

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

- (1) SB Civil Writ Petition No. 6821/2008.  
(University of Raj. Vs. Smt. Neha Mittal & Anr.)  
(2) SB Civil Writ Petition No. 5657/2008.  
(University of Raj. Vs. Yogendra Singh Tomar & Anr.)

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DATE OF ORDER

:

08/10/2015

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**HON'BLE MR.JUSTICE ALOK SHARMA**

Ms Anita Aggarwal with Mr Vijay Jangid, for the petitioner.  
Mr Dhiraj Singhal, for respondents.

A challenge has been made in both these petitions to the order dated 2.4.2008 passed by the Chief Information Commissioner directing the petitioner University to provide information as sought by the respondent with regard to his answer-sheets of B.Sc Part-II (all papers) within 21 days.

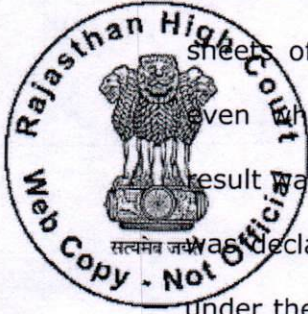
Counsel for the petitioner at the very outset submits that in view of the judgment of the Hon'ble Supreme Court in the case of **CBSE v. Aditya Bandopadhyay (2011) 8 SCC 497**, the order of the Chief Information Commissioner is liable to be sustained but as at the relevant time in terms of Ordinance 157 of the Rajasthan University Ordinance, the answer-sheets were to be weeded out within a period of 60 days from the date of declaration of result, the answer-sheets of which certified copies/ inspection was sought by the respondent were so weeded out. It is submitted that however since the judgment of the Hon'ble Supreme Court in the case of **Aditya Bandopadhyay** (supra), the governing ordinances have been suitably amended and now

provision has been made for supplying certified copies/ inspection of the answer sheets on appropriate application/s made.

Mr Dhiraj Singhal counsel appearing on behalf of respondent applicant submits that an application under Right to Information Act for inspection and certified copies of the answer sheets of the petitioner's B.Sc Part-II was made on 6.12.2007 even while, the petitioner's application for revaluation of his result was pending. Counsel submits that the result of revaluation was declared on 25.12.2007 and in view of pending application under the Right to Information Act, 2005 (hereinafter referred to as the Act of 2005) it was incumbent upon the University to preserve the respondent applicants' answer-sheets. Counsel submits that weeding out of the answer-sheets by the University however presents the applicant with the fait-accomplis wherein his right under law stands denied to him. He submits that in the circumstances, this Court should exercise its powers under Section 20 of the Act of 2005 and visit the petitioner University with appropriate costs.

Heard and considered.

The right of being supplied certified copies/ inspection of the answer sheets on appropriate application under the Act of 2005 lies with the examinees and so does the corresponding obligation with the University. This is now well settled in terms of the judgment of the Apex Court in **Aditya Bandopadhyay (supra)**. It however transpires that as per the extant University



of Rajasthan Ordinances weeding out of the answer-sheets in various examinations conducted by the University 60 days following the declaration of the result was provided for. The Act of 2005 would prevailed over the University Ordinances, but no judgment so holding obtained when the respondent applicant made the application. In the circumstances, for lack of appreciation of law, the answer-sheets were weeded out 60 days following the declaration of the result following the re-evaluation on 12.12.2007. The fact of weeding out does not appear to have been brought to the notice of this Court when the matter came up before it on 1.4.2009. Hence it was directed that the answer-sheets of the applicant not be weeded out. In the circumstances, no mala fide can be attributed to the respondent University in weeding out the respondent applicants' answer-sheet of B.Sc. Part-II examination which the petitioner has since passed.

In the overall facts of the case, I am of the considered view that no case for visiting the petitioner University with costs, as prayed for, is made out. The petitions are, however dismissed.

**(ALOK SHARMA),J.**

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All corrections made in the judgment/order have been incorporated in the judgment/order being e-mailed Brij Mohan Gandhi Sr.P.A. Cum JW

