

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. 5/2017

IN THE MATTER OF :

Deepak Madanmohan Gupta
"Gupta House"
Darodkar Square
Central Avenue
Nagpur

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 : 25th April, 2017

ORDER

1. The appellant had filed an appeal dated 13th February, 2017 (received in this office on 17th 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 2005/1772/(17) dated 12th January, 2017 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. In this appeal, the appellant has requested for Model Answer Sheet in respect of a question paper pertaining to Company Secretaries Examinations and other communications sent to the Examiners by the Institute.
3. The respondent had informed that the information sought is exempted under Section 8(1)(d) of the RTI Act.



4. I note that opportunities were given to the Appellant to be present in the Office of the undersigned at ICSI House, C-37, Sector-62, Noida – 201 309(UP) on 6th March, 2017 and 7th April, 2017 in order to enable proper appreciation of facts and figures, which were not availed by the Appellant.
5. The appellant vide letter dated 05.04.2017 (received in this office on 10.04.2017) has referred to various court orders viz. case reference Nos. Civil Appeal No. 7571 of 2011(Arising out of SLP(C) No. 2040/2011) – The ICAI Vs. Shaunak H. Satya & Others, CBSE V Aditya Bandopadhyay(SLP(C) No. 7526/2009), KPSC Vs. State Information Commission (AIR 2011 KER 135) and People's Union for Civil Liberties V. Union of India[(2004) 2 SCC 476].
6. The respondent has again submitted that the exemptions of sharing information is mandated under Section 8(1)(d) of the RTI Act. Further, Section 8(1)(e) of the RTI Act is equally applicable and same has been upheld by the Apex court also.
7. The respondent has further submitted that the information sought from the appellant is exempted under Section 8(1)(e) of the RTI Act 2005 in view of the fact that the information sought by the appellant is pertaining to information available to a person in his fiduciary relationship and the disclosure of the same does not involve any larger public interest. The same is substantiated by the relevant order of Supreme Court vide Case No. CIVIL APPEAL NO. 7571 OF 2011 [Arising out of SLP (C) No.2040/2011] - The ICAI Vs. Shaunak H. Satya & Others.
8. The respondent substantiated that the examination process is confidential in nature and there is an implied contract between the examiner and the examining body which is fiducial in nature. The Hon'ble Supreme Court has maintained that the exemption under 8(1)(e) is available not only in regard to information that is held by a public authority in a fiducial 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. Both the queries pertain to information which is shared with the examiner by the public authority i.e. The Institute of Company Secretaries of India which is exempt under Section 8(1)(e) of the RTI Act.



This Office has noted that the matter can be decided based on the application, the appeal, the response and the records made available to this office. After careful consideration of the appeal, the response issued by the respondent and all other records made available, this Office concurs with the decision of the Supreme Court that the information sought by the appellant is exempted under Section 8(1)(e) of the RTI Act as the same are communications exchanged by the Institute and the examiners which are of fiduciary nature.

The appeal is accordingly dismissed.



(Ankur Yadav)

First Appellate Authority

Copy to :

- By Speed Post : 1. Mr. Deepak Madanmohan Gupta
"Gupta House"
Darodkar Square
Central Avenue
Nagpur
..Original Postal Order bearing No. 310892 for Rs.20/- returned herewith.
- By Hand 2. Mr. Ashok Kumar Dixit
Central Public Information Officer
The Institute of Company Secretaries of India
ICSI House, 22 Institutional Area
Lodi Road
New Delhi - 110 003
- By Email 3. Dte. of IT ...For publishing on the website.