

OFFICE OF THE FIRST APPELLATE AUTHORITY

(Under the Right to Information Act, 2005)
The Institute of Company Secretaries of India
ICSI House, 22 Institutional Area, Lodi Road
New Delhi

Appeal No. 3/2017

IN THE MATTER OF :

Satish Singal
C/o Gaurav Jain, Advocate
Chamber No. 299, District Courts
Kaithal
Haryana- 136 027

Appellant

Vs.

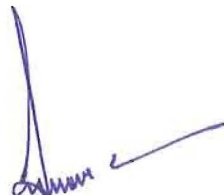
Central Public Information Officer
The Institute of Company Secretaries of India
'ICSI House'
22, Institutional Area, Lodi road
New Delhi – 110 003

Respondent

Date of Order : 6th March, 2017

ORDER

1. The appellant had filed an appeal dated 16th January, 2017 (received in this office on 6th February, 2017) under Section 19(1) of the Right to Information Act, 2005 (hereinafter referred to as "RTI Act") in response to the information supplied vide letter bearing No. RTI 2005/1748/(16) dated 20th December, 2016 by the Central Public Information Officer (hereinafter referred to as "Respondent") of The Institute of Company Secretaries of India, ICSI House, 22, Institutional Area, Lodi Road, New Delhi-110 003.
2. I have carefully considered the application, the response, the appeal and the records made available to me and I find that the matter can be decided based on the material available on record.
3. In this appeal, the appellant has requested for informing the status/action taken on letter No. 305 dated 04.11.2016 and 4301 dated 09.08.2016 filed by CA Satish Singal, Kaithal.



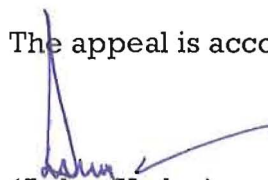
4. The appellant has further requested for various information pertaining to managing Examiners for evaluating Answer Sheets of Company Secretaries examinations.
5. I note that an opportunity was given to the Appellant and the Respondent to be present in the Office of the undersigned at ICSI House, C-37, Sector-62, Noida – 201 309(UP) on 6th March, 2017 in order to enable proper appreciation of facts and figures, which was not availed by the Appellant.
6. The respondent appeared in the Office of the undersigned on 6th March, 2017 and submitted that the appellant has been an Examiner on the panel of ICSI. The appellant's submission to various forums violated the confidentiality agreement that he has signed with the Institute. The appellant has requested for information through 11 (eleven) queries.
7. The respondent has informed that Query No. 1 is not information as defined under the RTI Act as action taken can not be deemed as information by the farthest of imagination. RTI Act mandates for sharing of documents which are available on record only without exception.
8. The respondent has further submitted that the examination process is confidential in nature and there is an implied contract between the examiner and the examining body which is of fiduciary nature.
9. The respondent has further submitted that they had reassessed the exemptions from query no. 3 to 11 and has noted that the earlier response of this information being exempt under Section 8(1)(d) and 8(1)(e) of the RTI Act stands. The same has been substantiated by the various decisions of the CIC which has been upheld by the Supreme Court. Query No. 3, 4, 5 & 7 is exempted under 8(1)(e) of the RTI Act as all such instructions are shared in fiduciary capacity with the examiners. The whole examination system and the mechanism will come under direct threat had the same not been protected by the various rulings of CIC and thereafter upheld by the rulings of the Supreme Court.
10. The respondent has further submitted that the query No. 6, 8, 9, 10 & 11 is information pertaining to the examiner. In the past, the Supreme Court has observed that by raising such queries, there is not only a direct threat to the confidentiality of the examination system but also a threat to the examiner.
11. The respondent has quoted a Supreme Court Orders in case reference No. Civil Appeal No. 7571 of 2011 [Arising out of SLP (C) No.2040/2011] - The ICAI Vs. Shaunak H. Satya & Others and Civil Appeal Nos.823-854 of 2016 (Arising out of SLP (C) Nos. 15919- 15950 of 2011) in this regard.



: 3 :

After careful consideration of the appeal and the response issued by the respondent, I find that the information sought by the appellant are exempt under 8(1) (e) of the RTI Act as the same are communications exchanged by the Institute and the examiners which of fiduciary nature.

The appeal is accordingly dismissed.


(Ankur Yadav)
First Appellate Authority

Copy to :

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