consuming precious time of public servants including that of the Commission.

22. The Commission finds that the rejections of RTI applications by Delhi University reminds the saying 'penny wise pound foolish', the rejection of RTI application of the complainant is against the Right to Information Act, rules and OM of DoPT, their institutional rules of procedure, even if existed with any authority, is not valid to the extent of its contradiction to RTI Act and Rules. The explanation of the CPIO confirms the fact of rejection and totally fails to present any merit or justification. Hence the Commission considers the CPIO is liable. The Commission requires under Section 19(8)(a)



*the Public Authority to facilitate sufficient training to the entire staff including CPIO and First Appellate Authority in the matters of RTI law so that they do not adamantly reject RTI application in routine without application of mind and understanding the aims and objectives of RTI Act. The Commission also suggest public authority to arrange for sufficient training for the RTI authorities, dealing officers and staff, provide latest books on RTI Act, and supply the classic text books of "Administrative Law" and "Right to Know" by late Professor S P Sathe. The training curriculum may also include the judgment of Mr. Justice Rajiv Sahai Endlaw of Hon'ble Delhi High Court in JP Agrawal v Union of India, WP(c) 7232/2009 decided on 4th August 2011. (also available on <https://indiankanoon.org/doc/104466988/>).*

*23. Hence, the Public Authority is directed to recover the amount of Rs.25,000/- from the salary payable to Mrs. Meenakshy Sahay, the CPIO by way of Demand Draft drawn in favour of 'PAO CAT' New Delhi in 5 equal monthly instalments. The first instalment should reach the Commission by 15.02.2017 and the last instalment should reach by 15.06.2017. The Demand Draft should be sent to Shri S. P. Beck, Joint Secretary & Addl. Registrar, Room No. 302, Central Information Commission, B-Wing, 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066.*

*(M. Sridhar Acharyulu)*

*Central Information Commissioner"*

- ix. Being aggrieved of the same the petitioner has filed the present petition.

**F. Brief Facts in W.P.(C)13568/2023**

- i. The petitioner on 17.05.2016, filed an RTI application bearing no. OA No. 795/2016 before the CPIO of the University of Delhi. The application sought the following information –

*"Subject: - Application under Section 2(j) of The RTI Act 2005*

*Sir,*

*A. I wish to Inspect the following documents of the student with Enrol no-CC-5594/74 and the registers which contain this enrol no.:*



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1. Admission form and enrolment form filled in student's handwriting along with all its annexure/enclosures.
  2. Enrolment register which contains this enrol no.
  3. ACC register which contains this enrol no...
  4. All mark sheets of the student with this enrol no.
  5. Did the student ever apply for duplicate copy of his mark sheet or degree? If yes, I wish to inspect the application with all its annexure.
  6. Degree entry register of Exam IV branch which contains the entry of the student with this enrol no.
  7. Degree entry register of SQL, which contains entry of the student with this enrol no.
  8. Register which contains signature of receipt of degree of the student with this enrol no.
  9. Convocation list of 1979.
  10. Signature of the student of receipt of degree at convocation.
  11. Photograph of receipt of degree by this student at convocation.
  12. Announcement list at convocation of 1979.
- B. After inspection, I should be provided copies of all the above documents.

*Note - Postal Order No.-288059 has been attached herewith this application as requisite fee required under RTI Act 2005”*

- ii. Subsequently, CPIO, vide an order dated 13.06.2016, rejected the application, citing Section 8(1)(j) of the RTI Act. Order dated 13.06.2016 is reproduced as under –

“To,  
Mohd. Irsad  
Advocate  
Chamber No-230, Patiala House Court,  
New Delhi



*Subject: Original Application (OA) No. 795 of 2016 under the Right to Information Act, 2005.*

*Sir,*

*This has reference to the above original application, which has been numbered 795 of 2016 as specified in the subject cited above. The applicant is required to quote the original application number in all future correspondence for proper correlation of the documents.*

*The information sought by the applicant has already been transferred to the School of Open Learning under intimation to the applicant under section 6(3) of the Act. A copy of the original application was endorsed to the Dean (Examinations), OSD (Examinations), Joint Registrar (Degree), Joint Registrar (Result), Deputy Registrar (Academic) and Assistant Registrar (Results) SOL of the University, who are the deemed PIOs under section 5(4) & 5(5) of the Act.*

*Relevant input received from the Joint Registrar (Exams.)/OSD (Exams.)/Dean (Exams.) and Deputy Registrar (Academic) is enclosed in this regard.*

*On perusal of the original application and on the basis of the input received from the deemed PIO, it appears that the information requested by the applicant apparently concerns a student of the University. The University, in general, treats the data of the students as personal to the students concerned, the disclosure of which has no relationship to any public activity or interest. Further, it does not appear that any larger public interest would be served by disclosure of this information in the public domain. Disclosure of such information is exempt under section 8(1)(j) of the Act. Therefore, the requests of the applicant attract section 8(1)(j) of the Act.*

*However, in this connection, it is informed that there is a systematic procedure for verification of degree by the University, the details of which are available on the website of the University, [www.du.ac.in](http://www.du.ac.in) under the head 'Useful Links' - 'Forms'. Therefore, the applicant may visit the website for this purpose.*

*The applicant can prefer an appeal against the decision before the Appellate Authority within 30 days. The name and particulars of the Appellate Authority are as under:*



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Shri Jay Chanda  
Joint Registrar  
University of Delhi,  
Delhi-110007  
Telephone ; 011-27667623

Yours faithfully,  
Sd/-  
(Meenakshi Sahay)

Central Public Information Officer”

- iii. Aggrieved by the same, the petitioner preferred a First Appeal before the First Appellate Authority (FAA). However, it is submitted that the Executive Director, FAA, upheld the denial of information by order dated 15.07.2016. Order dated 15.07.2016 is reproduced as under –

**“Facts:**

10. The appellant Mohd. Irsad has filed an appeal against the reply of the Original Application no 81 of 2016 before the Executive Director 1<sup>st</sup> Appellate Authority of the SOI, under Right to Information Act 2005. The Appellant stated that he is not satisfied with reply of the PIO. The brief of the RTI application is given below.

11. The Appellant Mohd. Irsad has filed an RTI Application to the CPIO, University of Delhi vide OA no.795/2016 dt. 25.5.2016.

12. The CPIO University of Delhi transferrred the RTI Application of Mohd. Irsad U/S 6(3) to the PIO, SOI, Delhi University. The PIO, SOI has assigned OA No.81 dated 31.05.16.

13. On perusal of the appeal, it appears that the applicant is requesting for admission form and enclosures. In this connection, this is to inform you that the SOI, DU as a matter of policy seeks to maintain the privacy of every student as it holds the data pertaining to a student in a fiduciary relationship with the student concerned, which can be disclosed only to the student concerned. The disclosure of such information is exempt u/s 8(1)(e) of the Act.

14. Again, the information pertaining to the student of the SOI, DU, is treated as personal information of the students concerned, the disclosure of which has no relationship to any public activity or interest. Disclosure of such information is exempt u/s 8(1)(j) of the RTI Act.

**Decision**

15. After considering the Appeal, it was noticed that the reply given



by the PIO is correct.

16. The appeal is decided accordingly.

Sd/-

Executive Director, 1<sup>st</sup> Appellate Authority”

- iv. It is submitted that subsequently, the Joint Registrar/FAA also vide order dated 18.07.2016 upheld the denial of information in connection with RTI application bearing OA No. 795/2016. Order dated 18.07.2016 is reproduced as under –

“Facts:-

1. The Appellant, Mohd. Irshad has filed an Appeal against the reply of the Original Application (OA) No. 795 of 2016 before the First Appellate Authority of the University under the Right to Information Act, 2005 (hereafter the Act). The Appellant states that he is not satisfied with the reply of the CPIO.
2. The Appellant, Mohd. Irshad had filed the original application dated 17.05.2016, received by the CPIO, University of Delhi on 24.05.2016 seeking various information regarding student related personal matters with respect to Enrollment no. CC-2366/74. The CPIO replied to the OA on 13.06.2016.
3. On perusal of the reply of the CPIO, it appears that the CPIO had endorsed the original Application to the Dean (Examinations), O.S.D. (Examinations), Joint Registrar (Results), Joint Registrar (Degree), Deputy Registrar (Academic), Assistant Registrar (Results), SOL and Section Officer (Information), who are the deemed PIOs under section 5(4) and 5(5) of the Act. The CPIO had transferred a copy of the OA to the PIO/Executive Director, School of Open Learning under section 6(3) of the Act.

Decision:-

1. The Original Application, the First Appeal and the reply of the CPIO have been perused vis-à-vis the input provided by the concerned deemed PIOs in this matter. On perusal of the concerned file, it has been observed that the CPIO has decided the matter based on the input of the concerned deemed PIOs. Further, the CPIO has transferred the OA to the PIO, School of Open Learning under Section 6(3) of the Act, being a separate Public Authority as per Section 2 (h) of the Act.
2. On perusal of the OA, input provided by the deemed PIOs and the decision of the CPIO, it has been observed that the CPIO has decided the matter as per various relevant provisions of Section 8 (1) of the Act. Further, the CPIO has mentioned in her reply that a systematic procedure of verification of degree is available in the



*University. Therefore, the decision of the CPIO is upheld in 'this matter. Further, a copy of the First Appeal is required to be sent to the Executive Director, School of Open Learning for further appropriate disposal at their end.*

*3. The appeal is decided accordingly.”*

- v. Subsequently, the petitioner filed a Second Appeal before the Central Information Commission on 20.07.2016. The CIC, disposed of the Second Appeal vide order dated 08.09.2017, stating that since a similar matter was sub judice before the High Court of Delhi in W.P.(C) No. 600/2017, and a stay had been granted by the High Court on 23.01.2017, no intervention by the Commission was called for. Order dated 08.09.2017 is reproduced as under –

*“1. Shri Mohd. Irshad, the appellant, had sought copy of admission form and enrolment form along with enclosures, copy of enrolment register and ACC register; all marks sheets or degree, copy of degree entry register, copy of register which contains signature of receipt of degree of the enrolment no. CC-5594/74 and convocation list of the year 1979 etc.*

*2. The CPIO denied the information to the appellant u/s 8(1)(e) & (j) of the RTI Act. Dissatisfied, the appellant approached the FAA. The FAA upheld the CPIO's reply. Aggrieved, the appellant came in appeal before the Commission requesting the Commission to direct the CPIO to provide detailed information to the appellant on his RTI application.*

*3. The matter was heard by the Commission. The appellant was not present during the hearing in spite of the notice of hearing having been sent to him. However, the appellant approached the Commission after the hearing and submitted his written arguments wherein he mentioned that the information sought was relating to the degree of Hon'ble Prime Minister of India Shri Narendra Modi ji. As Shri Narendra Modi was the serving Prime Minister of India and the appellant being a citizen of India was entitled to know the details of educational qualification of the serving Prime Minister and hence the information sought could not be qualified as personal information.*

*4. The respondent stated that the appellant sought information i.e. copy of admission form and enrolment form along with enclosures, copy of enrolment register and ACC register; all marks sheets or*



degree, copy of degree etc. of the enrolment no. CC-5594/74, which was personal information of third party and the institute held this information of third party in fiduciary capacity, hence could not disclose the same to the appellant. The information sought was denied to the appellant u/s 8(1)(e) & (j) of the RTI Act on 13.06.2016 and the reply was upheld by the FAA on 15.07.2016. The CPIO added that the Hon'ble High Court of Delhi vide order dated 23.01.2017 in WP(C) No. 600 of 2017 stayed the Commission's order dated 21.12.2016 directing to provide the result of all students appeared in Bachelor of Arts, year 1978 with roll no., name of the students with father name, marks and result pass or failed. The Hon'ble High Court while granting the stay placed reliance on the Apex court judgement CBSE and Anr. Vs. Aditya Bandopadhyay & Ors. (2011) 8 SCC 497. The CPIO stated that in the instant matter the issue was the same as the information sought was the part of information provisioning of which had been stayed by the Hon'ble High Court of Delhi vide order dated 23.01.2017.

5. The Commission observes that as per the respondent's submissions the same issue is pending for adjudication before the Hon'ble High Court of Delhi in WP(C) No. 600 of 2017 and the stay had been granted by the Hon'ble High Court on 23.01.2017, hence no intervention is required on the part of the Commission. The appeal is disposed of."

- vi. Being aggrieved of the same the petitioner has filed the present petition challenging the order dated 08.09.2017 passed by the CIC, order dated 15.07.2016 passed by the first appellate authority and order dated 13.06.2016 passed by the CPIO.
- vii. It is submitted that the CIC erred in law by dismissing the petitioner's appeal solely on the ground that a similar matter was pending before the High Court. Reliance has been placed on the order dated 23.09.2010 passed in ***Municipal Corporation of Delhi v. R.K. Jain***, W.P.(C) No. 14120/2009, wherein the Court has observed as under –

*"...The matter being sub judice before a court is not one of the categories of information which is exempt from disclosure under any of the clauses of Section 8(1) of the RTI Act"*

### **SUBMISSIONS ON BEHALF OF THE PETITIONERS**



17. Learned Solicitor General has submitted as under –

- i. The order dated 27.12.2016 passed by the CIC is legally flawed. The CIC erroneously held that, since the University is a public body engaged in public functions (i.e., conducting educational courses), it is obliged to disclose degree-related information of individuals to third parties under the RTI Act. The contention of the petitioner is that the information sought by the RTI applicant/respondent no. 1 is exempted under section 8 (1)(e) and 8 (1)(j) of the RTI Act.
- ii. It is submitted that the Supreme Court has, in several judgments recognized that the marks, results, and degree-related records of a student are generated pursuant to a fiduciary relationship between the examining body and the candidate.
- iii. Reliance has been placed on ***Kerala Public Service Commission v. State Information Commission***, (2016) 3 SCC 417, wherein the Court has observed as under –

*“8. In the present case, PSC has taken upon itself in appointing the examiners to evaluate the answer papers and as such, PSC and examiners stand in a principal-agent relationship. Here PSC in the shoes of a principal has entrusted the task of evaluating the answer papers to the examiners. Consequently, examiners in the position of agents are bound to evaluate the answer papers as per the instructions given by PSC. As a result, a fiduciary relationship is established between PSC and the examiners. Therefore, any information shared between them is not liable to be disclosed. Furthermore, the information seeker has no role to play in this and we do not see any logical reason as to how this will benefit him or the public at large. We would like to point out that the disclosure of the identity of examiners is in the least interest of the general public and also any attempt to reveal the examiner's identity will give rise to dire consequences. Therefore, in our considered opinion revealing examiner's identity will only lead to confusion*



*and public unrest. Hence, we are not inclined to agree with the decision of the Kerala High Court with respect to the second question.”*

- iv. It is submitted that the relationship between a student and the University is of a fiduciary character, akin to the relationship between an examiner and the Public Service Commission (PSC), as recognized by the Supreme Court in ***Kerala Public Service Commission v. State Information Commission***(supra). This implies that degree and result information collected by the University is held in confidence and must be protected from disclosure to third parties.
- v. Reliance has also been placed on ***Central Board of Secondary Education v. Aditya Bandopadhyay***, (2011) 8 SCC 497, thereby emphasising upon the following portion of the judgment –

*“44. We may next consider whether an examining body would be entitled to claim exemption under Section 8(1)(e) of the RTI Act, even assuming that it is in a fiduciary relationship with the examinee. That section provides that notwithstanding anything contained in the Act, there shall be no obligation to give any citizen information available to a person in his fiduciary relationship. This would only mean that even if the relationship is fiduciary, the exemption would operate in regard to giving access to the information held in fiduciary relationship, to third parties. There is no question of the fiduciary withholding information relating to the beneficiary, from the beneficiary himself.*

*45. One of the duties of the fiduciary is to make thorough disclosure of all the relevant facts of all transactions between them to the beneficiary, in a fiduciary relationship. By that logic, the examining body, if it is in a fiduciary relationship with an examinee, will be liable to make a full disclosure of the evaluated answer books to the examinee and at the same time, owe a duty to the examinee not to disclose the answer books to anyone else. If A entrusts a document or an article to B to be processed, on completion of processing, B is not expected to give the document or article to anyone else but is bound to give the same to A who*



*entrusted the document or article to B for processing. Therefore, if a relationship of fiduciary and beneficiary is assumed between the examining body and the examinee with reference to the answer book, Section 8(1)(e) would operate as an exemption to prevent access to any third party and will not operate as a bar for the very person who wrote the answer book, seeking inspection or disclosure of it.”*

vi. Reliance has also been placed on ***Institute of Chartered Accountants of India v. Shaunak H. Satya and Others***, (2011) 8 SCC 781, wherein the court has observed as under –

*“22. It should be noted that Section 8(1)(e) uses the words “information available to a person in his fiduciary relationship”. Significantly Section 8(1)(e) does not use the words “information available to a public authority in its fiduciary relationship”. The use of the word “person” shows that the holder of the information in a fiduciary relationship need not only be a “public authority” as the word “person” is of much wider import than the words “public authority”. Therefore the exemption under Section 8(1)(e) is available not only in regard to information that is held by a public authority (in this case the examining body) in a fiduciary capacity, but also to any information that is given or made available by a public authority to anyone else for being held in a fiduciary relationship. In other words, anything given and taken in confidence expecting confidentiality to be maintained will be information available to a person in fiduciary relationship. As a consequence, it has to be held that the instructions and solutions to questions communicated by the examining body to the examiners, Head Examiners and moderators, are information available to such persons in their fiduciary relationship and therefore exempted from disclosure under Section 8(1)(d) of the RTI Act.*

*23. The information to which the RTI Act applies falls into two categories, namely, (i) information which promotes transparency and accountability in the working of every public authority, disclosure of which helps in containing or discouraging corruption, enumerated in clauses (b) and (c) of Section 4(1) of the RTI Act; and (ii) other information held by public authorities not falling under Sections 4(1)(b) and (c) of the RTI Act. In regard to information falling under the first category, the public authorities owe a duty to disseminate the information widely suo motu to the public so as to make it easily accessible to the public. In regard to*



*information enumerated or required to be enumerated under Sections 4(1)(b) and (c) of the RTI Act, necessarily and naturally, the competent authorities under the RTI Act will have to act in a proactive manner so as to ensure accountability and ensure that the fight against corruption goes on relentlessly. But in regard to other information which do not fall under Sections 4(1)(b) and (c) of the Act, there is a need to proceed with circumspection as it is necessary to find out whether they are exempted from disclosure.”*

- vii. While countering the assertion of the respondents that the degree related information is “public” because it was generated during a public function by a public authority, it is submitted that the test for disclosure under the RTI Act is not whether the authority is public or whether the function is public, but rather whether the information was obtained in confidence or in a fiduciary relationship, and whether its disclosure is warranted under Section 8(1)(e) or 8(1)(j) of the RTI Act.
- viii. The petitioner submits that the reliance placed by the respondents on ***Institute of Chartered Accountants of India v. Shaunak H. Satya***, (2011) 8 SCC 781 and ***Central Board of Secondary Education v. Aditya Bandopadhyay***, (2011) 8 SCC 497 is misplaced. It is submitted that the respondents have cited these authorities to argue that no fiduciary relationship exists between a student and an examining body. It is submitted that this interpretation represents an incomplete reading of the judgments in question.
- ix. It is submitted that while it is true that the Supreme Court, in ***Central Board of Secondary Education v. Aditya Bandopadhyay*** in the context of students seeking their own answer scripts or marks, has held that no fiduciary relationship exists between the student and the examining body,



however, a distinct and critical distinction arises when such information is sought by a third party.

- x. The petitioner submits that it has never denied that a student is entitled to access his or her own academic information under the RTI Act. However, the issue in the present case pertains to the disclosure of such information to third parties. In such instances, the relationship between the examining body and the student assumes the character of a fiduciary relationship.
- xi. In this regard, emphasis is placed on paragraphs 44 and 45 of the ***Central Board of Secondary Education v. Aditya Bandopadhyay*** (supra).
- xii. Therefore, the petitioner submits that when degree-related or academic information of a student is sought by an unrelated third party, the fiduciary nature of the relationship comes into effect and acts as a valid exemption under Section 8(1)(e).
- xiii. It is further submitted that the Constitution bench of the Supreme Court in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal***, (2020) 5 SCC 481, has quoted with approval the aforesaid judgments rendered in ***Central Board of Secondary Education v. Aditya Bandopadhyay*** (supra) and ***Institute of Chartered Accountants of India v. Shaunak H. Satya*** (supra), and has held that the documents related to educational qualifications are held by the institutions / examining bodies/boards/universities in fiduciary capacity, and therefore, would be exempted\disclosure under Section 8(1)(e) of the RTI Act. The constitution bench has further held that educational qualification related documents are nothing but personal



information of the student and are thus exempted under section 8(1) (j) of the RTI Act. Strenuous reliance has been placed on the following paragraph of the judgment –

*“70. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive.”*

- xiv. It is submitted that therefore, disclosure of such information, when it does not serve any larger public interest, would amount to an unwarranted invasion of the privacy of the individual and is thus barred under the statute.
- xv. In light of the binding nature of the aforesaid judgment it is submitted that the petitioner is fully justified in refusing disclosure of degree-related information of its students when such information is sought by unrelated third parties. Both the fiduciary relationship and the personal privacy protections, as enshrined in Sections 8(1)(e) and 8(1)(j), stand squarely attracted in the present case.
- xvi. It is further submitted that in the ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra) Sanjiv



Khanna, J. has interpreted the word “public interest” in the context of RTI Act in the following terms -

*“88. The RTI Act is no exception. Section 8(1)(j) of the RTI Act prescribes the requirement of satisfaction of “larger public interest” for access to information when the information relates to personal information having no relationship with any public activity or interest, or would cause unwarranted invasion of privacy of the individual. Proviso to Section 11(1) states that except in case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interest of the third party. The words “possible harm or injury” to the interest of the third party are preceded by the word “importance” for the purpose of comparison. “Possible” in the context of the proviso does not mean something remote, far-fetched or hypothetical, but a calculable, foreseeable and substantial possibility of harm and injury to the third party.*

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*91. Public interest in access to information refers to something that is in the interest of the public welfare to know. Public welfare is widely different from what is of interest to the public. “Something which is of interest to the public” and “something which is in the public interest” are two separate and different parameters. For example, the public may be interested in private matters with which the public may have no concern and pressing need to know. However, such interest of the public in private matters would repudiate and directly traverse the protection of privacy. The object and purpose behind the specific exemption vide clause (j) to Section 8(1) is to protect and shield oneself from unwarranted access to personal information and to protect facets like reputation, honour, etc. associated with the right to privacy. Similarly, there is a public interest in the maintenance of confidentiality in the case of private individuals and even Government, an aspect we have already discussed.*

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*95. The last aspect in the context of public interest test would be in the form of clarification as to the effect of sub-section (2) to Section 6 of the RTI Act which does not require the information seeker to give any reason for making a request for the information. Clearly, “motive” and “purpose” for making the request for information is irrelevant, and being extraneous cannot be a ground for refusing*



*the information. However, this is not to state that “motive” and “purpose” may not be relevant factor while applying the public interest test in case of qualified exemptions governed by the public interest test. It is in this context that this Court in Aditya Bandopadhyay has held that beneficiary cannot be denied personal information relating to him. Similarly, in other cases, public interest may weigh in favour of the disclosure when the information sought may be of special interest or special significance to the applicant. It could equally be a negative factor when the “motive” and “purpose” is vexatious or it is a case of clear abuse of law.”*

xvii. It is submitted that in the present case, the information sought pertains to specific individuals, and the applicants seeking such data have no legitimate interest in it, nor is there any demonstrable public interest in its disclosure.

xviii. Reliance has also been placed on ***Subhash Chandra Agarwal v. Registrar, Supreme Court of India and Others***, (2018) 11 SCC 634.

xix. It is also the case of the petitioner that the Delhi University is obligated to respect the privacy rights of students under Article 21 of the Constitution of India. Disclosing such information to unrelated third parties would violate these privacy rights, especially in the absence of the student’s consent.

xx. Reliance has also been placed on the following paragraph of ***K.S. Puttaswamy (Privacy-9J.) v. Union of India***, (2017) 10 SCC 1 –

*“479. Both the learned Attorney General and Shri Sundaram next argued that the right to privacy is so vague and amorphous a concept that it cannot be held to be a fundamental right. This again need not detain us. Mere absence of a definition which would encompass the many contours of the right to privacy need not deter us from recognising privacy interests when we see them. As this judgment will presently show, these interests are broadly classified into interests pertaining to the physical realm and interests*



*pertaining to the mind. As case law, both in the US and India show, this concept has travelled far from the mere right to be let alone to recognition of a large number of privacy interests, which apart from privacy of one's home and protection from unreasonable searches and seizures have been extended to protecting an individual's interests in making vital personal choices such as the right to abort a foetus; rights of same sex couples—including the right to marry; rights as to procreation, contraception, general family relationships, child-bearing, education, data protection, etc. This argument again need not detain us any further and is rejected.”*

xxi. It is submitted that Section 8 of the RTI Act must be interpreted harmoniously and purposively. It is submitted that the exceptions mentioned under Section 8 are merely illustrative and cannot be read in isolation and have to be read in consonance of the other objectives of the RTI Act. The public authorities, in order to protect the fundamental rights of the citizens, cannot divulge information collected in fiduciary capacity. Specific reliance has been placed in paragraph 62 and 67 of ***Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others*** (Supra) –

*“62. When trying to ensure that the right to information does not conflict with several other public interests (which includes efficient operations of the Governments, preservation of confidentiality of sensitive information, optimum use of limited fiscal resources, etc.), it is difficult to visualise and enumerate all types of information which require to be exempted from disclosure in public interest. The legislature has however made an attempt to do so. The enumeration of exemptions is more exhaustive than the enumeration of exemptions attempted in the earlier Act, that is, Section 8 of the Freedom of Information Act, 2002. The courts and Information Commissions enforcing the provisions of the RTI Act have to adopt a purposive construction, involving a reasonable and balanced approach which harmonises the two objects of the Act, while interpreting Section 8 and the other provisions of the Act.*

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*67. Indiscriminate and impractical demands or directions under the RTI Act for disclosure of all and sundry information (unrelated to*



*transparency and accountability in the functioning of public authorities and eradication of corruption) would be counterproductive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising “information furnishing”, at the cost of their normal and regular duties.”*

xxii. Reliance has also been placed on ***Union Public Service Commission And Others v. Angesh Kumar And Others***, (2018) 4 SCC 530 and ***Central Board of Secondary Education v. Anil Kumar Kathpal***, 2012 SCC OnLine Del 3043.

xxiii. It is submitted that the respondents have argued that the RTI Act is solely a legislative manifestation of the fundamental right under Article 19(1)(a) of the Constitution, the right to freedom of speech and expression. On that basis, it has been contended that the exemptions enumerated under Section 8 of the RTI Act must be interpreted restrictively and in the light of Article 19(2) which outlines the permissible grounds for imposing reasonable restrictions. In support of this contention, reliance has been placed on the judgment of the Supreme Court in ***Shreya Singhal v. Union of India***, (2015) 5 SCC 1, wherein the Court interpreted the scope of Article 19(2) and observed that no restriction beyond the grounds mentioned therein can be imposed on Article 19(1)(a).



xxiv. It is submitted that the RTI Act, while embodying aspects of the right to know under Article 19(1)(a), is not solely confined to that right. The statute also operationalizes broader constitutional objectives including transparency, good governance, and privacy, and must be harmoniously construed in relation to Article 19(1)(g) and Article 21.

xxv. It is submitted that the exemptions contemplated under Section 8 of the RTI Act, as such, not only deal with Article 19(2) restrictions but also deals with other vast varieties of restrictions such as Article 19(6) and Article 21 restrictions and other restrictions which may be imposed by the parliament in exercise of its sovereign powers.

xxvi. It is also submitted that the Data Protection Act, 2023, which amended Section 8(1)(j) of the RTI Act (though not yet notified), reinforces the legislative intent to recognize and preserve personal information as sacrosanct. The amended provision now simply states that “information which relates to personal information” shall be exempt from disclosure.

xxvii. While countering the objection of the respondent that by virtue of Section 8(3) of the RTI Act, exemptions under clauses (b), (d) to (h) and (j) of Section 8(1) cease to apply after 20 years. it is submitted that the said contention has been rendered untenable post ***K.S. Puttaswamy v. Union of India***, (2017) 10 SCC 1.

xxviii. Reliance has also been placed on the Full Bench of the Central Information Commission (CIC) in ***Ehtesham Qutubuddin Siddiqui v. CPIO***, 2019 SCC OnLine CIC 12683, in order to substantiate the



argument that constitutional rights under Article 21, including privacy, are continuing rights and do not lapse with the passage of time. Hence, personal information remains exempt even after 20 years.

xxix. It is submitted that this view was subsequently affirmed by the Delhi High Court in ***Ehtesham Qutubuddin Siddiqui v. CPIO***, 2024 SCC OnLine Del 1559. Therefore, Section 8(3) cannot override the constitutional guarantee of privacy under Article 21, and sensitive personal data continues to remain protected even beyond the 20-year limit.

xxx. It is further submitted that the respondents have relied on Section 6(2) of the RTI Act to argue that the purpose or motive behind an RTI application is irrelevant. However, it is submitted that, this interpretation does not reflect the complete jurisprudential framework laid down by the Supreme Court.

xxxi. It is submitted that in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agrawal*** (supra), the Constitution Bench clarified that while Section 6(2) does not require disclosure of motive at the stage of making a request, motive and purpose become relevant while applying the “public interest test” in the context of qualified exemptions under Section 8. Specific reliance has been placed on paragraph 95 of ***Central Public Information Officer, Supreme Court v. Subhash Chandra Agrawal*** (supra).



xxxii. Reliance has also been placed on *Gujarat University v. M. Sridhar Acharyulu (Madabhushi Sridhar) and Others*, 2023 SCC OnLine Guj 4902.

**Specific submissions of the petitioner as regards W.P.(C) 1051/2017**

xxxiii. It is submitted that the impugned CIC order was passed ex-parte, without the presence or participation of the RTI applicant. Despite the issuance of multiple notices, the applicant did not appear before the Commission. The applicant had, in effect, abandoned the RTI proceedings.

xxxiv. Despite the applicant's non-appearance, the CIC proceeded to adjudicate the matter ex-parte and passed an order that ventured into politically sensitive territory.

xxxv. It is submitted that to date, there has been no representation or appearance on behalf of the RTI applicant before this Court.

**Specific submissions of the petitioner as regards W.P.(C) 1077/2017, W.P.(C) 1095/2017, W.P.(C) 1091/2017.**

xxxvi. The RTI applications in these cases were found to be defective, either due to non-payment of the prescribed fee or because the Indian Postal Order (IPO) was made payable to the wrong authority.

xxxvii. It is submitted that in accordance with settled practice and previous CIC decisions, the defective RTI applications were returned with directions to re-file after correcting the deficiency. However, in



these matters, the CIC imposed penalties on the CPIOs despite procedural compliance on the part of the petitioner.

xxxviii. It is submitted that the University of Delhi processes thousands of RTI applications every year, if the interpretation adopted by the CIC is upheld, it would lead to a disproportionate burden on the administrative functioning of the University. The University submits that accepting the CIC's approach would render the RTI Act practically unworkable, especially for academic institutions handling large volumes of applications. Reliance has been placed on paragraph 62 and 67 of the *Central Board of Secondary Education v. Aditya Bandopadhyay*, (supra).

**Specific submissions of the petitioner as regards W.P.(C) 1091/2017**

xxxix. It is submitted that respondent no.1/ R.K. Jain has passed away. No legal representatives have come on record. Accordingly, it is prayed that the writ petition be declared as abated.

**Submissions on behalf of respondent no. 1 in W.P.(C)600/2017**

18. It is submitted that marks obtained by students in examinations conducted by a public authority do not constitute personal information under Section 8(1)(j) of the RTI Act. These records are not provided voluntarily or in confidence, but are generated and maintained by the Delhi University as part of its public function.

19. Reliance has been placed on *Central Board of Secondary Education v. Aditya Bandopadhyay* (supra), *Kush Kalra v. University of Delhi*, 2021 SCC OnLine Del 3757, *Onkar Dattatray Kalmankar v. PIO*, 2024 SCC OnLine Bom 3513 and *Public Information Officer and Registrar v. Onkar*



***Dattatray Kalmankar*** SLP(C) No. 2783/2025.

20. It is also averred that the proviso to Section 8(1)(j) clearly provides that information which cannot be denied to Parliament or a State Legislature shall not be denied to any citizen, making it evident that such academic records are subject to disclosure.

21. It is submitted that the respondent did not seek sensitive personal records, such as address, identification documents, or academic credentials in copy form. The scope of the request was limited to record of examination outcomes, a form of information that is inherently of public nature.

22. It is the case of the respondent that the University of Delhi itself has followed the practice of publishing examination results, including names, roll numbers, marks, and other relevant information on its website.

23. It is further submitted that the University has wrongly invoked Section 8(1)(e) of the RTI Act, which protects information held in a fiduciary capacity. It is submitted that there exists no fiduciary relationship between students and a public university with respect to examination results. The University is under a statutory obligation to conduct examinations, evaluate answer scripts, and declare results.

24. It is submitted that the records in question pertain to the year 1978, i.e., more than 40 years old. As per Section 8(3) of the RTI Act, the exemptions provided under Sections 8(1)(e) and 8(1)(j) cease to apply once the information is older than 20 years, unless it pertains to national security or other exceptions specified in Section 8(1)(a), (c), or (i).

**Submissions on behalf of respondent no. 1 in W.P.(C) 1077/2017**

25. It is submitted that the CIC's order is legally valid. The CPIO's rejection of the RTI application solely on the alleged technical defect in the



IPO was in clear violation of the RTI Act. it is submitted that Right to Information (Regulation of Fee and Cost) Rules, 2005 clearly recognizes an IPO as a valid mode of fee payment. In exercising powers under Section 20 of the RTI Act, the CIC is empowered to impose a penalty for wrongful denial of information.

26. It is submitted that the RTI Act only permits denial of information on specific substantive grounds enumerated under Sections 8 and 9 of the RTI Act. In the present case, the petitioner did not invoke any such exemption to justify the denial. Procedural technicalities cannot override a citizen's fundamental right to access information. Reliance has been placed on ***PIO, Prem Lata v. CIC & Ors.***, W.P. (C) 2458/2012.

27. It is submitted that respondent no.1 had furnished a valid IPO, and it was the duty of the CPIO either to accept the application or to provide appropriate guidance for rectifying any minor defects, rather than rejecting it outright.

28. The respondent further submits that the petitioner's institutional policies and practices cannot be used to override the statutory scheme of the RTI Act. Reliance has also been placed on ***Union of India v. Namit Sharma***, W.P. (C) No. 210/2012, while emphasising upon the constitutional dimensions of the right to information.

29. It is further submitted that the CIC is the apex adjudicating authority under the RTI Act and is statutorily empowered to impose a penalty for wrongful denial of information.

**Submissions on behalf of respondent no. 1 in W.P.(C) 1095/2017**

30. It is submitted that the writ petition is premised on technicalities that defeat the very purpose and legislative intent of the RTI Act. The objective



of the RTI Act is to ensure transparency, accountability, and participatory governance, not to enable the denial of fundamental rights through procedural pretexts.

31. It is submitted that Section 3 of the RTI Act grants every Indian citizen the right to information. It is well settled that the right to information is a facet of the freedom of speech and expression under Article 19(1)(a) of the Constitution of India.

32. It is further submitted that the Act mandates a response to RTI applications within 30 days (or 48 hours in matters concerning life and liberty). Failure to respond within this timeframe is deemed a refusal. It is also submitted that no fee shall be charged from applicants below the poverty line.

33. It is submitted that rejection of information is only permissible on the limited grounds enumerated under Sections 8 and 9 of the RTI Act.

34. It is submitted that the RTI application was returned without due consideration merely because the IPO was incorrectly addressed. However, the amount had already been paid to the Government of India. This technical rejection is inconsistent with the object and spirit of the Act.

35. It is submitted that as per the Right to Information (Regulation of Fee and Cost) Rules, 2005, application fees may be paid via cash, demand draft, bankers' cheque, or IPO payable to the Accounts Officer. If further fees are required, the PIO must provide detailed calculations. The law does not permit outright rejection for addressing errors in the IPO.

36. It is submitted that the rejection of the RTI application in this instance, despite payment through a valid IPO, constitutes a wilful rejection attracting penal consequences under Section 20 of the RTI Act.



37. It is submitted that the rejection of the RTI application was not based on any valid exemption under Section 8 or 9, revealing malafide intent to obstruct access to information. Thus, imposition of penalty under Section 20 becomes mandatory.

38. It is further submitted that the DoPT Office Memorandum dated 05.12.2008 explicitly directs public authorities not to reject applications merely because IPOs are addressed to the Accounts Officer. Non-compliance with this OM can result in penalty imposition.

39. Reliance has been placed on *Dr. P.K. Pippal v. The State Of Madhya Pradesh*, submitting that the Court took a decision in the matter of imposition of penalty on the Public Information Officer for deliberately not providing the information as was directed by the State Information Commission in terms of the provisions as contained under Section 20 of the Right to Information Act, 2005.

40. Reliance has also been placed on *Manohar Manikrao Anchule v. State of Maharashtra & Anr. and Union of India v. Vansh Sharad Gupta*, WP(C) 4761/2016 and *PIO, Prem Lata v. CIC & Ors.*, W.P(C) 2458/2012.

**Submissions on behalf of intervener in W.P.(C) 600/2017**

41. It is submitted that the CIC *vide* order dated 21.12.2016 directed Delhi University to permit the RTI applicant to inspect relevant records and obtain certified copies of the requested information. It is submitted that this directive is consistent with the statutory scheme of the RTI Act.

42. It is submitted that the CIC correctly applied the provisions of Section 6(1) of the RTI Act, which entitles any citizen to seek information held by or under the control of a public authority. It submitted that it is rightly held by the CIC that the information sought does not fall within the scope of the



exemptions enumerated in Section 8(1) (e) and/or section 8(1) (j).

43. It is submitted that Delhi University itself routinely publishes results of various examinations, including details such as the names of students, their roll numbers, marks obtained, and father's names. This practice of proactive disclosure has been followed consistently for years and continues even now.

44. It is submitted that the CIC, in paragraphs 29 and 32 of its order, recorded that it had verified Delhi University's website and confirmed that results of B.A. (Hons.) Humanities and Social Sciences (Part II, Semester IV) were available online and contained precisely the kind of information sought under the present RTI request. The Commission therefore rightly held that the denial of information by the CPIO was inconsistent with the University's own longstanding practice.

45. Annexures R-1 to R-6 filed by the Interveners include screenshots and downloads from the University's official website showing exam results of LLM, MA, and Ph.D. programs.

46. It is submitted that the University also broadcasts its annual convocation ceremonies live on YouTube, publicly identifying degree recipients, which further establishes that the University treats such information as public, not private or confidential.

47. It is further submitted that Section 8(1)(j) of the RTI Act exempts "personal information" from disclosure only if the information is unrelated to any public interest and would result in an "unwarranted invasion of privacy."

48. It is submitted that in ***Central Public Information Officer, Supreme Court v. Subhash Chandra Agrawal***, (2020) 5 SCC 481, the Supreme Court



held that in order to deny the information under the RTI Act, the public authority cannot simply state that this is personal information but would have to establish that disclosing it would cause unwarranted invasion of privacy. Reliance has been placed on the following paragraph of ***Central Public Information Officer, Supreme Court v. Subhash Chandra Agrawal*** (supra) -

*“59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive.”*

49. In the present case, it is submitted that the disclosure of the examination results of 1978 does not cause any unwarranted invasion of privacy, especially as such information is regularly made public by the University itself. Therefore, the exemption under Section 8(1)(j) is inapplicable.

50. It is further submitted that the information regarding results of students is not held in fiduciary capacity by the Delhi University and cannot be exempted under Section 8(1)(e) of the RTI Act. In order to substantiate the said argument reliance has been placed on ***Central Board of Secondary Education v. Aditya Bandopadhyay***, (2011) 8 SCC 497. Specific emphasis has been placed on the following paragraphs –



“39. The term "fiduciary " refers to a person having a duty to act for the benefit of another, showing good faith and candour, where such other person reposes trust and special confidence in the person owing or discharging the duty. The term "fiduciary relationship " is used to describe a situation or transaction where one person (beneficiary) places complete confidence in another person (fiduciary) in regard to his affairs, business or transaction(s). The term also refers to a person who holds a thing in trust for another (beneficiary). The fiduciary is expected to act in confidence and for the benefit and advantage of the beneficiary, and use good faith and fairness in dealing with the beneficiary or the things belonging to the beneficiary. If the beneficiary has entrusted anything to the fiduciary, to hold the thing in trust or to execute certain acts in regard to or with reference to the entrusted thing, the fiduciary has to act in confidence and is expected not to disclose the thing or information to any third party.

40. There are also certain relationships where both the parties have to act in a fiduciary capacity treating the other as the beneficiary. Examples of these are: a partner vis-a-vis another partner and an employer vis-d-vis employee. An employee who comes into possession of business or trade secrets or confidential information relating to the employer in the course of his employment, is expected to act as a fiduciary and cannot disclose it to others. Similarly, if on the request of the employer or official superior or the head of a department, an employee furnishes his personal details and information, to be retained in confidence, the employer, the official superior or departmental head is expected to hold such personal information in confidence as a fiduciary, to be made use of or disclosed only if the employee's conduct or acts are found to be prejudicial to the employer.

41 But the words "information available to a person in his fiduciary relationship" are used in Section 8(1 )(e) of the RTI Act in its normal and well-recognised sense, that is, to refer to persons who act in a fiduciary capacity, with reference to a specific beneficiary or beneficiaries who are to be expected to be protected or benefited by the actions of the fiduciary- a trustee with reference to the beneficiary of the trust, a guardian with reference to a minor/physically infirm/mentally challenged, a parent with reference to a child, a lawyer or a chartered accountant with reference to a client, a doctor or nurse with reference to a patient, an agent with reference to a principal, a partner with reference to another partner, a Director of a company with reference to a shareholder, an executor with reference to a legatee, a Receiver with reference to the parties to a Us, an employer with reference to the confidential information relating to the employee, and an employee with reference to business dealings/transaction of the employer. We do not find that kind of



*fiduciary relationship between the examining body and the examinee, with reference to the evaluated answer books, that come into the custody of the examining body.”*

51. Reliance has also been placed on paragraph 43 of **Central Public Officer, Supreme Court of India vs Subash Chandra Aggarwal** (2020)5 SCC 481. The same is reproduced as under –

*“43... This Court held that the exemption under section 8(1)(e) of the RTI Act does not apply to beneficiaries regarding whom the fiduciary holds information. In other words, information available with the public authority relating to beneficiaries cannot be withheld from or denied to the beneficiaries themselves. A fiduciary would, ergo, be duty-bound to make thorough disclosure of all relevant facts of all transactions between them in a fiduciary relationship to the beneficiary. In the facts of the said ca.se, this Court had to consider whether an examining body, the Central Board of Secondary Education, held information in the form of evaluated answer-books of the examinees in fiduciary capacity. Answering in the negative, it was nevertheless observed that even if the examining body is in a fiduciary relationship with an examinee, it will be dutybound to disclose the evaluated answer books to the examinee and at the same time, they owe a duty to the examinee not to disclose the answer-books to anyone else, that is, any third party... “*

52. Reliance has also been placed on **Reserve Bank of India vs Jayantilal N. Mistry** (2016) 3 SCC 525.

53. It is further submitted that Section 8(3) of the RTI Act provides that exemptions under Section 8(1)(b), (d) to (h) and (j) shall cease to apply once the information pertains to an event that occurred over 20 years before the date of the RTI request. The only continuing exemptions are those under clauses (a), (c), and (i).

54. In the present case, the RTI request seeks information from 1978, nearly five decades ago. Consequently, by operation of Section 8(3), the exemptions under Sections 8(1)(e) and 8(1)(j) are inapplicable.

55. It is submitted that this legal position has been clearly articulated in



**Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others** (supra), wherein the Court held that, notwithstanding the general exemptions under Section 8(1), information more than twenty years old must be disclosed unless it falls under a continuing exemption (clauses (a), (c), or (i)). Reliance has been placed on paragraphs 57 and 58 of the said judgment.

56. It is further submitted that **Gujarat University v. M. Sridhar Acharyulu (Madabhushi Sridhar) and Others**, 2023 SCC OnLine Guj 4902 is factually and legally distinguishable and has no bearing on the present matter.

57. It is submitted that the Gujarat High Court specifically took notice of the procedural irregularity in that case and found that the CIC had exceeded its jurisdiction by treating an oral response as a formal RTI application and acting *suo motu* at the second appellate stage.

58. In contrast, it is submitted that the present matter (W.P.(C) 600/2017) arises from a separate CIC order dated 21.12.2016 in CIC/SA/C/2016/900122, which involved a regular RTI application submitted to Delhi University, proper invocation of appellate remedies under the RTI Act, and compliance with the statutory process.

59. It is further submitted that unlike the Gujarat case, the respondent did not seek a copy of any degree. Instead, the information sought relates to declaration of results of the B.A. examination held in 1978, including names, roll numbers, father's names, marks obtained, and result status (pass/fail).

60. It is further submitted that internationally, academic institutions



routinely disclose examination and degree results. For example, the London School of *Economics and Political Science* provided complete digests of students awarded degrees, including their classifications (distinction, merit, pass) under the UK Freedom of Information Act. Similarly, Oxford University disclosed names of persons who graduated from Oriel College in 1999 in response to a similar information request.

### **ANALYSIS AND CONCLUSION**

61. In the aforesaid conspectus, the following legal issues arise for consideration in these proceedings:

- (i) Whether a Board/University (in particular, the Delhi University) is exempt from disclosing information pertaining to the educational qualifications/ results / mark sheets / degrees of an individual by virtue of Section 8(1)(e) and/or Section 8(1)(j) of the RTI Act?
- (ii) Whether 'larger public interest' justifies disclosure of the information sought even if the same falls within the purview of Section 8(1)(e) and/or Section 8(1)(j) of the RTI Act?
- (iii) Even assuming that the supply of information is precluded under Section 8(1)(e) and/or Section 8(1)(j) of the RTI Act, whether disclosure of information is mandated under Section 8(3) of the RTI Act?

### **Framework of the RTI Act**

62. Section 3 of the RTI Act confers the right to information upon all citizens, subject to the provisions of the Act. It reads as under:

*"3. Subject to the provisions of this Act, all citizens shall have the right to information."*



63. The terms “information” and “right to information” are defined under Sections 2(f) and 2(j) of the RTI Act, respectively. These are reproduced as under:

*(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;*

xxx

*(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—*

*(i) inspection of work, documents, records;*

*(ii) taking notes, extracts or certified copies of documents or records;*

*(iii) taking certified samples of material;*

*(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;*

64. The Supreme Court, in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra) while examining the scope of the term, “right to information,” held as under:

*“28. The expressions “held by or under the control of any public authority” and “information accessible under this Act” are restrictive and reflect the limits to the “right to information” conferred vide Section 3 of the RTI Act, which states that subject to the provisions of the RTI Act, all citizens shall have the right to information. The right to information is not absolute and is subject to the conditions and exemptions under the RTI Act.”*

65. The use of the expression “Subject to the provisions of this Act” in Section 3 makes it abundantly clear that the right to information under the



RTI Act is not unfettered and is subject to the exemptions and conditions prescribed therein, including those under Section 8 of the RTI Act.

66. Section 8 is reproduced as under –

*“(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—*

*(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;*

*(b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;*

*(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;*

*(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;*

*(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;*

*(f) information received in confidence from foreign Government;*

*(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;*

*(h) information which would impede the process of investigation or apprehension or prosecution of offenders;*

*(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:*

*Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:*



*Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;*

*(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:*

*Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.*

*(2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.*

*(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:*

*Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.”*

*(emphasis supplied)*

67. Section 8(1) of the RTI Act opens with a non obstante clause, “*Notwithstanding anything contained in this Act*”, thereby granting it overriding effect over all other provisions of the Act. This makes it clear that the right conferred under Section 3 is not absolute, but is subject to the exemptions enumerated under Section 8(1).

68. The exemptions under Section 8(1) may be broadly classified into two categories-

- a. Clauses (a), (b), (c), (f), (g), (h), and (i), wherein disclosure is impermissible regardless of any plea of public interest.



- b. Clauses (d), (e), and (j), which incorporate a public interest override. Under these clauses, information may be disclosed if the competent authority [in the case of clauses (d) and (e)] or the Central Public Information Officer (CPIO), the State Public Information Officer (SPIO), or the appellate authority (in the case of clause (j)) is satisfied that the larger public interest justifies such disclosure.

69. While considering the interplay between the right to information and the exemptions / exclusions under Sections 8 to 11 of the RTI Act, the Court in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra) has observed as under –

*“40. At the present stage, we would like to quote from Aditya Bandopadhyay [CBSE v. Aditya Bandopadhyay, (2011) 8 SCC 497 : 6 SCEC 25] wherein this Court, on the aspect of general principles of interpretation while deciding the conflict between the right to information and exclusions under Sections 8 to 11 of the RTI Act, had observed : (SCC pp. 532-33, paras 61-63)*

*“61. Some High Courts have held that Section 8 of the RTI Act is in the nature of an exception to Section 3 which empowers the citizens with the right to information, which is a derivative from the freedom of speech; and that, therefore, Section 8 should be construed strictly, literally and narrowly. This may not be the correct approach. The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. One is to bring about transparency and accountability by providing access to information under the control of public authorities. The other is to ensure that the revelation of information, in actual practice, does not conflict with other public interests which include efficient operation of the Governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information. The Preamble to the Act specifically states that the object of the Act is to harmonise these two conflicting interests. While Sections 3 and 4 seek to achieve the first objective, Sections 8, 9, 10 and 11 seek to achieve the second objective. Therefore, when Section 8 exempts certain information from being*



*disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals.*

*62. When trying to ensure that the right to information does not conflict with several other public interests (which includes efficient operations of the Governments, preservation of confidentiality of sensitive information, optimum use of limited fiscal resources, etc.), it is difficult to visualise and enumerate all types of information which require to be exempted from disclosure in public interest. The legislature has however made an attempt to do so. The enumeration of exemptions is more exhaustive than the enumeration of exemptions attempted in the earlier Act, that is, Section 8 of the Freedom to Information Act, 2002. The courts and Information Commissions enforcing the provisions of the RTI Act have to adopt a purposive construction, involving a reasonable and balanced approach which harmonises the two objects of the Act, while interpreting Section 8 and the other provisions of the Act.*

*63. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of “information” and “right to information” under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which requires drawing of inferences and/or making of assumptions. It is also not required to provide “advice” or “opinion” to an applicant, nor required to obtain and furnish any “opinion” or “advice” to an applicant. The reference to “opinion” or “advice” in the definition of “information” in Section 2(f) of the Act, only refers to such material available in the records of the public*



*authority. Many public authorities, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”*

70. Thus, Section 8 cannot simply be viewed as an exception to Section 3 of the RTI Act. It is in the nature of a “balancing provision” which seeks to harmonize / balance two conflicting interests, viz.: (i) the need to bring about transparency and accountability by providing access to information under Control of public authorities; and (ii) to ensure that revelation of information, in actual practice, does not conflict with other public interests which include preservation of confidentiality of personal information.

(i) **Whether a Board/University (in particular the Delhi University) is exempt from disclosing information pertaining to the educational qualifications/ results / mark sheets / degrees of an individual by virtue of Section 8(1)(e) and/or Section 8(1)(j) of the RTI Act?**

71. The petitioner’s two principal contentions are, first, that a fiduciary relationship exists between a university and its students, thereby exempting the university from disclosing information regarding the educational qualifications / results / mark sheets / degrees of its students under Section 8(1)(e) of the RTI Act; and second, that such information is in the nature of “personal information” and therefore falls within the ambit of the exemption under Section 8(1)(j) of the RTI Act.

72. The contours/characteristics of a “fiduciary relationship” have been noted by the Supreme Court in numerous judgments, *inter alia*, ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra***



*Agarwal* (supra), *Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others* (supra), *Kerala Public Service Commission and Others v. State Information Commission and Another* (supra), *Institute of Chartered Accountants of India v. Shaunak H. Satya and Others* (supra).

73. In *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal* (supra), the Supreme Court, taking note of the judgment in *RBI v. Jayantilal N. Mistry*, (2016) 3 SCC 525, noted that a fiduciary relationship is one in which a person is under a duty to act for the benefit of another on matters within the scope of the fiduciary relationship. It was further noted that such a relationship usually arises in one of the following four situations; (1) when one person places trust in the faithful integrity of another, who, as a result, gains superiority or influence over the first; (2) when one person assumes control and responsibility over another; (3) when one person has a duty to act for, or give advice to, another on matters falling within the scope of the relationship; or (4) when there is a specific relationship traditionally recognised as involving fiduciary duties, such as between a lawyer and a client.

74. In *RBI v. Jayantilal N. Mistry* (supra), the Court further outlined the contours of a fiduciary relationship by listing out the governing principles as under:

“58. [...] (i) *No conflict rule*-A fiduciary must not place himself in a position where his own interest conflicts with that of his customer or the beneficiary. There must be “real sensible possibility of conflict”.

(ii) *No profit rule*-A fiduciary must not profit from his position at the expense of his customer, the beneficiary.

(iii) *Undivided loyalty rule*-A fiduciary owes undivided loyalty to the beneficiary, not to place himself in a position where his duty towards one



person conflicts with a duty that he owes to another customer. A consequence of this duty is that a fiduciary must make available to a customer all the information that is relevant to the customer's affairs.

(iv) Duty of confidentiality-A fiduciary must only use information obtained in confidence and must not use it for his own advantage, or for the benefit of another person.”

75. In **Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal** (supra), it was observed as under:

“45. Fiduciary relationships, regardless of whether they are formal, informal, voluntary or involuntary, must satisfy the four conditions for a relationship to classify as a fiduciary relationship. In each of the four principles, the emphasis is on trust, reliance, the fiduciary's superior power or dominant position and corresponding dependence of the beneficiary on the fiduciary which imposes responsibility on the fiduciary to act in good faith and for the benefit of and to protect the beneficiary and not oneself. Section 8(1)(e) is a legal acceptance that there are ethical or moral relationships or duties in relationships that create rights and obligations, beyond contractual, routine or even special relationships with standard and typical rights and obligations. Contractual or non-fiduciary relationships could require that the party should protect and promote the interest of the other and not cause harm or damage, but the fiduciary relationship casts a positive obligation and demands that the fiduciary should protect the beneficiary and not promote personal self-interest. A fiduciary's loyalty, duties and obligations are stricter than the morals of the marketplace and it is not honesty alone, but the punctilio of an honour which is the most sensitive standard of behaviour which is applied (see Opinion of Cardozo, J. in *Meinhard v. Salmon*). Thus, the level of judicial scrutiny in cases of fiduciary relationship is intense as the level of commitment and loyalty expected is higher than non-fiduciary relationships. Fiduciary relationship may arise because of the statute which requires a fiduciary to act selflessly with integrity and fidelity and the other party, that is, the beneficiary, depends upon the wisdom and confidence reposed in the fiduciary. A contractual, statutory and possibly all relationships cover a broad field, but a fiduciary relationship could exist, confined to a limited area or an act, as relationships can have several facets. Thus, relationships can be partly fiduciary and partly non-fiduciary with the former being confined to a particular act or action which need not manifest itself in entirety in the interaction and relationship between two parties. What would distinguish non-fiduciary relationship from fiduciary relationship or an act is the requirement of trust reposed, higher standard of good faith and honesty required on the part of the



*fiduciary with reference to a particular transaction(s) due to moral, personal or statutory responsibility of the fiduciary as compared to the beneficiary, resulting in dependence of the beneficiary. This may arise due to superior knowledge and training of the fiduciary or the position he occupies."*

76. In the concurring opinion rendered by D.Y. Chandrachud, J., in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra), the Court took note of the connotation of the expressions, "fiduciary" and "fiduciary relationship", drawing upon expositions in classical legal literature. The relevant observations are reproduced as under -

*"237. Black's Law Dictionary, defines "fiduciary relationship" thus:*

*"A relationship in which one person is under a duty to act for the benefit of the other on matters within the scope of the relationship. Fiduciary relationships such as trustee-beneficiary, guardian-ward, principal-agent, and attorney-client require an unusually high degree of care. Fiduciary relationships usually arise in one of four situations: (1) when one person places trust in the faithful integrity of another, who as a result gains superiority or influence over the first, (2) when one person assumes control and responsibility over another, (3) when one person has a duty to act for or give advice to another on matters falling within the scope of the relationship, or (4) when there is a specific relationship that has traditionally been recognised as involving fiduciary duties, as with a lawyer and a client or a stockbroker and a customer."*

*(emphasis supplied)*

*238. In Words and Phrases the term "fiduciary" is defined:*

*"Generally, the term 'fiduciary' applies to any person who occupies a position of peculiar confidence towards another... It refers to integrity and fidelity... It contemplates fair dealing and good faith, rather than legal obligation, as the basis of the transaction... The term includes those informal relations which exist whenever one party trusts and relies upon another, as well as technical fiduciary relations."*

*(emphasis supplied)*

*239. In Corpus Juris Secundum "fiduciary" is defined thus:*



"A general definition of the word which is sufficiently comprehensive to embrace all cases cannot well be given. The term is derived from the civil, or Roman law. It connotes the idea of trust or confidence, contemplates good faith, rather than legal obligation, as the basis of the transaction, refers to the integrity, the fidelity, of the party trusted, rather than his credit or ability, and has been held to apply to all persons who occupy a position of peculiar confidence toward others, and to include those informal relations which exist whenever one party trusts and relies on another, as well as technical fiduciary relations.

The word 'fiduciary', as a noun, means one who holds a thing in trust for another, a trustee, a person holding the character of a trustee, or a character analogous to that of a trustee, with respect to the trust and confidence involved in it and the scrupulous good faith and candor which it requires; a person having the duty, created by his undertaking, to act primarily for another's benefit in matters connected with such undertaking. Also more specifically, in a statute, a guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity for any person, trust or estate. Some examples of what, in particular connections, the term has been held to include and not to include are set out in the note."

77. The same judgment also observed as under:

"244. A fiduciary must be entrusted with a degree of discretion (power) and must have freedom to act without resorting to prior approval of the beneficiary, The greater the independent authority to be exercised by the fiduciary, the greater the scope of fiduciary duty. The person so entrusted with power is required to determine how to exercise that power. Fiduciaries are identified by ascendancy, power and control on the part of the stronger party and therefore, a fiduciary relationship implies a condition of superiority of one of the parties over the other. It is not necessary that the relationship has to be defined as per law, it may exist under various circumstances, and exists in cases where there has been a special confidence placed in someone who is bound to act in good faith and with due regard to the interests of the one reposing the confidence. Such is normally the case with, inter alia, attorney-client, agent-principal, doctor-patient, parent-child, trustees-beneficiaries, legal guardian-ward, personal representatives, court appointed receivers and between the Directors of company and its shareholders. In Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd. and Dale & Carrington Invt. (P) Ltd. v. P.K. Prathapan, this Court held that the Directors of the company owe a fiduciary duty to its shareholders. In P.V. Sankara Kurup v. Leelavathy Nambiar, this Court held that an agent and power of attorney can be said to owe a



*fiduciary relationship to the principal.”*

78. Importantly, in paragraph 45 of ***Central Public Information Officer, Supreme Court of India Supreme Court of India v. Subhash Chandra Agarwal*** (supra), it was recognized that “relationships can be partly fiduciary and partly non-fiduciary,” with the former being confined to a particular act or action, which need not manifest itself in the entirety of the interaction or relationship between the two parties. What would distinguish the non-fiduciary aspect of any relationship *vis-a-vis* the fiduciary aspect of a relationship is the element of trust reposed, coupled with a higher standard of good faith and honesty required on the part of the fiduciary due to moral, personal, and statutory responsibility, thereby creating a dependence on the part of the beneficiary.

79. Thus, a fiduciary relationship exists where, (i) one party is in a position of trust and confidence; (ii) the other party undertakes, or is obliged (due to moral, personal, and statutory responsibility), to act in the first party’s interest, often with discretionary power over matters effecting them; (iii) there is an aspect of control and responsibility assumed by the fiduciary; and / or (iv) the fiduciary owes a duty of good faith and avoidance of conflict of interest.

80. In the context of the relationship between a student and a university, there can be no cavil with the proposition that there exists a special relationship of trust and confidence. A student entrusts the university with personal information (academic records, personal data etc.) with a reasonable expectation of confidentiality and fair use. This parallels relationships traditionally recognized as fiduciary, such as a doctor-patient, lawyer-client, trust-beneficiary, etc. Moreover, the university exercises



various discretionary powers in the academic sphere and is required to make decisions that directly impact the future and career prospects of the student. The degree of control and unilateral decision-making power can be said to be akin to a trustee in respect of a trust. It can also hardly be disputed that a university owes a duty of care towards its students.

81. As such, there are various aspects of relationship between the university and a student which are fiduciary in nature. In the case of Delhi University, this is also borne out from the relevant provisions of the Delhi University Act, 1922, Statutes of the University and its Ordinances.

82. Section 4 of the Delhi University Act, 1922 enumerates the powers of the University, including –

*“4. The University shall have the following powers, namely:*

- (1) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and for the advancement and dissemination of knowledge,*
- (2) to hold examinations and to grant to, and confer degrees and other academic distinctions on, persons who-*
  - (a) have pursued a course of study in the University or in any College, or*
  - (b) are Non-collegiate Women students residing within the territorial jurisdiction of the University or*
  - (c) are teachers in educational institutions, under conditions laid down in the Statutes and Ordinances and have passed the examinations of the University under like conditions, or*
  - (d) have pursued a course of study by correspondence, whether residing within the territorial jurisdiction of the University or not, or*
  - (e) have been registered by the University, subject to such conditions as may be laid down in the Statutes and Ordinances as external candidates, being persons residing within the territorial limits to which the powers of the University extend.*
- (3) to confer honorary degrees or other distinctions, on approved persons in the manner laid down in the Statutes,*
- (4) to grant such diplomas to, and to provide such lectures and instruction for, persons not being members of the University, as the University may determine,*
- (5) to co-operate with other Universities and Authorities in such manner and for such purposes as the University may determine,*
- (6) to institute Professorship, Readership, Lectureship and any other*



teaching posts required by the University,  
(7) to appoint or recognise persons as Professors, Readers, or Lecturers, or otherwise as teachers of the University,  
(8) to institute an award Fellowships, Scholarships, Exhibitions and Prizes,  
(9) to maintain Colleges and Halls, to admit to its privileges Colleges not maintained by the University and to withdraw all or any of those privileges, and to recognise Halls, not maintained by the University and to withdraw any such recognition,  
(9-A) to declare, with the consent of the colleges concerned, in the manner specified by the Academic Council, Colleges conducting courses of study in the Faculties of Medicine, Technology, Music or Fine Arts, as autonomous Colleges. Provided that the extent of the autonomy which each such College may have, and matters in relation to which it may exercise such autonomy, shall be such as may be prescribed by the 'Statutes.  
(9-B) to set up one or more College Administrative Councils for two or more Colleges with such composition, powers and functions as may be laid down in the Statutes,  
(10) to demand and receive payment of such fees and other charges as may be authorised by the Ordinances,  
**(11) to supervise and control the residence and discipline of students of the University, and to make arrangements for promoting their health and general welfare,**  
(11-A) to make grants from the funds of the University for assistance to forms of extra-mural teaching,  
(12) to make special arrangements in respect of the residence, discipline and teaching of women students,  
(12-A) to acquire, hold, manage and dispose of property, movable or immovable, including trust or endowed property, for the purposes of the University,  
(12-B) with the approval of the Central Government, to borrow, on the security of University property, money for the purposes of the University,  
(12-C) to create administrative and ministerial and other necessary posts and to make appointments thereto, and  
(13) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University as a teaching and examining body, and to cultivate and promote Arts, Science and other branches of learning.”

83. Powers that have been conferred upon the University reflect a sense of control and responsibility towards its students. Section 4(11) of the Delhi University Act, 1922 specifically contemplates that the University would



promote the health and general welfare of students.

84. The Academic Council of the Delhi University bears the responsibility for ensuring the integrity, confidentiality, and fairness of the examination process, as part of its broader mandate to maintain the quality of education and assessment.

85. Section 11-K(3)(a) of the Statutes of the University provides as under—

*“(3) It shall be the duty of the Registrar –*

*a) to be custodian of the records, Common Seal and such other property of the University as the Executive Council shall commit to his charge;....”*

86. This expressly denotes custodianship, which by its nature implies fiduciary obligations.

87. Ordinance IX of the University provides as under -

***“(3) Eligibility for award of Degree and Division Criteria:***

*(a) A student who passes all the papers (minimum ‘Numerical Grade 4’) prescribed for Semester I to Semester IV examinations would be eligible for the award of degree. Such a student shall be categorized on the basis of the combined result of Semester I to semester IV examinations as follows: (Based on the Conversion Formula from CGPA to final Percentage)*

*60% or more First Division*

*50% or more but less than 60% Second Division*

*Less than 50% & declared passed Third Division*

*(b) The formula for calculating the final percentage of marks from Cumulative Grade Point Average (CGPA) for final year students under CBCS will be as follows:*

*Final Percentage of marks = CGPA based on overall four semesters x 9.5*

*Provided that the programmes regulated by different regulatory bodies like Medical Council of India, AICTE etc. will be governed by the regulations prescribed by their respective regulatory bodies from time to time.*

***(4) Issue of Transcripts:***

*Based on the grades earned, a Grade Certificate shall be issued to all the registered students by the University after every semester and a consolidated transcript indicating the performance in all semesters. The Grade Certificate will display the course details (code, title of the paper,*



*number of credits, grade secured) along with SGPA of each semester and CGPA earned based on overall six semesters.*

*The percentage shall not be displayed on the Grade Certificate/Transcript. Only the formula approved for the conversion of CGPA into percentage will be displayed on the Grade Certificate/Transcript.”*

88. These provisions make it evident that the University is obligated to issue results exclusively through official mark sheets and transcripts to the concerned student. The provisions indicate issuing of results to the student/s, not to the public. The framework does not permit the disclosure of marks / grades to any third party. There is an implicit duty of trust and confidentiality in handling students’ academic records.

89. Thus, the relationship between the Delhi University and its students is characterized by trust reposed, a high standard of good faith, and a duty to act in the students’ best interest.

90. In ***Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others*** (supra), the Supreme Court had occasion to examine a particular facet of the relationship between the concerned examining body (CBSE) and the examinee. The Court again referred to the definition of a fiduciary relationship in Black’s Law Dictionary [as also noticed in paragraph 237 of the ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra)] and took note the exposition thereof in certain foreign judgments. It was thereafter observed as under:

*“39. The term "fiduciary" refers to a person having a duty to act for the benefit of another, showing good faith and candour, where such other person reposes trust and special confidence in the person owing or discharging the duty. The term "fiduciary relationship" is used to describe a situation or transaction where one person (beneficiary) places complete confidence in another person (fiduciary) in regard to his affairs, business or transaction(s). The term also refers to a person*



*who holds a thing in trust for another (beneficiary). The fiduciary is expected to act in confidence and for the benefit and advantage of the beneficiary, and use good faith and fairness in dealing with the beneficiary or the things belonging to the beneficiary. If the beneficiary has entrusted anything to the fiduciary, to hold the thing in trust or to execute certain acts in regard to or with reference to the entrusted thing, the fiduciary has to act in confidence and is expected not to disclose the thing or information to any third party.*

40. *There are also certain relationships where both the parties have to act in a fiduciary capacity treating the other as the beneficiary. Examples of these are: a partner vis-à-vis another partner and an employer vis-à-vis employee. An employee who comes into possession of business or trade secrets or confidential information relating to the employer in the course of his employment, is expected to act as a fiduciary and cannot disclose it to others. Similarly, if on the request of the employer or official superior or the head of a department, an employee furnishes his personal details and information, to be retained in confidence, the employer, the official superior or departmental head is expected to hold such personal information in confidence as a fiduciary, to be made use of or disclosed only if the employee's conduct or acts are found to be prejudicial to the employer."*

91. The Supreme Court held that the duty of the examining body (in that case) was to subject the candidates to a process of verification/examination/testing of their knowledge or skill. However, the same does not detract from the proposition (reiterated in that case) that any relationship in which a person (the fiduciary) has a duty to act for the benefit of other in good faith and with candour, and where such other person reposes trust and special confidence in the person owing or discharging the duty, gives rise to a fiduciary relationship. In ***Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others*** (supra), the Supreme Court was concerned with a particular facet of relationship between the examining body (CBSE) and the examinee/s. Specifically, the Court was concerned with the issue whether the concerned examinee would be precluded from seeking information as regards his/her own answer books,



even assuming that there exists a fiduciary relationship between the Board and the examinee.

92. Unlike CBSE, Delhi University, is an over-arching academic institution characterised by exercise of control over students in respect of a wide gamut of activities. The relationship between the University and the students is characterized by trust and confidence with a power imbalance (in favour of the University) in respect of academic and disciplinary matters. The University is also the custodian of all relevant records / data of the students, including record / data that is created during the course of academic pursuit/s, as also in the course of internal complaints and disciplinary mechanisms. The relationship between the Delhi University and its students involves asymmetrical trust, and consequential thereto, sensitive and confidential student information/data is entrusted to the University.

93. In ***Institute of Chartered Accountants of India v. Shaunak H. Satya and Others*** (supra), the Supreme Court, relying upon the observations in ***Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others*** (supra), held that the “instructions and solutions to questions” issued to the examiners and moderators in connection with evaluation of answer scripts by the Institute of Chartered Accountants of India (ICAI), were held by the said examiners and moderators in confidence. It was observed as under:

*“21.....The examiners and moderators are in the position of agents and ICAI is in the position of principal in regard to such information which ICAI gives to the examiners and moderators to achieve uniformity, consistency and exactness of evaluation of the answer scripts. When anything is given and taken in trust or in confidence, requiring or expecting secrecy and confidentiality to be maintained in that behalf, it is held by the recipient in a fiduciary relationship.”*



94. It was further observed as under:

*“22.....In other words, anything given and taken in confidence expecting confidentiality to be maintained will be information available to a person in fiduciary relationship. As a consequence, it has to be held that the instructions and solutions to questions communicated by the examining body to the examiners, Head Examiners and moderators, are information available to such persons in their fiduciary relationship and therefore exempted from disclosure under Section 8(1)(d) of the RTI Act.”*

95. The above observations are applicable in the context of data pertaining to students held by a university (Delhi University in particular). Such data, which pertains to various facets of a student’s academic life, is held by the university in trust and confidence, and there is a legitimate expectation on the part of the students that confidentiality shall be maintained with regard thereto. The same is consistent with the framework of the Statutes and Ordinances of the Delhi University. There is merit in the contention that the Delhi University has become the “custodian” of this data by virtue of / pursuant to a fiduciary relationship.

96. In ***Kerala Public Service Commission and Others v. State Information Commission and Another*** (supra), the Supreme Court held that the information supplied by an examining body (Kerala Public Service Commission) to examiners created a fiduciary relationship, inasmuch as it involved reposing trust in the examiners to “check the exam papers with utmost care, honesty and impartially”.

97. In ***Gujarat University v. M. Sridhar Acharyulu (Madabhushi Sridhar) and Others***, 2023 SCC OnLine Guj 4902, the Gujarat High Court, in an identical conspectus and relying upon the judgments in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra), ***Kerala Public Service Commission and Others v. State***



*Information Commission and Another* (supra), *Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others* (supra) and *Institute of Chartered Accountants of India v. Shaunak H. Satya and Others* (supra), held that Section 8(1)(e) of the RTI Act was attracted in view of the fiduciary relationship between the university and the student. It was further held that the degrees of students are kept by the university in confidence and in a fiduciary capacity.

98. Insofar as data/information as regards details/particulars of degrees, results, mark sheets etc. of students (which is the subject matter of the impugned RTI applications) is concerned, the matter is put beyond the pale of doubt by virtue of Section 8(1)(j) of the RTI Act. In terms thereof, such data/information, indubitably constitutes “personal information” which is specifically exempt from disclosure under Section 8(1)(j) of the RTI Act.

99. The petitioner has rightly placed reliance on the judgment of the Supreme Court in *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal* (supra) wherein the scope and applicability of Section 8(1)(j) was comprehensively discussed.

100. In *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal* (supra), the Supreme Court clarified that Section 8(1)(j) exempts the disclosure of two categories of information: (i) “personal information” with no relation to any public activity or interest, and (ii) “information” that is exempt from disclosure to prevent unwarranted invasion of privacy. The relevant portion of the judgment is reproduced as under –

“58. Clause (j) to sub-section (1) of Section 8 of the RTI Act specifically refers to invasion of the right to privacy of an individual and excludes from disclosure information that would cause



unwarranted invasion of privacy of such individual, unless the disclosure would satisfy the larger public interest test. This clause also draws a distinction in its treatment of personal information, whereby disclosure of such information is exempted if such information has no relation to public activity or interest. We would like to, however, clarify that in their treatment of this exemption, this Court has treated the word “information” which if disclosed would lead to invasion of privacy to mean personal information, as distinct from public information. This aspect has been dealt with in the succeeding paragraphs.

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64. While clause (j) exempts disclosure of two kinds of information, as noted in para 58 above, that is, “personal information” with no relation to public activity or interest and “information” that is exempt from disclosure to prevent unwarranted invasion of privacy, this Court has not underscored, as will be seen below, such distinctiveness and treated personal information to be exempt from disclosure if such disclosure invades on balance the privacy rights, thereby linking the former kind of information with the latter kind. This means that information, which if disclosed could lead to an unwarranted invasion of privacy rights, would mean personal information, that is, which is not having co-relation with public information.”

101. The Supreme Court in **Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal** (supra) took note of the progression of the ‘Right to Privacy’, consequent to which the underlying provision protecting personal information, came to be viewed differently. The Court expounded at length upon the interplay between the ‘Right to Information’ and the ‘Right to Privacy’ under the RTI Act. The following observations were made by the Court:

*“47. If one's right to know is absolute, then the same may invade another's right to privacy and breach confidentiality, and, therefore, the former right has to be harmonised with the need for personal privacy, confidentiality of information and effective governance. The RTI Act captures this interplay of the competing rights under clause (j) to Section 8(1) and Section 11. While clause (j) to Section 8(1) refers to personal information as distinct from information relating to public activity or interest and seeks to exempt disclosure of such*



information, as well as such information which, if disclosed, would cause unwarranted invasion of privacy of an individual, unless public interest warrants its disclosure, Section 11 exempts the disclosure of “information or record ... which relates to or has been supplied by a third party and has been treated as confidential by that third party”. By differently wording and inditing the challenge that privacy and confidentiality throw to information rights, the RTI Act also recognises the interconnectedness, yet distinctiveness between the breach of confidentiality and invasion of privacy, as the former is broader than the latter, as will be noticed below.

48. Breach of confidentiality has an older conception and was primarily an equitable remedy based on the principle that one party is entitled to enforce equitable duty on the persons bound by an obligation of confidentiality on account of the relationship they share, with actual or constructive knowledge of the confidential relationship. Conventionally a conception of equity, confidentiality also arises in a contract, or by a statute. Contractually, an obligation to keep certain information confidential can be effectuated expressly or implicitly by an oral or written agreement, whereas in statutes certain extant and defined relationships are imposed with the duty to maintain details, communication exchanged and records confidential. Confidentiality referred to in the phrase “breach of confidentiality” was initially popularly perceived and interpreted as confidentiality arising out of a pre-existing confidential relationship, as the obligation to keep certain information confidential was on account of the nature of the relationship. The insistence of a pre-existing confidential relationship did not conceive a possibility that a duty to keep information confidential could arise even if a relationship, in which such information is exchanged and held, is not pre-existing. This created a distinction between confidential information obtained through the violation of a confidential relationship and similar confidential information obtained in some other way. With time, courts and jurists, who recognised this anomaly, have diluted the requirement of the existence of a confidential relationship and held that three elements were essential for a case of breach of confidentiality to succeed, namely — (a) information should be of confidential nature; (b) information must be imparted in circumstances importing an obligation of confidentiality; and (c) that there must be unauthorised use of information [See *Coco v. A.N. Clark (Engineers) Ltd.*]. The “artificial” distinction was emphatically abrogated by the test adopted by Lord Goff of Chieveley in *Attorney General v. Guardian Newspapers Ltd. (No. 2)*, who had observed : (AC p. 281)



“... a duty of confidence arises when confidential information comes to the knowledge of a person ... in circumstances where he has notice, or is held to have agreed, that the information is confidential, with the effect that it would be just in all the circumstances that he should be precluded from disclosing the information to others.”

Lord Goff, thus, lifted the limiting constraint of a need for initial confidential relationship stating that a “duty of confidence” would apply whenever a person receives information he knows or ought to know is fairly and reasonably to be regarded as confidential. Therefore, confidential information must not be something which is a public property and in public knowledge/public domain as confidentiality necessarily attributes inaccessibility, that is, the information must not be generally accessible, otherwise it cannot be regarded as confidential. However, self-clarification or certification will not be relevant because whether or not the information is confidential has to be determined as a matter of fact. The test to be applied is that of a reasonable person, that is, information must be such that a reasonable person would regard it as confidential. Confidentiality of information also has reference to the quality of information though it may apply even if the information is false or partly incorrect. However, the information must not be trivial or useless.

49. While previously information that could be considered personal would have been protected only if it were exchanged in a confidential relationship or considered confidential by nature, significant developments in jurisprudence since the 1990's have posited the acceptance of privacy as a separate right and something worthy of protection on its own as opposed to being protected under an actionable claim for breach of confidentiality. A claim to protect privacy is, in a sense, a claim for the preservation of confidentiality of personal information. With progression of the right to privacy, the underlying values of the law that protects personal information came to be seen differently as the courts recognised that unlike law of confidentiality that is based upon duty of good faith, right to privacy focuses on the protection of human autonomy and dignity by granting the right to control the dissemination of information about one's private life and the right to the esteem and respect of other people (see Sedley, L.J. in Douglas v. Hello! Ltd. [Douglas v. Hello! Ltd., 2001 QB 967 : (2001) 2 WLR 992 (CA)] ). In PJS v. News Group Newspapers Ltd. [PJS v. News Group Newspapers Ltd., (2016) 2 WLR 1253 : 2016 UKSC 26] , the Supreme Court of the United Kingdom had drawn a distinction between the right to respect



private and family life or privacy and claims based upon confidentiality by observing that the law extends greater protection to privacy rights than rights in relation to confidential matters. In the former case, the claim for misuse of private information can survive even when information is in the public domain as its repetitive use itself leads to violation of the said right. The right to privacy gets the benefit of both the quantitative and the qualitative protection. The former refers to the disclosure already made and what is yet undisclosed, whereas the latter refers to the privateness of the material, invasion of which is an illegal intrusion into the right to privacy. Claim for confidentiality would generally fail when the information is in public domain. The law of privacy is, therefore, not solely concerned with the information, but more concerned with the intrusion and violation of private rights. Citing an instance of how publishing of defamatory material can be remedied by a trial establishing the falsity of such material and award of damages, whereas invasion of privacy cannot be similarly redressed, the Court had highlighted the reason why truth or falsity of an allegation or information may be irrelevant when it comes to invasion of privacy. Therefore, claims for protection against invasion of private and family life do not depend upon confidentiality alone. This distinction is important to understand the protection given to two different rights vide Sections 8(1)(j) and 11 of the RTI Act.

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51. The right to privacy though not expressly guaranteed in the Constitution of India is now recognised as a basic fundamental right vide decision of the Constitutional Bench in K.S. Puttaswamy (Privacy-9 J.) v. Union of India holding that it is an intrinsic part of the right to life and liberty guaranteed under Article 21 of the Constitution and recognised under several international treaties, chief among them being Article 12 of the Universal Declaration of Human Rights, 1948 which states that no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. The judgment recognises that everyone has a right to the protection of laws against such interference or attack.

52. In K.S. Puttaswamy the main judgment (authored by D.Y. Chandrachud, J.) has referred to the provisions of Section 8(1)(j) of the RTI Act to highlight that the right to privacy is entrenched with constitutional status in Part III of the Constitution, thus providing a touchstone on which validity of executive decisions can be assessed and validity of laws can be determined vide judicial review exercised



*by the courts. This observation highlights the status and importance of the right to privacy as a constitutional right. The ratio as recorded in the two concurring judgments of the learned Judges (R.F. Nariman and Sanjay Kishan Kaul, JJ.) is similar. It is observed that privacy involves a person's right to his physical body; right to informational privacy which deals with a person's mind; and the right to privacy of choice which protects an individual's autonomy over personal choices. While physical privacy enjoys constitutional recognition in Articles 19(1)(d) and (e) read with Article 21, personal informational privacy is relatable to Article 21 and right to privacy of choice is enshrined in Articles 19(1)(a) to (c), 20(3), 21 and 25 of the Constitution. In the concurring opinion, there is a reference to "The Right to Privacy" by Samuel Warren and Louis D. Brandeis on an individual's right to control the dissemination of personal information and that an individual has a right to limit access to such information/shield such information from unwarranted access. Knowledge about a person gives another power over that person, as personal data collected is capable of effecting representations in his decision-making process and shaping behaviour which can have a stultifying effect on the expression of dissent which is the cornerstone of democracy. In the said concurring judgment, it has been further held that the right to protection of reputation from being unfairly harmed needs to be zealously guarded not only against falsehood but also against certain truths by observing : (SCC p. 628, para 623)*

*"623. An individual has a right to protect his reputation from being unfairly harmed and such protection of reputation needs to exist not only against falsehood but also certain truths. It cannot be said that a more accurate judgment about people can be facilitated by knowing private details about their lives — people judge us badly, they judge us in haste, they judge out of context, they judge without hearing the whole story and they judge with hypocrisy. Privacy lets people protect themselves from these troublesome judgments."*

*53. Privacy, it is uniformly observed in K.S. Puttaswamy, is essential for liberty and dignity. Therefore, individuals have the need to preserve an intrusion-free zone for their personality and family. This facilitates individual freedom. On the question of invasion of personal liberty, the main judgment has referred to a threefold requirement in the form of — (i) legality, which postulates the existence of law (the RTI Act in the present case); (ii) need, defined in terms of a legitimate State aim; and (iii) proportionality, which ensures a rational nexus between the objects and the means to be adopted to achieve them. The third requirement, we would observe,*



*is achieved in the present case by Sections 8(1)(j) and 11 of the RTI Act and the RTI Act cannot be faulted on this ground. The RTI Act also defines the legitimate aim, that is, a public interest in the dissemination of information which can be confidential or private (or held in a fiduciary relationship) when larger public interest or public interest in disclosure outweighs the protection or any possible harm or injury to the interest of the third party.”*

102. The Supreme Court took note of the fact that the Right to Privacy has been elevated to the status of a Fundamental Right, in terms of the dicta laid down by a Constitutional Bench of the Supreme Court in ***K.S. Puttaswamy v. Union of India*** (supra) (9-Judge Bench). The Court also referred to ***Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others*** (supra) and observed as under:

*“69. Reference can also be made to Aditya Bandopadhyay, as discussed earlier in paras 42 and 43, where this Court has held that while a fiduciary could not withhold information from the beneficiary in whose benefit he holds such information, he/she owed a duty to the beneficiary to not disclose the same to anyone else. This exposition of the Court equally reconciles the right to know with the rights to privacy under clause (j) to Section 8(1) of the RTI Act.”*

103. After taking into account the aforesaid and other relevant precedents, [including ***Subhash Chandra Agarwal v. Supreme Court of India***, (2018) 11 SCC 634 and ***R.K. Jain v. Union of India***, (2013) 14 SCC 794], it was categorically concluded as under:

*“70. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, Income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted*



*invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive.”*

104. Thus, it is unambiguously clear that the ‘marks obtained’, grades, and answer sheets etc. are in the nature of personal information and are protected under Section 8(1)(j) of the RTI Act, subject to an assessment of overriding public interest.

105. One of the arguments raised by the respondent/intervenor is that, since the university routinely publishes such information through its official website and during convocations ceremonies, it cannot now claim that such disclosure constitutes an unwarranted invasion of privacy and /or is in the nature of ‘personal information’. According to the respondent/intervenor, the university’s own consistent practice undermines its reliance on Section 8(1)(j) of the RTI Act. This contention cannot be accepted.

106. As noticed by the Supreme Court in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra) the right to privacy gets the benefit of both the quantitative and qualitative protection. The former refers to the disclosure already made and what is yet undisclosed, whereas the latter refers to the privateness of the material, invasion of which is an illegal intrusion into the right to privacy.

107. The mere act of publishing certain information on some occasions does not dilute the legal protection accorded to personal information under Section 8(1)(j) of the RTI Act. Whether or not Section 8(1)(j) applies in the context of any RTI application has to be assessed on the basis of the statutory provisions, and not on the basis of any anecdotal evidence or ad-hoc examples of how a university has dealt with similar information on



certain occasion/s.

108. As noticed, the Supreme Court has categorically held in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra) that marks, grades, answer-sheets etc. are inherently personal information and are entitled to protection on the touchstone of privacy and personal information, save and except in situations where there is a demonstrable larger public interest justifying disclosure.

109. Section 8(1)(j) of the RTI Act exempts from disclosure any personal information that is not related to any public activity or interest, or the disclosure of which would result in an unwarranted invasion of an individual's privacy. Section 11 of the Act complements this by safeguarding information that has been treated as confidential by a third party. The RTI Act, therefore, draws a clear distinction between the concepts of privacy and confidentiality.

110. The Supreme Court has observed that while confidentiality arises from duties in specific relationships, privacy has emerged as an independent right grounded in human autonomy and dignity. Confidential information typically arises within the confines of professional or trust-based relationships and must not be information already in the public domain. Unlike confidentiality, privacy may be violated even if the information is already public.

111. Further the judgment also observed that the ***K.S. Puttaswamy*** (supra) decision established privacy as a fundamental right under Article 21 of the Constitution. Privacy protects against arbitrary interference in personal, family, and reputational domains. In ***K.S. Puttaswamy*** (supra), the Court specifically recognised the notion of informational privacy and emphasised



that the right to control the dissemination of one's personal data is integral to the protection of individual dignity and autonomy. It was also clearly observed that any invasion of privacy must satisfy a threefold test: "(i) *legality, which postulates the existence of law; (ii) need, defined in terms of a legitimate State aim; and (iii) proportionality which ensures a rational nexus between the objects and the means adopted to achieve them*".

112. In ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra), the Supreme Court while relying upon ***K.S. Puttaswamy*** (supra) observed as under –

*"Privacy, it is uniformly observed in K.S. Puttaswamy, is essential for liberty and dignity. Therefore, individuals have the need to preserve an intrusion-free zone for their personality and family. This facilitates individual freedom. On the question of invasion of personal liberty, the main judgment has referred to a threefold requirement in the form of — (i) legality, which postulates the existence of law (the RTI Act in the present case); (ii) need, defined in terms of a legitimate State aim; and (iii) proportionality, which ensures a rational nexus between the objects and the means to be adopted to achieve them. The third requirement, we would observe, is achieved in the present case by Sections 8(1)(j) and 11 of the RTI Act and the RTI Act cannot be faulted on this ground."*

113. Thus, the RTI Act meets the threefold test through Sections 8(1)(j) and 11 by providing exemptions and balancing competing rights.

114. In light of the above, this Court is of the considered opinion that information pertaining to an individual's educational qualifications, including degrees and marks, falls within the ambit of "personal information" under Section 8(1)(j) of the RTI Act.

(ii) **Whether 'larger public interest' justifies disclosure of the information sought even if the same falls within the purview of Section 8(1)(e) and/or Section 8(1)(j) of the RTI Act?**



115. The next question that arises for consideration is whether “larger public interest” can justify disclosure despite the information sought being in the nature of “personal information”. This question has also been comprehensively answered by the Supreme Court in the aforesaid judgment of ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra), wherein it was held as under –

*88. The RTI Act is no exception. Section 8(1)(j) of the RTI Act prescribes the requirement of satisfaction of “larger public interest” for access to information when the information relates to personal information having no relationship with any public activity or interest, or would cause unwarranted invasion of privacy of the individual. Proviso to Section 11(1) states that except in case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interest of the third party. The words “possible harm or injury” to the interest of the third party are preceded by the word “importance” for the purpose of comparison. “Possible” in the context of the proviso does not mean something remote, far-fetched or hypothetical, but a calculable, foreseeable and substantial possibility of harm and injury to the third party.*

*89. Comparison or balancing exercise of competing public interests has to be undertaken in both sections, albeit under Section 8(1)(j) the comparison is between public interest behind the exemption, that is, personal information or invasion of privacy of the individual and public interest behind access to information, whereas the test prescribed by the proviso to Section 11(1) is somewhat broader and wider as it requires comparison between disclosure of information relating to a third person or information supplied and treated as confidential by the third party and possible harm or injury to the third party on disclosure, which would include all kinds of “possible” harm and injury to the third party on disclosure.*

*90. This Court in Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi [Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi, (2012) 13 SCC 61 : (2014) 2 SCC (Civ) 131] has held that the phrase “public interest” in Section 8(1)(j) has to be understood in its true*



connotation to give complete meaning to the relevant provisions of the RTI Act. However, the RTI Act does not specifically identify factors to be taken into account in determining where the public interest lies. Therefore, it is important to understand the meaning of the expression “public interest” in the context of the RTI Act. This Court held “public interest” to mean the general welfare of the public warranting the disclosure and the protection applicable, in which the public as a whole has a stake, and observed : (SCC p. 74, para 23)

“23. The satisfaction has to be arrived at by the authorities objectively and the consequences of such disclosure have to be weighed with regard to the circumstances of a given case. The decision has to be based on objective satisfaction recorded for ensuring that larger public interest outweighs unwarranted invasion of privacy or other factors stated in the provision. Certain matters, particularly in relation to appointment, are required to be dealt with great confidentiality. The information may come to knowledge of the authority as a result of disclosure by others who give that information in confidence and with complete faith, integrity and fidelity. Secrecy of such information shall be maintained, thus, bringing it within the ambit of fiduciary capacity. Similarly, there may be cases where the disclosure has no relationship to any public activity or interest or it may even cause unwarranted invasion of privacy of the individual. All these protections have to be given their due implementation as they spring from statutory exemptions. It is not a decision simpliciter between private interest and public interest. It is a matter where a constitutional protection is available to a person with regard to the right to privacy. Thus, the public interest has to be construed while keeping in mind the balance factor between right to privacy and right to information with the purpose sought to be achieved and the purpose that would be served in the larger public interest, particularly when both these rights emerge from the constitutional values under the Constitution of India.”

**91.** Public interest in access to information refers to something that is in the interest of the public welfare to know. Public welfare is widely different from what is of interest to the public. “Something which is of interest to the public” and “something which is in the public interest” are two separate and different parameters. For example, the public may be interested in private matters with which the public may have no concern and



*pressing need to know. However, such interest of the public in private matters would repudiate and directly traverse the protection of privacy. The object and purpose behind the specific exemption vide clause (j) to Section 8(1) is to protect and shield oneself from unwarranted access to personal information and to protect facets like reputation, honour, etc. associated with the right to privacy. Similarly, there is a public interest in the maintenance of confidentiality in the case of private individuals and even Government, an aspect we have already discussed.*

*92. The public interest test in the context of the RTI Act would mean reflecting upon the object and purpose behind the right to information, the right to privacy and consequences of invasion, and breach of confidentiality and possible harm and injury that would be caused to the third party, with reference to a particular information and the person. In an article “Freedom of Information and the Public Interest : the Commonwealth experience” published in the Oxford University Commonwealth Law Journal, [ Published online on 28-8-2017.] the factors identified as favouring disclosure, those against disclosure and lastly those irrelevant for consideration of public interest have been elucidated as under:*

*“it is generally accepted that the public interest is not synonymous with what is of interest to the public, in the sense of satisfying public curiosity about some matter. For example, the UK Information Tribunal has drawn a distinction between ‘matters which were in the interests of the public to know and matters which were merely interesting to the public (i.e. which the public would like to know about, and which sell newspapers, but ... are not relevant)’.*

*Factors identified as favouring disclosure include the public interest in : contributing to a debate on a matter of public importance; accountability of officials; openness in the expenditure of public funds, the performance by a public authority of its regulatory functions, the handling of complaints by public authorities; exposure of wrongdoing, inefficiency or unfairness; individuals being able to refute allegations made against them; enhancement of scrutiny of decision-making; and protecting against danger to public health or safety.*

*Factors that have been found to weigh against disclosure include : the likelihood of damage to security or international relations; the likelihood of damage to the integrity or viability of decision-making processes : the public interest in public bodies being able to perform their functions effectively; the*



*public interest in preserving the privacy of individuals and the public interest in the preservation of confidences.*

*Factors irrelevant to the consideration of the public interest have also been identified. These include : that the information might be misunderstood; that the requested information is overly technical in nature; and that disclosure would result in embarrassment to the Government or to officials.”*

116. Thus, “something which is of interest to the public” is quite different from “something which is in the public interest”. As noted by the Supreme Court, the public may be interested in private matters which may have no bearing on the public interest. Such matters cannot impinge upon the exemption provided under Section 8(1)(j) of the RTI Act.

117. In the concurring judgment of Ramana, J. in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra), it has been observed that the purport of Section 8(1)(j) of the RTI Act is to balance privacy with public interest. It has been observed that the Right to Information and Right to Privacy stand on an equal footing and there is no ‘a priori’ requirement to take the view that one right trumps the other. The relevant observations are as under:

*“145. The purport of Section 8(1)(j) of the RTI Act is to balance privacy with public interest. Under the provision a two steps test could be identified wherein the first step was: (i) whether there is a reasonable expectation of privacy, and (ii) whether on an ultimate balancing analysis, does privacy give way to freedom of expression? We should acknowledge that these two tests are very difficult to be kept separate analytically.*

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*150. That the right to information and right to privacy are at an equal footing. There is no requirement to take an a priori view that one right trumps other. Although there are American cases, which have taken the view that the freedom of speech and expression trumps all other rights in every case. However, in India we cannot accord any such priority to the rights.”*



118. The said judgment goes on to clarify that it is important to distinguish between the separate concept of “interest of the public” and “something in public interest”. The Court has emphasized that public interest needs to be distinguished from matters which are for “public entertainment, curiosity or amusement”. The relevant observations of the Court are as under:

*“151. The contextual balancing involves "proportionality test". [See K.S. Puttaswamy (Privacy-9 J.) v. Union of India] The test is to see whether the release of information would be necessary, depends on the information seeker showing the "pressing social need" or "compelling requirement for upholding the democratic values". We can easily conclude that the exemption of public interest as occurring under Section 8(1)(j) requires a balancing test to be adopted. We need to distinguish two separate concepts i.e. "interest of the public" and "something in the public interest". Therefore, the material distinction between the aforesaid concepts concern those matters which affect political, moral and material welfare of the public need to be distinguished from those for public entertainment, curiosity or amusement. Under Section 8(1)(j) of the RTI Act requires us to hold that only the former is an exception to the exemption. Although we must note that the majority opinion in K.S. Puttaswamy has held that the data privacy is part of the right to privacy, however, we need to note that the concept of data protection is still developing [refer Google Spain SL v. Agencia Española de Protección de Datos (AEPD), Bavarian Lager Co. Ltd. v. Commission European Communities]. As we are not concerned with the aforesaid aspects, we need not indulge any more than to state that there is an urgent requirement for integrating the principles of data protection into the right to information jurisprudence.”*

119. The CPIO, when considering whether or not “public interest” in a particular context would override the exemption afforded by Section 8(1)(j), cannot be expected to assess the matter based on purely subjective predilections. There has to be an objective test that is to be applied. Such an objective test is mandated in terms of the judgment of ***Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi*** 2012 (13) SCC 61, relied



upon in paragraph 90<sup>1</sup> of *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal* (supra). It is evident therefrom that disclosure is not mandated in a situation where the information sought has no relation to any public activity. The public interest override would not be attracted where the information sought has no bearing on the discharge of responsibilities by the concerned public official/functionary (whose personal information is sought).

120. On the other hand, public interest considerations would prevail where if the information sought has a bearing on the performance of official responsibilities/functions entrusted to a public functionary, or where the information sought concerns exposure of wrongdoing in the discharge of official functions, financial impropriety, inefficiency and/or has a bearing on the very eligibility (as prescribed under law) for holding a particular office.

121. Thus, it is incumbent on a CPIO to identify the purpose for which disclosure of exempted information is sought, and then verify whether it relates to public accountability in discharge of official duties, detection of financial impropriety, protection of fundamental rights etc. There should be a clear, rational and direct nexus between the information sought and such “public purpose”.

122. It is incumbent on the CPIO to exclude / exempt from disclosure any information which is “curiosity driven” [as stated in the concurring

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<sup>1</sup> 90. This Court in *Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi* [Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi, (2012) 13 SCC 61 : (2014) 2 SCC (Civ) 131] has held that the phrase “public interest” in Section 8(1)(j) has to be understood in its true connotation to give complete meaning to the relevant provisions of the RTI Act. However, the RTI Act does not specifically identify factors to be taken into account in determining where the public interest lies. Therefore, it is important to understand the meaning of the expression “public interest” in the context of the RTI Act. This Court held “public interest” to mean the general welfare of the public warranting the disclosure and the protection applicable, in which the public as a whole has a stake, and observed : (SCC p. 74, para 23)

“23. The satisfaction has to be arrived at by the authorities objectively and the consequences of such disclosure have to be weighed with regard to the circumstances of a given case. **The decision has to be based on objective satisfaction** recorded for ensuring that larger public interest outweighs unwarranted invasion of privacy or other factors stated in the provision. Certain matters, particularly in relation to appointment, are required to be dealt with great confidentiality....



judgment of Ramana, J. in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra)] or matters which are “of interest to the public” in contradistinction to being “in the public interest” [this distinction has been cogently drawn in the majority judgment of Sanjiv Khanna, J., in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra).]

123. Applying the aforesaid test in the present case, it is apparent that the mark sheets/results/degree certificate/academic records of any individual, even if that individual is a holder of public office, are in the nature of personal information. The fact that a person holds a public office does not, *per se*, render all personal information subject to public disclosure.

124. As mentioned, it would be a different matter where a particular educational qualification is a criteria or prerequisite for holding a public office or any post. However, in the present case, no public interest is implicit in the disclosure of the information as sought *vide* RTI application, which is the subject matter of W.P.(C) 600/2017.

125. Likewise, there is no implicit public interest in respect of the information sought *vide* RTI Application, which is the subject matter of W.P.(C) 1051/2017. Again, the concerned educational qualifications are not in the nature of any statutory requirement for holding any public office or discharging official responsibilities.

126. Public interest under Section 8(1)(j) requires an element of overriding necessity for disclosure to protect or promote a significant public cause. It needs to be emphasized that disclosure of academic details sans any overriding public interest, would amount to an intrusion into the personal sphere which is constitutionally protected post ***K.S. Puttaswamy*** (supra).



The fact that the information sought pertains to a public figure does not extinguish privacy/confidentiality rights over personal data, unconnected with public duties.

127. This Court cannot be oblivious to the reality that what may superficially appear to be an innocuous or isolated disclosure could open the floodgates of indiscriminate demands, motivated by idle curiosity or sensationalism, rather than any objective “public interest” consideration. Disregarding the mandate of Section 8(1)(j) in such context would inexorably lead to demands for personal information concerning officials / functionaries spanning the entire gamut of public services, without any real “public interest” being involved. The RTI Act was enacted to promote transparency in government functioning and not to provide fodder for sensationalism.

128. The judgment of the Bombay High Court in ***Onkar Dattatray Kalmankar v. Public Information Officer and Registrar and Others***, 2024 SCC OnLine Bom 3513, affords an example of a situation where the marks obtained by candidates participating in a recruitment process are liable to be disclosed, even though the same may constitute a personal information as contemplated in Section 8(1)(j) of the RTI Act. In that case, the petitioner had applied for the post of junior clerk in the District Court at Pune pursuant to an advertisement issued in this regard. The petitioner therein filed an RTI application seeking the following details:

*“(i) The marks secured by the petitioner in the screening test, Marathi typing test, English typing test and interviews.*

*“(ii) The marks secured by the candidates at Serial Nos. 1 to 363 in the screening test, Marathi typing test, English typing test and interviews.*



(iii) *The criteria or the basis for selecting the selected candidates and other information in this regard with full details.”*

129. It was held by the Court in that case as under:

*“28. The legislature has not exempted all personal information under Section 8(1)(j) but only such personal information, the disclosure of which has no relationship to any public activity or interest. Since the selection process for Junior Clerks at the District Court in Pune was essentially a public activity which commenced with public advertisement inviting applications from eligible candidates, we do not think that the disclosure of marks obtained by the candidates participating in such a process would amount to personal information, the disclosure of which has no relationship to any public activity or interest. Given that such selection processes must be transparent and above board, it would be in the public interest to disclose such information rather than withhold it and allow any doubts about the process (however unjustified such doubts may be) to linger.*

*29. Similarly, in the context of a public examination for selection to a public post, we are doubtful whether the disclosure of marks obtained by the candidates would amount to any unwarranted invasion of the privacy of such candidates. The legislature has advisedly used the expression "unwarranted". Therefore, not any and every invasion of an individual's privacy is exempted from disclosure. Only what is exempted from disclosure is "unwarranted invasion". Even here, the disclosure can be ordered where the PIO or the appellate authorities are satisfied that the "larger public Interest justifies the disclosure of such information". The proviso is also significant since it provides that the information which cannot be denied to Parliament or the State Legislature will not be denied to any person.”*

130. Thus, in **Onkar Dattatray Kalmankar** (supra), the Court found that the disclosure of marks obtained by candidates participating in a recruitment process was justified, inasmuch as public interest warranted that the selection process be transparent and above board, and that this public interest would be served by disclosing the requisite information.

131. This judgment serves to underscore the point that where a particular educational qualification is necessary as a pre-requisite for holding a public



post, access to such information can be afforded based on public interest considerations. The Bombay High Court also took note of the judgment of the Supreme Court in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra) and observed as under:

*“34. The observations in para 70, which were relied upon by Mr Datar, refer primarily to personal records, including name, address, physical, mental and psychological status, marks obtained, grades, and answer sheets, all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRS, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is protected from unwarranted invasion of privacy and conditional access is available when the stipulation of larger public interest is satisfied. This list is illustrative and not exhaustive. The observations in this para must be considered in tandem with the other observations in the same decision, bearing in mind the context in which they were made. Besides, the larger public interest aspect cannot be ignored.*

*35. The court has explained that public interest in access to Information refers to something that is in the interest of public welfare to know. Public welfare is widely different from what is of interest to the public. "Something which is of interest to the public" and "something which is in the public interest" are two separate and different parameters. For example, the public may be interested in private matters with which the public may have no concern and pressing need to know. However, such public interest in private matters would repudiate and directly traverse the protection of privacy.*

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*37. Thus, if the decision in Subhash Chandra Agarwal case is read in its entirety and not by just picking some stray sentences dehors the entire context, we are satisfied that the objection based on the expression under Section 8(1)(j) of the RTI Act ought not to prevail. The confidence in the selection process would be boosted by disclosing the marks obtained by all the candidates in the written test and interviews. Transparency and accountability in a public recruitment process would*



*be promoted. The disclosure of marks in a public recruitment process cannot be said to be purely personal information, the disclosure of which has no relationship to any public activity or interest or which would cause an unwarranted invasion of the privacy of the individual. In any event, the larger public interest justifies the disclosure of such information. Such disclosure would promote transparency and accountability and dispel the lingering doubts about wrongdoings in the public recruitment process. Such disclosures would strengthen the recruitment process by boosting public confidence in it.*

38. Recently, in *Tej Prakash Pathak v. High Court of Rajasthan*, the Supreme Court stressed transparency in the public recruitment process. In *ICAI v. Shaunak H. Satya*, the Supreme Court highlighted the RTI's objective of ensuring transparency and accountability and urged examining bodies to adapt to the new disclosure regime. Thus, the trend under the new RTI regime is to disclose information that would maintain trust in the recruitment process without unduly compromising the privacy of any candidate. A distinction must be made between sensitive personal information like medical details, etc. and information intrinsically linked to the marks obtained, qualifications, experience of the candidates, etc.

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51. Since, we have found that the disclosure of the marks obtained by the candidates in the written test, typing test and interviews did not constitute any exempted information or did not affect the confidentiality of the exam so conducted, we must say that the approach of the District Authorities in Wardha contributed to the promotion of transparency which should typically be promoted in matters of public recruitment. Withholding such information unnecessarily allows doubts, however unreasonable, to linger, which is not very healthy in promoting transparency and accountability in the working of public authorities and public recruitment processes. Regarding RTI, it is repeatedly asserted that sunlight is the best disinfectant.”

132. A Special Leave to Appeal (C) No(s). 2783/2025 against the aforesaid judgment was dismissed by the Supreme Court with the observation that, though the RTI application concerned disclosure of marks, which fall within the domain of personal information, “disclosure of this personal information is presently necessary in public interest”. It was held as under:



*“We see absolutely no reason to interfere with the impugned order passed by the High Court of Bombay, which has correctly interpreted the provisions of Section 8(1) (j) of the Right to Information Act 2005, (for short ‘the RTI Act, 2005’). The issue relates to disclosure of marks of other candidate in an examination. We are also of the view that the disclosure of the marks though may fall in the category of personal information, yet the disclosure of this personal information is presently necessary in public interest, and therefore, it is not an information which cannot be given by the Information Officer under the RTI Act, 2005. To the contrary, such an information must be disclosed in order to maintain transparency in the process.”*

133. The underlying rationale which impelled the Court in ***Onkar Dattatray Kalmankar*** (supra) to invoke overriding public interest in respect of “personal information” was that the information was necessary to ensure transparency and accountability in the public employment selection process. No such considerations are involved in the present case. The situation might have been different, had educational qualification/s been a pre-requisite for eligibility to a specific public office.

134. One of the contentions raised on behalf of the respondents is that since the RTI Act has been enacted to effectuate the Right to Information recognised under Article 19 of the Constitution of India, a narrow and restrictive interpretation must be accorded to Section 8 of the said Act, which limits the said right. The said contention is misconceived.

135. The purport of Section 8 of the RTI Act has been elaborately dealt with in the judgment of the Supreme Court in ***Central Board of Secondary Education & Another v. Aditya Bandopadhyay & Others*** (supra). As noticed hereinabove, it has been held therein that Section 8 of the RTI Act seeks to balance conflicting interests, on the one hand, to bring about transparency and accountability by providing access to information under the control of public authorities; on the other hand, to ensure that efficient



operation of the Act, optimum use of limited fiscal resources, and the preservation of confidentiality of sensitive information is not jeopardized.

The Court held as under:

*“61. Some High Courts have held that Section 8 of the RTI Act is in the nature of an exception to Section 3 which empowers the citizens with the right to information, which is a derivative from the freedom of speech; and that, therefore, Section 8 should be construed strictly, literally and narrowly. This may not be the correct approach. The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. One is to bring about transparency and accountability by providing access to information under the control of public authorities. The other is to ensure that the revelation of information, in actual practice, does not conflict with other public interests which include efficient operation of the Governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information. The Preamble to the Act specifically states that the object of the Act is to harmonise these two conflicting interests. While Sections 3 and 4 seek to achieve the first objective, Sections 8, 9, 10 and 11 seek to achieve the second objective. Therefore, when Section 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals.”*

136. In ***Central Board of Secondary Education & Another v. Aditya Bandopadhyay & Others*** (supra), it has also been noticed that the scheme of the RTI Act classifies information into the following three categories: (i) Information which promotes transparency and accountability in the working of every public authority, disclosure of which may also help in containing or discouraging corruption [enumerated in clauses (b) and (c) of Section 4(1) of the RTI Act] (ii) Other information held by a public authority [that is, all information other than those falling under clauses (b) and (c) of Section 4(1) of the RTI Act]; (iii) Information which is not held by or under the control of any public authority and which cannot be accessed by a public authority



under any law for the time being in force. It has been held in ***Central Board of Secondary Education & Another v. Aditya Bandopadhyay & Others*** (supra) as under:

*“Information under the third category does not fall within the scope of the RTI Act. Section 3 of the RTI Act gives every citizen, the right to “information” held by or under the control of a public authority, which falls either under the first or second category. In regard to the information falling under the first category, there is also a special responsibility upon the public authorities to suo motu publish and disseminate such information so that they will be easily and readily accessible to the public without any need to access them by having recourse to Section 6 of the RTI Act. There is no such obligation to publish and disseminate the other information which falls under the second Category.”*

137. It was further held that the provisions of the RTI Act should be strictly enforced to ensure that the necessary information under Clause (b) of Section 4(1) of the RTI Act is adequately disseminated. The same relates to securing transparency and accountability in working of public authorities and discouraging corruption. However, regarding other information, i.e., information other than those enumerated in Section 4(1)(b) and 4(1)(c) of the Act, equal importance and emphasis be given to other relevant considerations such as the confidentiality of sensitive information, fidelity, fiduciary relation, etc.

138. Further, it was observed that indiscriminate and impractical demands or directions under the RTI Act for the disclosure of ‘all and sundry information’ (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counterproductive, as it will adversely affect the efficiency of the administration. The relevant observations are as under:

*“66. The right to information is a cherished right. Information and right*



to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of the RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of Section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information [that is, information other than those enumerated in Sections 4(1)(b) and (c) of the Act], equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of Governments, etc.).

67. Indiscriminate and impractical demands or directions under the RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counterproductive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising "information furnishing", at the cost of their normal and regular duties."

139. The Delhi High Court, in **Central Board of Secondary Education v. Anil Kumar Kathpal** (supra), relying upon the judgment of the Supreme Court in **The Institute of Chartered Accountants of India v. Shaunak H. Satya** (supra), held as under:

"16. The Supreme Court recently in *The Institute of Chartered Accountants of India v. Shaunak H. Satya* (2011) 8 SCC 781, in the context of the RTI Act itself held that in achieving the objective of transparency and accountability of the RTI Act other equally important public interests including preservation of confidentiality of sensitive information, are not to be ignored or sacrificed and that it has to be



*ensured that the revelation of information in actual practice, does not harm or adversely affect other public interests including of preservation of confidentiality of sensitive information. We have already held above that disclosure of marks, which though exists with the appellant would amount to allowing play to the policy earlier prevalent of marking the examinees. Merely because the appellant/its examiners for the purpose of grading, first mark the students would not compel this court to put at naught or to allow full play to the new policy of grades.”*

140. As regards absence of any “public interest” warranting disclosure of personal information in the context of an RTI application seeking details/copies of a degree/mark sheet, it has been observed by the Gujarat High Court in the case of **Gujarat University v. M. Sridhar Acharyulu (Madabhushi Sridhar) and Others** (supra) as under:

*“30. Having held so, this court is of the opinion that information i.e. educational degree of any individual can be sought using RTI Act only when there is a pleading, which is proved by the Applicant and thereafter satisfaction is reached by the authority under the Act that "public interest" requires disclosure of such information. Such "public interest" as used in Section 8(1)(e) and (j) would mean manifest public interest and not just curiosity of the RTI Applicant. As explained in the judgment of the Supreme Court, the term "public interest" would not mean matters where "public is interested". There can be certain matter where public may develop interest out of curiosity. Such interest has nothing to do with "public interest" which is the test required to be applied under Section 8(1)(e) and (j).....”*

141. This Court also finds merit in the submission of the petitioner (in W.P. (C) No. 600/2017) that the Digital Personal Data Protection Act, 2023, which amended Section 8(1)(j) of the RTI Act (though not yet notified), is a significant expression of legislative intent. The amended provision simply states that “information which relates to personal information” shall be exempt from disclosure, thereby eliminating the earlier qualification of “unwarranted invasion of privacy” and removing the discretion of the Public Information Officer to disclose such information on the basis of perceived



“larger public interest.” This legislative development underscores the evolving jurisprudence that places heightened value on informational privacy and affirms the sacrosanct nature of personal data.

142. A Division Bench of this Court in ***Central Board of Secondary Education v. Anil Kumar Kathpal*** (supra) has observed as under:

*“15. The Supreme Court in Kailash Chand v. Dharam Das (2005) 5 SCC 375 reiterated that a statute can never be exhaustive and legislature is incapable of contemplating all possible situations which may arise in future litigation and in myriad circumstances and it is for the Court to interpret the law with pragmatism and consistently with demands of varying situations. The legislative intent has to be found out and effectuated. Earlier also in Smt. Pushpa Devi v. Milkhi Ram (1990) 2 SCC 134 the same sentiment was expressed by holding that law as creative response should be so interpreted to meet the different fact situations coming before the court, for Acts of Parliament were not drafted with divine prescience and perfect clarity and when conflicting interests arise, the court by consideration of legislative intent must supplement the written word with force and life. Lord Denning (in Seaford Estate Ltd. v. Asher (1949) 2 KB 481) observing that the judge must consciously seek to mould the law so as to serve the needs of time and must not be a mere mechanic, was quoted with approval.”*

143. Thus, the amendment brought about in Section 8(1)(j) of the RTI Act by virtue of the Digital Personal Data Protection Act, 2023 affords an insight as to the legislative intent and the manner in which Section 8(1)(j) should be interpreted/applied.

(iii) **Even assuming that the supply of information is precluded under Section 8(1)(e) and/or Section 8(1)(j) of the RTI Act, whether disclosure of information is mandated under Section 8(3) of the RTI Act?**

144. The next question that arises for consideration is whether Section 8(3) of the RTI Act is applicable in the present case, given that the information sought pertains to the year 1978, i.e., more than twenty years prior to the



date of the RTI application, and therefore, whether the exemptions under Sections 8(1)(e) and 8(1)(j) can still be invoked.

145. The respondent contends that since the information pertains to a period beyond 20 years, Section 8(3) mandates disclosure, rendering the exemptions under Section 8(1)(e) and Section 8(1)(j), inapplicable.

146. This Court is not inclined to accept the said contention. In the post ***K.S. Puttaswamy v. Union of India*** (supra) era, the Right to Privacy has been unequivocally recognized as a Fundamental Right under Article 21 of the Constitution of India. It is no longer tenable to assert that personal information loses its protected status solely on account of the passage of time. Privacy / confidentiality of personal information, is not time bound, and mere passage of twenty years does not obliterate constitutional protection.

147. In ***K.S. Puttaswamy*** (supra), a 9-Judge Bench of the Supreme Court, while holding that the Right to Privacy is subsumed within Article 21 of the Constitution of India and is intrinsic to life and personal liberty, also held that privacy includes informational privacy.

148. The Right to Privacy, as recognized in ***K.S. Puttaswamy*** (supra), does not diminish with the passage of time. Section 8(3) of the Act cannot be construed in a manner so as to reach the conclusion that mere a flux of 20 years would convert inherently personal information into public property.

149. The constitutional Right to Privacy, as recognized in ***K.S. Puttaswamy*** (supra), continues to operate as a shield for confidential and personal information, even beyond the period referred to in Section 8(3) of the RTI Act. Section 8(3) must be interpreted harmoniously with Article 21 so that the lapse of time does not infringe upon privacy rights.



150. The mere efflux of time does not justify overriding privacy in the absence of compelling necessity linked to a legitimate aim.

151. It is relevant to note that this Court, in ***Ehtesham Qutubuddin Siddique vs. CPIO, Department of Personnel and Training***, 2024 SCC OnLine Del 1559, has recognized that the Right to Privacy endures even after the expiry of 20 years. The relevant observations in the said judgment are as under:

*“6. The short question that arises for consideration before this Court is that since the information has been sought after 20 years from the date of appointment of the officers, would the bar under Section 8(1)(j) of the RTI Act, 2005 be still available to the officers concerned or not.*

*7. Admittedly, the information as sought by the Petitioner is personal in nature [Refer : Girish Ramchandra Deshpande v. Central Information Commr., (2013) 1 SCC 212, R.K. Jain v. Union of India, (2013) 14 SCC 794 and Canara Bank v. C.S. Shyam, (2018) 11 SCC 426].*

*8. The Petitioner has been convicted and sentenced to death in the Mumbai Twin Blast known as the 7/11 bomb blast case which took place in the year 2006. The Petitioner was Accused No. 4. The Petitioner was sentenced to the punishment of death for an offence under Section 302 of the IPC, under Section 3(b) of the Explosive Substances Act, 1908, and Section 3(1)(i) of the Maharashtra Control of Organised Crime Act, 1999 and apart from this, the Petitioner had also been sentenced for various offences under the provision of IPC.*

*9. The information as sought by the Petitioner is against the officers who were involved in the investigation and who were also involved in granting sanction to the prosecution relating to the arrest and conviction of the Petitioner. The information is of such a nature, if given to the Petitioner, may expose these officers to grave danger. The incident for which the Petitioner has been sentenced to the death penalty has occurred in the year 2006. Admittedly, 20 years have not passed after the date of the incident, and therefore, in any event, the benefit of Section 8(3) of the RTI Act is not available to the Petitioner in the facts of the present case. Even if it is assumed that 20 years have passed, in such cases the right of privacy for these officers, who can be exposed to grave risk, cannot be diverged to an accused and that too when the accused has been convicted and sentenced to death penalty.*



10. *The Petitioner has not brought out any case as to what public interest would be served by giving such information as sought for by the Petitioner which would outweigh the protected interest under Section 8(1)(j) of the RTI Act. Rather in the facts of this case, the protected interest is in the nature of danger to the life and property of the officers who were involved in the investigation relating to the Petitioner and that disclosing their information to the Petitioner would certainly outweigh the public interest that has been claimed.*

11. *The Petitioner claims that the personal information can be granted to him because the information has been sought after 20 years from the date of appointment of the officers concerned.*

12. *As rightly pointed out by the Ld. CIC, in the present case, the public interest would lie in not disclosing the names and details of the officers concerned to protect their life and property and there is no public interest in disclosing the details of the officers concerned regarding their appointment, which is sought for by the Petitioner.*

13. *In view of the above, this Court is not inclined to interfere with the Impugned Order passed by the Ld. CIC. Resultantly, the writ petitions are dismissed, along with pending application(s), if any."*

152. Thus Section 8(3) does not automatically override the exemption under Section 8(1)(j) when the information sought is inherently personal and protected under the right to privacy. The statutory provision must be interpreted in harmony with constitutional guarantees, and no disclosure can be directed unless a demonstrable and compelling public interest clearly outweighs the privacy right in question.

### **Impugned order in W.P.(C) 600/2017 and W.P.(C) 1051/2017**

153. In the impugned order passed in W.P.(C) 600/2017, it has been held that: (i) acquiring an educational qualification is akin to acquiring property through an authorized registration process; (ii) degree related information about a student cannot be considered to be a third party information; (iii) reference was made to the judgment rendered by the Supreme Court in ***Mairembam Prithviraj v. Pukhrem Sharat Chandra Singh***, (2017) 2 SCC 487 which dealt with the consequences of making a false declaration under



the Representation of the People's Act, 1951 and the Rules framed thereunder; (iv) since an education qualification is conferred in a convocation, the disclosure of such qualification cannot be construed as affecting the privacy of an individual; (v) the activity of awarding a degree is a public activity, and therefore, all degree related information is accessible public document; (vi) the Commission perused the official website of the Delhi University and found that certain results of certain courses had been displayed on the website of the university. Inference was drawn therefrom that the same was done because information was not in the nature of personal information.

154. It is evident that the entire approach of the CIC in the impugned order was thoroughly misconceived. The conclusion that information relating to degree / marks / results of any particular individual is in the nature of 'public information', is in direct and utter contravention of the judgment of the Supreme Court in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*** (supra).

155. It has been categorically held therein, in unmistakable terms, that "marks obtained, grades and answer-sheets" are to be treated as personal information. The relevant paragraph is again reproduced as under:

*"70. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, Income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted*



*invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive.”*

156. The other subjective observations in the impugned order viz. equating acquisition of a degree to the acquisition of immovable property, or drawing subjective inference from the fact that degrees are conferred in a convocation, etc. are all *de-hors* the statutory provisions. Moreover, the CIC misdirected itself in relying upon anecdotal material and subjective assessments and drawing conclusions therefrom. Whether or not the Delhi University has followed the practice of publishing certain results on its website is not determinative of, and cannot have any bearing on, the interpretation and scope of Section 8(1)(j) of the RTI Act.

157. A perusal of the impugned order reveals that it is based on a subjective critique rather than on the interpretation and application of the statutory provisions as they exist. Such an approach cannot be countenanced in law, and this Court is constrained to express its dismay as regards thereto.

158. Likewise, in the context of the impugned order which is the subject matter of W.P.(C) 1051/2017, the following observations have been made:

*“It is not correct to say that once a student passes an examination and qualifies to secure a certificate or degree, information about result will be his personal information. Disclosure of the details of a particular candidate contained in the degree or certificate register cannot cause any unwarranted invasion of privacy of the certificate holder.”*

159. Again, the aforesaid observations are in stark and utter contravention of the judgment of the Supreme Court in **Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal** (supra), particularly paragraph 70 thereto, which has been reproduced above.

160. The impugned order/s refer to **Mairembam Prithviraj v. Pukhrem**



**Sharat Chandra Singh** (supra) and to the consequences and repercussions of the provisions of and the Rules framed under the Representation of People's Act 1951.

161. The Representation of People's Act 1951 operates independently of the RTI Act, and the consequences thereunder would flow independently of the provisions of the RTI Act. Whether or not any information is in the nature of "personal information" has to be assessed based on the statutory provisions of the RTI Act. The impugned order in W.P.(C) 1051/2017, goes to the extent of issuing directions to the concerned private school to trace the roll number of the concerned public functionary (whose personal information was sought) and provide the same to the CBSE.

162. Again, the said direction is completely *de-hors* the provisions of the RTI Act. As observed in **Central Board of Secondary Education & Another v. Aditya Bandopadhyay & Others** (supra) and reiterated in **Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal** (supra), the RTI Act cannot be construed so as to impose an obligation on any public authority to collect or collate any non-available information. The relevant observations are as under:

*"63. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of "information" and "right to information" under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics. an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public*



*authority is also not required to furnish information which requires drawing of inferences and/or making of assumptions. It is also not required to provide "advice" or "opinion" to an applicant, nor required to obtain and furnish any "opinion" or "advice" to an applicant. The reference to "opinion" or "advice" in the definition of "information" in Section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."*

163. In the circumstances, the impugned orders which are the subject matter of W.P.(C) 600/2017 and W.P.(C) 1051/2017, being inconsistent with and *de-hors* the provisions of RTI Act, cannot be sustained and are accordingly set aside.

164. Consequently, the aforesaid writ petitions stand allowed.

**Impugned order in W.P.(C) 1077/2017, W.P.(C) 1091/2017 and W.P.(C) 1095/2017**

165. These cases pertain to the imposition of a monetary penalty on the CPIO of the Delhi University for the alleged wrongful rejection of RTI applications. The two RTI applications in W.P.(C) 1077/2017 were filed seeking inspection of the documents of students of the Delhi University with enrolment number CC-2366/74 and CC-5594/74, respectively. The RTI application in W.P.(C) 1091/2017 pertains to information sought regarding the thesis, research paper, project report or study report submitted by a person, bearing Roll Number 13472, during his MBA/Part-time program in the years 2009-2012, etc. The RTI application in W.P.(C) 1095/2017 was filed seeking information about a degree awarded by the Delhi University.

166. The applications could not be processed for the reason that there was a defect in the Indian Postal Order (IPO) accompanying the applications. In



this regard, it is notable that Rule 3 of the Right to Information Rules, 2012, provides as under:

*“3. Application Fee.—An application under sub-section (1) of Section 6 of the Act shall be accompanied by a fee of Rupees Ten and shall ordinarily not contain more than five hundred words, excluding Annexures, containing address of the Central Public Information Officer and that of the applicant:*

*Provided that no application shall be rejected only on the ground that it contains more than five hundred words.”*

167. The CIC while passing the impugned order dated 27.12.2016 in W.P.(C) 1077/2017, observed that non-payment or improper filling of fee instruments is not a valid statutory ground for rejecting an RTI application. It was held that returning/rejecting the RTI application was a ground for invoking Section 18(1)<sup>2</sup> of the RTI Act.

168. It was observed that the rejection reflected an unreasonable denial of information

169. The Commission also observed that the University had incurred disproportionately high expenses, including legal costs, merely to reject an application over a ₹10 fee, describing this as “penny wise, pound foolish.”

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<sup>2</sup> 18. Powers and functions of Information Commissions.—(1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—

(a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of Section 19 or the Central Information Commission or the State Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time-limit specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.



The relevant observations in the said order are reproduced hereunder:

*"19. Guide on Right to Information Act, 2005, issued by DoPT with caption, "Applications received without fee", in which it is stated at point 2 "Soon after receiving the application, the Public Information Officer should check whether the applicant has made the payment of application fee or whether the applicant is a person belonging to a Below Poverty Line (BPL) category. If application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as an application under the RTI Act. It may, however, be noted that the Public Information Officer should consider such an application sympathetically and try to supply information sought by way of such an application".*

*20. From these guidelines it is clear that 'fee' is not material factor to throw out the RTI request. Non- payment of fee is not prescribed ground for rejection of request. In fact, this is not at all a case of RTI request without payment of fee. Applicant is also not claiming BPL status. The very fact that he has paid fee through court fee stamps proves his intention to pay. When guidelines goad the public authority to be sympathetic to an applicant without paying fee, it does not need special mention that it cannot take technical excuse about form of payment to deny or delay the information.*

*21. Thus the Commission finds no justification to apprehend audit objection to, giving information disputing the mode of payment. In fact, audit will surely object this way of unmindful spending of huge amount for Rs. 10. There is a duty cast upon the public authority to simplify the process of payment of fee of Rs 10. In Patna, public authority accepts the RTI application on phone though it is not accompanied with Rs 10, which is added to telephone bill. Some states accept court stamps for payment of fee. It is pathetic that such a simple request for information has been dragged to the level of second appeal building heaps of documents with multiple files consuming reams of paper spending huge amount of money besides consuming precious time of public servants including that of the Commission.*

*22. After hearing story of spending for legal battles to deny information up to amount of thousands for an IPO of Rs 10, the proverb 'penny wise pound foolish' has to be rewritten as 'rupee wise and thousand foolish'. Thus it is apparent denial of information and that too without any reasonable cause that attracts Section 20 of RTI Act. The Commission is vexed with non-response of CPIO to number of its penalty notices and thus finds it is a fit case to impose penalty on CPIO.*



23. The Commission finds that the rejections of RTI applications by Delhi University reminds the saying 'penny wise pound foolish', the rejection of RTI application of the complainant is against the Right to Information Act, rules and OM of DoPT, their institutional rules of procedure, even if existed with any authority, is not valid to the extent of its contradiction to RTI Act and Rules. The explanation of the CPIO confirms the fact of rejection and totally fails to present any merit or justification. Hence the Commission considers the CPIO is liable. The Commission requires under Section 19(8)(a) the Public Authority to facilitate sufficient training to the entire staff including CPIO and First Appellate Authority in the matters of RTI law so that they do not adamantly reject RTI application in routine without application of mind and understanding the aims and objectives of RTI Act. The Commission also suggest public authority to arrange for sufficient training, for the RTI authorities, dealing officers and staff, provide latest books on RTI Act, and supply the classic text books on "Administrative Law" and "Right to Know" by late Professor S P Sathe, besides the "Five point someone: What not to do at IIT" a novel written by Shri Chetan Bhagat, an alumnus of IIT Delhi and IIM Ahmadabad to develop a positive mindset in disseminating information suo motu and on request, without wasting university money for collecting Rs 10. The training curriculum may also include the judgment of Mr. Justice Rajiv Sahai Endlaw of Hon'ble Delhi High Court in JP Agrawal v Union of India, WP(c) 7232/2009 decided on 4th August 2011. (also available on <https://indiankanoon.org/doc/104466988/>).

24. Hence, the Public Authority is directed to recover the amount of Rs.25,000/- from the salary payable to Mrs. Meenakshy Sahay, the CPIO by way of Demand Draft drawn in favour of 'PAO CAT' New Delhi in 5 equal monthly instalments. The first instalment should reach the Commission by 15.02.2017 and the last instalment should reach by 15.06.2017. The Demand Draft should be sent to Shri. S. P. Beck, Joint Secretary & Addl. Registrar, Room No.302, Central Information Commission, B-wing, 2<sup>nd</sup> Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110066."

170. In the impugned order dated 23.12.2016, in W.P.(C) 1091/2017 the CIC has rendered a finding that the CPIO sought to impose an impediment to access the information sought. It was observed that the decision of the CPIO to return the RTI application was without any legal basis and was unjustifiable. The impugned order, after taking note of the protracted legal proceedings that have taken place in the aftermath of RTI application being



returned for want of a proper IPO, again observed that the conduct of the CPIO could be characterized as “penny wise and pound foolish”. The impugned order then proceeds to direct as under:

*“33. The appeal is allowed because the Information sought was not given and all the ways to get such Information were closed by returning of RTI application. The CPIO is directed to provide the information sought, free of cost to the appellant and file compliance report to the Commission within 25 days from the date of receipt of this order.”*

171. Further, it was observed as under:

*“36. After hearing the submissions CPIO, perusing the records, arguments by learned council, the submissions made by the Registrar who was also First Appellate Authority under RTI Act, the present CPIO, Deputy Dean of Law, and of the complainant, the Commission, could not find any reasonable cause for rejection of RTI application. The allegations made by complainant case against CPIO Mr. Jay Chanda were proved by submissions of public authority as mentioned above.*

*37. Hence, the Public Authority is directed to recover the amount of Rs.25,000/- from the salary payable to Mr. Jay Chanda, Former CPIO by way of Demand Draft drawn in favour of 'PAO CAT' New Delhi in 5 equal monthly Installments. The first Installment should reach the Commission by 15.02.2017 and the last Installment should reach by 15.06.2017. The Demand Draft should be sent to Shri S. P. Beck, Joint Secretary & Addl. Registrar, Room No. 302, Central Information Commission, B-Wing, 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110066.*

172. In the impugned order dated 22.12.2016 in W.P.(C) 1095/2017, it was observed that the “fee is not a material factor to reject the application”. The said order again characterized the conduct of the CPIO/Delhi University as “penny wise and pound foolish”. In the said case as well, a direction has been issued to recover an amount of Rs.25,000/- from the salary payable to the CPIO. The relevant observations in the said order are reproduced hereunder:



“20. From these guidelines it is clear that 'fee' is not material factor to reject the RTI request. In fact, this is not at all a case of RTI request without payment of fee. Applicant is also not claiming BPL status. The very fact that he has paid fee through court fee stamps proves his intention to pay. When guidelines goad the public authority to be sympathetic to an applicant without paying fee, it does not need special mention that it cannot take technical excuse about form of payment to deny or delay the Information.

21. Thus the Commission finds no justification to apprehend audit objection to giving Information disputing the mode of payment. In fact, audit will surely object this way of unmindful spending of huge amount for Rs. 10. There is a duty cast upon the public authority to simplify the process of payment of fee of Rs 10. In Patna, public authority accepts the RTI application on phone though it is not accompanied with Rs 10, which is added to telephone bill. Some states accept court stamps for payment of fee. It is condemnable that such a simple request for information has been dragged to the level of second appeal, building heaps of documents with multiple files, consuming reams of paper, spending huge amount of money besides consuming precious time of public servants including that of the Commission.

22. The Commission finds that the rejections of RTI applications by Delhi University reminds the saying 'penny wise pound foolish', the rejection of RTI application of the complainant is against the Right to Information Act, rules and OM of DoPT, their institutional rules of procedure, even if existed with any authority, is not valid to the extent of its contradiction to RTI Act and Rules. The explanation of the CPIO confirms the fact of rejection and totally fails to present any merit or justification. Hence the Commission considers the CPIO is liable. The Commission requires under Section 19(8)(a) the Public Authority to facilitate sufficient training to the entire staff including CPIO and First Appellate Authority In the matters of RTI law so that they do not adamantly reject RTI application in routine without application of mind and understanding the aims and objectives of RTI Act. The Commission also suggest public authority to arrange for sufficient training for the RTI authorities, dealing officers and staff, provide latest books on RTI Act, and supply the classic text books on "Administrative Law" and "Right to Know" by late Professor SP Sathe. The training curriculum may also include the judgment of Mr. Justice Rajiv Sahai Endlaw of Hon'ble Delhi High Court in JP Agrawal v Union of India, WP(c) 7232/2009 decided on 4th August 2011. (also available on <https://indiankanoon.org/doc/104466988/>).

23. Hence, the Public Authority is directed to recover the amount of



*Rs.25,000/-from the salary payable to Mrs. Meenakshy Sahay, the CPIO by way of Demand Draft drawn in favour of 'PAO CAT' New Delhi in 5 equal monthly instalments. The first instalment should reach the Commission by 15.02.2017 and the last instalment should reach by 15.06.2017. The Demand Draft should be sent to Shri S. P. Beck, Joint Secretary & Addl. Registrar, Room No. 302, Central Information Commission, B-Wing, 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110066."*

173. The above impugned orders have recorded findings as regards imposition of penalty upon the CPIO. They do not, however, render any determination on the applicability of Sections 8(1)(e) and 8(1)(j) of the RTI Act in the context of their respective petitions.

174. This Court is of the opinion that the above impugned orders are fraught with various legal infirmities. Firstly, while seeking to impose penalty, the authority has failed to take note of the scope and import of Section 20 of the RTI Act. The same contemplates that a penalty can be imposed only if CPIO has: (i) without reasonable cause, refused to receive an application; (ii) not furnished the information within the time specified; (iii) *malafidely* denied the request for information; and/or (iv) knowingly given incorrect or misleading information, or destroyed information which was subject of the RTI Application.

175. The imposition of a penalty and its recovery from the personal salary of the CPIO requires clear, cogent and specific finding of deliberate wrong doing or misconduct. The impugned order fails to take into account that there is a stark difference between a procedural infirmity/error and the deliberate obstruction of an RTI application.

176. In the present case, it has been copiously brought out on behalf of the Delhi University that as per the established procedure, any deficiency in the



pay order is expeditiously communicated to the RTI applicant along with proper guidance to the applicant for rectification of the defect.

177. It has been brought out by the Delhi University that there is a standard, institutionalized procedure followed by the University in respect of all RTI applications received by it. It was emphasized that the procedure was evolved in view of the extremely large number of RTI applications that are received by the Delhi University. The procedure, which has been taken note of in the impugned order/s, is as under:

*“1. The University receives the applications under the RTI Act by post as well as over the Counter.*

*2. For applications received over the counter In the Information Section at New Administrative Block, North Campus, the: Finance VII Section receives cash directly submitted by the applicants along with their application and provides a receipt to them immediately as an acknowledgement of fee receipt as per rules framed by the University under the RTI Act.*

*3. For applications received by Post, they are received by the Diary and Dispatch Section of the University as it is the Central receipt and dispatch facility of the University situated in the New Administrative Building, North Campus.*

*4. The section, on receipt of the application, forwards it to the Section Officer (Information Section).*

*5. Section Officer (Information Section) forwards the application to the Section Officer (Finance VII) which is the cash section of the University for Encashment of the IPOs, Banker's Cheque etc. as received along with the RTI applications.*

*6. When the applications are received from the Information Section, on a daily basis, it is checked by the Finance VII section that whether the fee submitted by the applicants along with their applications are as per the rules framed by the University, for admissibility of financial instrument, i.e., IPOs, DDs/Banker's Cheques.*

*7. Those financial Instruments which are inadmissible because of various deficiencies such as wrongly addressed, blank in the pay to*



column, mutilated, overwritten, beyond expiry date etc., are returned to the Information Section for onward transmission to the applicants for rectification. In addition, Cheque, Court fee stamp etc. provided as fee is not accepted, as these are not permissible instruments for deposition of fee as per rules framed by the University in consonance with the relevant guidelines issued by the DoPT in this regard from time to time.

8. The Finance VII section receives hundreds of applications with inadmissible fee instruments every year. In this connection, it is emphasized that the procedure followed is uniform right from the Inception of Implementation of the RTI Act, In the University, without any exception whatsoever for any individual.

9. On receipt of the applications with the inadmissible financial instruments from the Section Officer (Finance VII), a letter is prepared by the Information, Section addressed to the applicant forwarding the application and financial instrument in original for the purpose of rectification, This communication is sent by the University through the. Deputy Registrar (Information) & CPIO to facilitate its return to the Individual concerned through a systematic procedure of returning such applications as a routine in the University over the years.

10. There is no scope of application of any personal discretion by the CPIO as he is neither physically accepting the applications along with the financial instruments directly from the applicant nor deliberating upon the fee encashment process. A careful perusal the RTI (Fee and Cost) Rules, 2012 clearly brings out that such responsibility has been categorically vested on the CAPIO of the Public Authority and the University is yet to designate, a CAPIO under the RTI Act. In the absence of the CAPIO, the Finance Office of the University de facto discharges the duties of the CAPIO in terms of fee encashment. Mere communication of the inadmissible applications for various reasons including reason of inadmissible fee instrument is done by the Information Section to facilitate such rectification of such deficiency by the Information seekers.

11. This is clearly brought out in the decision of the Registrar & First Appellate Authority of the University where she has categorically stated that the procedure adopted by the University is the only procedure for admissibility of an application for seeking Information under the Act with the University.

12. This procedure is without prejudice to the applications received by the University under Section 6(3) of the RTI Act from various other Public Authorities from time to time.



13. *The University never returns any applications solely on the ground that it is not addressed to the appropriate authority. However, in case there is some other deficiency such as inadmissible fee, no signature/authentication, etc. in the application, such applications are returned where it is explicitly mentioned that the application is addressed to an inappropriate authority to facilitate the applicant to send the rectified application to the correct authority. In the instant case too, the application would have been entertained if the financial instrument accompanying the RTI application had been found admissible by the concerned Finance Section of the University as per rules.*

178. The impugned order/s contains adverse comments about the aforesaid procedure. While there may be a requirement to improve the procedure and ensure that the processing of RTI applications is further streamlined and made smoother, without causing unnecessary inconvenience to the RTI applicant/s, any perceived shortcomings in the procedure cannot be construed as “obstructionist” or “*malafide*”.

179. Importantly, in W.P.(C) 1077/2017 the petitioner has filed an additional affidavit dated 25.04.2017, wherein it has been submitted that after being informed of a procedural defect in his initial RTI application, respondent no. 1 submitted two fresh RTI applications on 24.05.2016 with valid fee instruments. These were duly registered as OA No. 794 of 2016 and OA No. 795 of 2016, accepted without objection, and processed under the RTI Act.

180. Both fresh applications were decided on their merits, with orders issued on 13.06.2016 viz., Order No. Info/OA/794/2016/2884 in OA No. 794 of 2016 and Order No. Info/OA/795/2016/2883 in OA No. 795 of 2016. The latter order, as well as the order of the first appellate authority dated 15.07.2016 and also the subsequent CIC order dated 08.09.2017, both in the



context of the latter order, has been challenged in W.P. (C) 13568 (which has been dealt with separately). This demonstrates that the University's actions were not arbitrary but were based solely on prescribed procedural requirements for RTI applications, under the framework of the RTI Act.

181. Also, in the context of the RTI applicant in W.P.(C) 1091/2017, it was emphasized by the Delhi University that the RTI applicant had filed numerous applications under the RTI Act without any errors/discrepancies in the accompanying financial instrument (IPO).

182. It was also brought out that in previous cases, in a similar context, the CIC had refrained from imposing any penalty under Section 20 of the RTI Act. The relevant submissions on behalf of the Delhi University, as recorded in the impugned order in W.P.(C) 1091/2017, are as under:

*“11. The University put forward that there 04 decisions of the Hon'ble Central Information Commission claiming that such procedure was upheld in similar matters:*

*i) CIC/SG/C/2009/001351/5070 dated 07.10.2009 [Dr. Fazal Ul Haque vs. University of Delhi]*

*In this matter, the payee column of the IPO mentioned University of Delhi but no specific authority was indicated. Even then, the Hon'ble Commission did not given any relief to the Complainant, rather upheld the procedure of the University.*

*ii) CIC/DS/A/2011/004344/RM dated 07.02.2013 [Shri Deepak Mishra Vs. University of Delhi]*

*iii) CIC/RM/A/2012/000773 dated 21.06.2013 [Shri Anil Pathak vs University of Delhi]*

*In both these matters, the IPO was blank in the payee column, identical to the present case and the said procedure of the University was upheld by the Hon'ble Commission.*

*iv) CIC/RM/C/2013/000397 dated 11.03.2014 [Shri. Sudhesh Kumar Goyal Vs. University of Delhi] In this matter, the IPO was addressed to the PIO, wherein again no reply was given to the appellant.*

*These decisions of the Hon'ble Commission spanning over a*



*period from 2009 to 2014 clearly indicates that the Hon'ble Commission has time and again endorsed the University procedure followed for the purpose of admissibility of applications filed under the RTI Act and it also clearly bring out that the University procedure in returning the application for rectification on account of inadmissible fee instruments dates back to the Inception of Implementation of the RTI Act in the University and not a new dispensation of any particular officer.*

*Such repeated endorsement by the Hon'ble Commission left no doubt in the understanding of the University, as a public authority implementing the RTI Act, that there was any technical glitch in the Institutional mechanism adopted by the University. :*

*If the University, as a public authority, does not have any suspicion about the validity of the procedure adopted, how can the Hon'ble Commission imagine that its CPIO would have a separate personal wisdom beyond the collective wisdom of the University to act in a different manner than what has been followed over the years. Therefore, the question of any personal malafide of the CPIO, as alleged by the appellant and complainant, is unimaginable and incomprehensible.”*

183. In the above context, the impugned orders appear to have clearly erred in rejecting “the reasonable cause shown by the CPIO” in terms of Section 20 of the RTI Act.

184. The CIC ought not to have lost sight of that the CPIO could not be faulted for seeking to adhere to the requirements under Rule 3 of the RTI Rules, 2012. At the very highest, the conduct of the CPIO could be characterized as a procedural irregularity rather than a *malafide* or obstructionist denial of information. As mentioned, it has been brought out that the procedure followed by the Delhi University is uniform; and the same has fallen for scrutiny in other cases before the CIC, in which CIC thought it fit not to impose any penalty.

185. It has been brought out by the Delhi University that it receives thousands of RTI applications, and for the purpose of smooth processing, it



is necessary for the Delhi University to evolve procedural guidelines, which are strictly adhered to by the concerned CPIO.

186. The petitioner in its rejoinder written submissions, has set out a chart depicting the valid RTI applications received by the Delhi University during the years 2014-2017, as well as the “returned application”. The same is reproduced hereunder:

| Year | Valid Applications | Returned Applications |
|------|--------------------|-----------------------|
| 2014 | 2450               | 650                   |
| 2015 | 2172               | 697                   |
| 2016 | 2162               | 590                   |
| 2017 | 2437               | 426                   |

187. The staggering number of RTI applications is demonstrative of the burden imposed on the CPIO. To attribute *malafides* to the CPIO for following the established, institutionalized procedure does not appear to be justified in the present case. Moreover, the recovery of the maximum amount of penalty contemplated under Section 20 of the RTI Act from the personal salary of CPIO is clearly disproportionate.

188. While this Court is usually loath to interfere with the exercise of discretion by the CIC in assessing / considering a complaint under Section 18 and/or imposing a penalty under Section 20, in the facts of this case it is evident that such discretion had not been properly exercised. The same suffers on account of non-consideration of the “reasonable cause shown by the CPIO”, particularly the fact that the procedure followed was in sync with the established internal protocol/s, which had evolved and been put in place in view of the sheer volume of RTI applications received every year by the



Delhi University.

189. Moreover, on previous occasions, CIC found that the alleged infraction did not constitute a valid ground for imposition of penalty. While a body such as CIC is not strictly bound by the doctrine of *stare decisis*, it is expected to take a uniform, consistent view. Such a stark deviation (in the present cases), without any attempt to distinguish past precedents (attention to which was specifically drawn by the Delhi University) or to explain the rationale of the departure, renders the entire adjudicatory exercise vulnerable to challenge on the ground of arbitrariness.

190. It also transpires that the information sought in the concerned RTI applications in these petitions, is precluded in terms of Section 8(1)(j), as discussed hereinabove.

191. In the circumstances, the impugned orders are unsustainable, the same are accordingly set aside.

192. In W.P. (C) 1091/2017, the petitioner is also challenging order cum show cause notices dated 09.11.2015 and 19.11.2015, passed in CIC/RM/A/2014/001389-SA [arising from the second appeal initiated by respondent no. 1/ R.K Jain (deceased as per the affidavit dated 27.03.2025 filed by the petitioner)] and CIC/RM/C/2014/000138-SA (in complaint proceedings initiated by respondent no. 1/ R.K Jain under Section 18 of the RTI Act), respectively.

193. Vide order cum show cause notice dated 09.11.2015 the CPIO was called upon to show cause why the maximum penalty should not be imposed upon him, why compensation should not be awarded to the RTI applicant, and why disciplinary action should not be recommended against the CPIO. Relevant portion of the order is reproduced as under –



*“5. The Commission having heard the submissions and perused the record, considers that it is a case where the CPIO returned the original RTI application along with the IPO, which means a total and complete refusal to 'act under the provisions of RTI Act, which appears to be a serious breach of RTI Act. The Commission directs the CPIO to explain and show cause as to why maximum penalty should not be imposed against him and why compensation should not be granted to the appellant and disciplinary action should not be recommended against him. His explanation should reach the Commission within 21 days from the date of receipt of this order.”*

194. Further, order cum show cause notice dated 19.11.2015 recorded as under -

*“5. The case has come up before the Commission today in the form of complaint on the subject matter which came up as an appeal in No. CIC/RM/A/2014/001389-SA, filed by same appellant against same authority on 03.09.2015 in the presence of both the parties. The Commission in case No. 001389 has directed the CPIO to explain and show cause as to why maximum penalty should not be imposed against him and why compensation should not be granted to the appellant and disciplinary action should not be recommended against him.”*

195. These show cause notices, being founded on the very same circumstances already examined and adjudicated upon in the preceding paragraphs of this judgment, are equally unsustainable and are, accordingly, set aside. Also, as noted above, respondent no. 1/the RTI applicant/ Shri R.K. Jain, has since passed away. Consequently, the grievance/s of the information applicant has been rendered moot.

196. In the circumstances, the aforesaid writ petitions stand allowed.

**Impugned order in W.P.(C) 13568/2023**

197. The present writ petition has been filed to challenge the order dated 13.06.2016 passed by respondent no. 1, whereby the petitioner's RTI application seeking inspection of documents pertaining to a student of the Delhi University, bearing enrolment number CC-5594/74, was rejected on



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the ground that the information sought was exempted under Section 8(1)(j) of the RTI Act.

198. The petitioner has also impugned the order dated 15.07.2016 passed by the First Appellate Authority, which upheld the decision of the CPIO rendered on 13.06.2016. Further, the petitioner assails the order dated 08.09.2017 passed by the CIC, whereby the CIC disposed of the second appeal of the petitioner on the reasoning that the subject matter was already pending adjudication before this Court in W.P.(C) No. 600 of 2017. It was noted that this Court had granted a stay on 23.01.2017, and hence, no further intervention was considered necessary by the Commission. It is in the above background that the present petition has been filed by the RTI applicant.

199. For the reasons elaborately discussed in the preceding paragraphs of this judgment, it is manifest that the information sought by petitioner's RTI application falls squarely within the exemption contemplated under Section 8(1)(j) of the RTI Act, for the reasons enumerated hereinabove.

200. Accordingly, W.P.(C) No. 13568/2023 also stands disposed of.

**SACHIN DATTA, J**

**AUGUST 25, 2025/at/sv**