

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH AT JAIPUR**

ORDER

S.B. CIVIL WRIT PETITION NO. 6748/2008

RAJASTHAN PUBLIC SERVICE COMMISSION
VS.
SHRI JAITA RAM & ANOTHER.



DATE OF ORDER

:

09.01.2013

HON'BLE MR. JUSTICE ALOK SHARMA

Ms. Shikha Parnami on behalf of Mr. S.N. Kumawat, for the petitioner.

Mr. Pyare Lal, for Respondent No. 1.

BY THE COURT:

A challenge in the writ petition has been made to the order dated 25.02.2008 passed by the Chief Information Commissioner under the provisions of the Right to Information Act, 2005, directing that Respondent No. 1, Jaita Ram be allowed to inspect and obtain copies of the answer sheets of all the papers written by him in RJS Examination, 2005.

2. On the matter coming up before this Court on 21.07.2008, this Court was pleased to direct that operation of the order dated 25.02.2008 passed by Respondent No. 2, the Chief Information Commissioner shall remain stayed.

3. Thereafter, on the matter coming up before this Court today, Ms. Shikha Parnami, counsel for the petitioner-Rajasthan Public Service Commission (for short 'the RPSC') has submitted that in terms of the rules of the RPSC, the answer sheets of RJS Examination, 2005 have already been weeded

out. She submits that in this view of the matter, one way or the other, order dated 25.02.2008 cannot be complied with.

4. Mr. Pyare Lal, counsel appearing on behalf of Respondent No. 1 has submitted that action of the RPSC has scuttled the rights of Respondent No. 1, inhering in him under the Right to Information Act, 2005. He submits that as per the legal position obtaining in terms of the judgments of the Hon'ble Supreme Court, the right to information extends to allowing the students to inspect their answer sheets written by them in the examinations including the examinations conducted by the RPSC. Counsel for Respondent No. 1 further submits that this enunciation of the Hon'ble Supreme Court is in consonance with the need for transparency and accountability in a democratic polity. He submits that in this matter, weeding out of answer sheets, in spite of the pendency of the writ petition and the dispute in issue being alive, was to work to the advantage of the RPSC.

5. Having heard counsel for the parties and perused the writ petition, I am of the considered view that the RPSC was under an obligation to safeguard and maintain the answer sheets in respect of all papers of RJS Examination, 2005, qua Respondent No. 1, in view of the pending litigation. From the facts of the instant case, it is quite evident that the RPSC has been completely derelict in its duty, which however, appears to be occasioned, not so much by a conscious and deliberate act, but by a mechanical action vitiated by gross non-application of mind. Factum of pendency of the writ petition



appears to have been totally over looked by the petitioner-RPSC.

6. Be that as it may, there is little that can be done by this Court and answer sheet weeded out cannot be revived. Consequently, even though the right of Respondent No. 1 stands contravened, no effective relief can be granted to him.

7. As such, the writ petition is disposed of with a direction to the petitioner-RPSC to be more careful in future with regard to pending matters in the Court and the RPSC shall be under a duty to preserve the subject matter of the dispute during pendency of the litigation, until its conclusion.

8. Stay Application No. 1410/2008 and I.A. No. 36225/2011 also stand disposed of.

(ALOK SHARMA),J.

Manoj
S.No. 69.

"All corrections made in the judgment/order have been incorporated in the judgment/order being emailed."

MANOJ NARWANI
JUNIOR PERSONAL ASSISTANT.

