

**HIGH COURT OF JUDICATURE AT ALLAHABAD****WRIT - C No. - 39694 of 2009**Union Of India Thru G.M. Diesel Locomotive And
Another

.....Petitioner(s)

Versus

Central Information Commission New Delhi And
Others

.....Respondent(s)

Counsel for Petitioner(s) : , Krishna Ji Shukla, Shekhar Kumar
Yadav

Counsel for Respondent(s) : Ashish Kumar Srivastava

Court No. - 1

AFR

Reserved on 28.11.2025

Delivered on 26.02.2026

HON'BLE AJIT KUMAR, J.**HON'BLE SWARUPAMA CHATURVEDI, J.**

1. Heard Sri Krishna Ji Shukla, learned Advocate appearing for the petitioners and learned panel counsel for the Union of India.
2. Petitioners, Union of India and Public Information Officer, Diesel Locomotive Works, Varanasi are aggrieved by the two orders passed by Central Information Commission dated 13.05.2009 and the order dated 04.06.2009 dismissing the review petition.
3. Briefly stated facts of the case are that one Santosh Kumar, Office Superintendent-II, who had appeared in the written test held by the respondent Railways for the purpose of selection on the post of Legal Assistant, made an application under the Right to Information Act, 2005 (in short 'Act, 2005') to the Information Officer, Diesel Locomotive Works, Varanasi asking for marks obtained by three candidates, himself, Manish Kumar Singh and Gorakh Sharma and photostat copies of their answer sheets. This application was made on 10.10.2008 in response to which the Senior Personnel Officer acting as nodal officer, Public Information supplied copy of the question paper demanded for, but in so far as the photocopies of the answer sheets was demanded, it was refused. However, the said Santosh Kumar who is respondent no. 3 here in this petition, was permitted to peruse the answer sheet on any working day. The information as to marks was also not disclosed. He filed an appeal against the order before the appellate authority on 23.10.2008 and the

appellate authority, namely the Central Information Commission, New Delhi under its order dated 13.05.2009 directed for supplying the photocopies of answer sheets demanded by the appellant for Law Assistant Exams held on 30.07.2004. Aggrieved of this order, though the petitioners revealed the marks obtained by the three candidates to Sri Santosh Kumar vide letter dated 28.05.2009 but instead of supplying the photocopies of answer sheets, filed a review application taking plea that in the light of Full Bench decision of the Central Information Commission itself, such an information could be declined under Section 8(1)(j) of the Act, 2005.

4. However, the review petition was dismissed vide order dated 04.06.2009 on the ground that Indian Railways would fall under the category of Public Authority whose main action is not to conduct examinations, but is to conduct examination to fill up the posts and, therefore, answer sheets could have been supplied. The reviewing authority referred para 40 of the Full Bench judgment in which disposal of answer sheets was held to be not a general rule but each case will have to be examined individually.

5. The submission advanced by learned counsel for the petitioners is that the judgment of Full Bench of the Commission has not been appreciated properly by the appellate/ reviewing authority otherwise it would not have insisted for the photocopies of the answer sheets.

6. *Per contra* it is argued by learned counsel for the respondent no. 4 that there is no manifest error in the judgment of the Central Information Commission both initially passed in appeal and subsequently dismissing the review petition and, therefore, petition is devoid of merits. However, learned counsel for the respondents could not dispute that the marks of three candidates sought for in the information have been disclosed.

7. Having heard learned counsel for the respective parties and having perused the records, in order to appreciate the legal arguments advanced on behalf of the petitioners and the issue of giving information regarding answers obtained in the answer sheet by the candidate in an open competition and then supplying the copies of the answer sheets.

8. It is true that if a candidate seeks an information about the other candidate's marks, the it becomes a third party information and therefore, Rule 11 of Act, 2005 gets attracted but the information must be such in nature that if disclosed, it would cause any damage in terms of privacy of third party.

9. In order to appreciate the legal argument advanced, first we reproduce Section 8(1)(j) of Act, 2005 which runs as under:

“(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.”

10. From the reading of the aforesaid provisions, the intendment of legislature can be drawn to the effect that a personal information and disclosure thereof which has no relation to any public interest or to any public activity, such an information may not be given or the information which may cause unwarranted invasion of privacy of an individual, that may also not be given. So the authority will ensure that larger public interest justifies the disclosure of such information. The proviso further provides that an information which cannot be denied to Parliament or State Legislature shall also not be denied to any person. Thus, in substance, any information that does not invade the privacy of any individual may be withheld and the authority may not be placed under obligation to give this information, but otherwise, if an information can be given looking to larger public interest or where public activity may be involved, then such information shall be given. Section 11 speaks of an obligation in the matter of 3rd party information. Relevant provisions as contained under Section 11 are reproduced hereunder:

“11. Third party information. -- (1) *Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:*

Provided that except in the 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 interests of such third party.

(2) *Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section*

(1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.”

(emphasis added)

11. From the bare reading of aforesaid provisions it goes clear that sufficient safeguards have been provided in the event any third party information is sought and in such circumstances, the authority, which is under the obligation to give information shall be giving notice to that third party to give its reply before the information is given. The main threat is on the confidentiality of information on the principle of right to privacy.

12. In a matter before the Supreme Court where the Central Information Commission had passed an order on 18.06.2009 against which an SLP was filed before the Supreme Court, the issue raised was whether the personal information could have been given or not particularly when the disclosure of which had no relationship with any public activity or public interest. Paragraph nos. 12, 13, 14 & 15 of the judgment in the matter of ***Special Leave Petition (Civil) No. 27734 of 2012, Girish Ramchandra Deshpande v. Central Information Commissioner & Others*** reported in ***(2013 (1) SCC 212*** is reproduced hereunder:

“12. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of [Section 8\(1\)](#) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression “personal information”, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the

Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. The details disclosed by a person in his income tax returns are “personal information” which stand exempted from disclosure under clause (j) of [Section 8\(1\)](#) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information.

14. The petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under [Section 8\(1\)\(j\)](#) of the RTI Act.

15. We are, therefore, of the view that the petitioner has not succeeded in establishing that the information sought for is for the larger public interest. That being the fact, we are not inclined to entertain this special leave petition. Hence, the same is dismissed.”

(emphasis added)

13. From the above quoted paragraphs of the judgment, we find that words and expression ‘personal information’, ‘public intent’ and ‘public activity’ have been considered contextually to the information sought for. Any information which is specific to a third party would be a personal information would not be disclosed unless and until it relates to some public activity or where paramount public interest may outweigh consideration of confidentiality in the name of privacy.

14. Public activity may be of varied nature i.e. chants, assembly, meetings etc. such as programmes with large gatherings men, women and youngsters/ children for social awareness, meetings organized for programmes and services. So the public activity means an activity relating to public in general in context to private or individual activity. Where the government or a public functionary gets involved either as organizer or promoter or an participant and such public functionary falls within the meaning of authority under the Right to Information Act, 2005, information relating to such activities becomes accessible to people in public interest.

15. In the case of ***Dr. Naresh Trehan & 5 others v. Rakesh Kumar Gupta, 2014 SCC OnLine Del 6600*** vide paragraph no. 25 the Delhi High Court has held that “public activity” would denote activity done for the public and/ or in some manner available for participation by public or some section of the public.” The said High Court was distinguishing a return of an individual or his consent being pursued by him as an

information relating to a third party and there being no participation by public or some section of public, such an information was rightly not disclosed.

16. Here it would be relevant also to refer to the aims and objects for which the RTI was enacted. The very object in the preamble of the Act refers to an object of promotion of transparency and accountability in working of every public authority and also to contain corruption and to hold Governments and their instrumentalities accountable to the Government. So the purpose and object of the Act has been to provide information particularly in public interest affairs and where public activity may be involved. Public interest and public activity have not been defined under the Act. Public interest normally in general could be where the common man's interest in particular affairs may be not an individual interest but relating to society or otherwise a class or a group which can be classified for a limited extent with reference to subject matter for which the information relates to. Public activity is also in our considered view relates to substantial public interest involved where public at large gets affected. So in a matter where in general a public interest may be involved, the information must be given as a realm. The object of the Act is to give information subject to the riders created under Section 8. So wherever there is public interest involved and there is absolutely no private information sought for, the endeavour of the authority would be to furnish the information sought for.

17. In the instant case information required was relating to public examination held by the respondents for the post of Legal Assistant to which the applicant namely respondent no. 4 was an applicant like others regarding whose information was sought. The information was sought regarding marks obtained and we fail to understand as to how this information is private information or giving of this information to a candidate would amount to invading the privacy of a candidate. All those who have obtained marks, are open to all ultimately when the merit is prepared. While it may be true that for a certain period an information may be withheld in a matter where any investigation or enquiry is pending and marks have not been disclosed, but where no investigation or enquiry is pending such an information, if sought for under the RTI Act, such information can always be provided for and must be provided content of examination for a post may be for a classified section has an element of public activity where disclosure of marks obtained by candidates shall serve a larger public interest. Marks obtained by a candidate, if information regarding that is sought by another candidate who has also participated in examination, is not such a confidential private information which may require even consent of that third party under Section 8. Well of course, if an outsider seeks information, department may take a valid defence of confidentiality. However, on the question of photocopies of the answer sheets, it may involve checking of answer sheets, signatures of examiners etc. and therefore, it may not be appropriate to disclose the

names, signatures of the examiners and for that purpose therefore, if the authority directs the applicants seeking information to peruse the answer sheets, it would suffice the need. There is no vested right in an applicant to obtain the photocopies of answer sheets of another candidate, however, he can always ask for the photocopy of his own answer sheet. The purpose of a candidate seeking information in such competitive examination can be understood as a curiosity to know how many marks he has obtained and whether his answer sheet is correctly examined or not, inasmuch as, the perusal of other candidate's answer sheet can also be helpful to him but in no case we can compel an authority to supply the photocopies of answer sheets of other candidates. In matters of providing photocopies of the answer sheets, the local departmental rules can of course, be framed and there may be cases where Rules may not permit for providing photocopies of answer sheets and so in that case a candidate can be permitted to peruse the answer sheet. If a candidate is aggrieved in any manner for wrongful checking of answer sheet or he finds upon perusal that the answer sheets of other candidates contained wrongly awarded marks, he can always question this in an appropriate legal proceeding drawn in a court of law, where the court is always vested with the power to summon the answer sheets and the court has been summoning the answer sheets on case to case basis. Thus, on the count of furnishing marks of other desired candidates, the judgment and order passed by the Central Information Commission cannot be faulted with, nor we find any manifest error in the order dismissing the review petition, but in the present case we find that the marks have not been disclosed to respondent no. 4 by the petitioners vide their letter dated 28.05.2009 which is sufficient desired information and therefore, we do not find that any further information is required to be furnished to the petitioner.

18. We may further observe that an application moved under the Right to Information Act, 2005 seeking relevant information, if furnished, the application stands satisfied. It may not be necessary always to provide the copies of the official records/ documents which the department considers would neither be necessary nor, would serve any purpose practically for which the information has been sought. If sufficient information is there and perusal of records is permitted, it should suffice the need *qua* mandate contained under the Act, 2005.

19. We would like here to further refer judgment of Supreme Court in the case of **Central Board of Secondary Education & Anr v. Aditya Bandopadhyay & Ors, (2011) 8 SCC 497** in which while dealing with the issue of supplying the copies of the answer books, the Court has observed vide paras 45, 46, 47, 48 & 49 thus:

"45. One of the duties of the fiduciary is to make thorough disclosure of all 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.

46. An evaluated answer book of an examinee is a combination of two different 'informations'. The first is the answers written by the examinee and second is the marks/assessment by the examiner. When an examinee seeks inspection of his evaluated answer-books or seeks a certified copy of the evaluated answer-book, the information sought by him is not really the answers he has written in the answer-books (which he already knows), nor the total marks assigned for the answers (which has been declared). What he really seeks is the information relating to the break-up of marks, that is, the specific marks assigned to each of his answers.

47. When an examinee seeks 'information' by inspection/certified copies of his answer-books, he knows the contents thereof being the author thereof. When an examinee is permitted to examine an answer-book or obtain a certified copy, the examining body is not really giving him some information which is held by it in trust or confidence, but is only giving him an opportunity to read what he had written at the time of examination or to have a copy of his answers. Therefore, in furnishing the copy of an answer-book, there is no question of breach of confidentiality, privacy, secrecy or trust. The real issue therefore is not in regard to the answer-book but in regard to the marks awarded on evaluation of the answer-book. Even here the total marks given to the examinee in regard to his answer-book are already declared and known to the examinee. What the examinee actually wants to know is the break-up of marks given to him, that is how many marks were given by the examiner to each of his answers so that he can assess how his performance has been evaluated and whether the evaluation is proper as per his hopes and expectations. Therefore, the test for finding out whether the information is exempted or not, is not in regard to the answer book but in regard to the evaluation by the examiner.

48. This takes us to the crucial issue of evaluation by the examiner. The examining body engages or employs hundreds of examiners to do the evaluation of thousands of answer books. The question is whether the information relating to the 'evaluation' (that is assigning of marks) is held by the examining body in a fiduciary relationship. The examining bodies contend that even if fiduciary relationship does not exist with reference to

the examinee, it exists with reference to the examiner who evaluates the answer-books. On a careful examination we find that this contention has no merit.

49. The examining body entrusts the answer-books to an examiner for evaluation and pays the examiner for his expert service. The work of evaluation and marking the answer-book is an assignment given by the examining body to the examiner which he discharges for a consideration. Sometimes, an examiner may assess answer-books, in the course of his employment, as a part of his duties without any specific or special remuneration. In other words the examining body is the 'principal' and the examiner is the agent entrusted with the work, that is, evaluation of answer-books. Therefore, the examining body is not in the position of a fiduciary with reference to the examiner."

20. In the counter affidavit also nothing has been stated about any illegality or irregularly in checking the answer sheets.

21. Thus, according to us, sufficient information has been given and therefore, providing for photocopies of answer sheets of the petitioners is not necessary and the original order of commission to that extent and order in review offering the same deserve to reverse.

22. Writ petition thus, partly succeeds and is allowed to the extent the respondent nos. 1 & 2 are directed to provide photocopies of the answer sheets of the candidates. Since the petitioners have not raised any irregularity in his answer sheets therefore, information regarding marks is taken to be sufficient.

23. In view of the above, writ petition succeeds and is **allowed in part**. The orders passed by the Central Information Commission and the Information Commission dated 13.05.2009 and 04.06.2009 are hereby quashed to the extent they directed for supply of photocopies of answer sheets to the respondents.

24. Cost made easy.

(Swarupama Chaturvedi,J.) (Ajit Kumar,J.)

February 26, 2026

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