

**OFFICE OF THE REGISTRAR GENERAL, GAUHATI HIGH COURT,
MAHATMA GANDHI ROAD, PANBAZAR, GUWAHATI.**

RTI APPEAL NO. – Appeal ID. No. 05/2019

APPELLANT :- Mr. Ikbal Hussain Laskar,
Hatigoan, Guwahati,
Assam – 781038.

RESPONDENT :- REGISTRAR(JUDICIAL) –Cum-PIO, GAUHATI HIGH COURT

DATE OF APPEAL :- **24/04/2019,**

DATE OF HEARING :- 03/06/2019

DATE OF ORDER :- 11/06/2019

Factual Background:-

1. Being aggrieved by the response received from the Respondent in the Form 'B' or 'C' within thirty days of submission of Form 'A', appellant- Md. Ikbal Hussain Laskar, a resident of Hatigaon, Guwahati has preferred this appeal, which is docketed vide Regd. ID No. 05/19.

2. Before a discussion is directed towards the issues in question, a brief reference to the background of this appeal would be advantageous.

3. The appellant has filed an application before the REGISTRAR (JUDICIAL) –Cum-PIO, GAUHATI HIGH COURT, which was docketed vide ID No. **31/2019 dated 20/02/2019,** seeking below mentioned information related to viva-voce for direct recruitment to Grade-III AJS Examination held on 29/01/2019 :-

1. Marks awarded in interview to each individual candidate by members of the interview panel, with name of candidates and name of panel members.

2. Photocopy of the records in which individual candidates' marks were recorded.

4. Thereafter, the Id. PIO, vide his letter **No. HC.XXXV.04/2018/08/RTI dated 19/01/2019,** replied to the applicant as under :



"With reference to the above, I am to inform you that the final rank wise marks statement of the candidates, who appeared in the main written examination and viva- voce of the AJS Grade-III Examination-2018, showing Roll numbers/genders/social status/ paper wise marks obtained in the main written examination along with average marks obtained in interview and the total marks obtained (written +viva voce), is published in the official website of the Gauhati High Court at www.ghconline.gov.in . The copy of said published result is enclosed herewith. Further, information regarding disclosure of name of individual candidates, marks obtained by them in individual papers, marks awarded by individual interview panel members to them and also the name of interview panel members and the marks awarded by them to each individual candidate, is under consideration of the appropriate authority looking after recruitment of Judicial Officers. The decision of the said appropriate authority, if any, shall be communicated to you in due course."

5. Being dissatisfied with the reply sent by the Id. PIO, the applicant has filed the present appeal with following prayers :-

- 1. To provide the marks of interview of Grade-III Judicial Service Exam. Result declared on 2019.***
- 2. To provide each individual candidates marks awarded in interview panel with the name of candidates and panel members.***
- 3. To provide photo copy of records in which individual candidates marks were recorded during interview."***

Submission:-

6. The appellant has submitted written argument, wherein, he has stated that he appeared in AJS Grade III Examination in the year 2015, 2016, and 2018 but he could not qualify in viva-voce. In his last attempt, he again appeared in AJS Grade III and took part in the interview process on 29.01.2019 respectively. The result of which was declared on 6th February 2019, but unfortunately this time also he becomes unsuccessful in spite of getting 3rd highest mark in written examination. He was awarded only 28 marks out of 50 which fell short of 2 marks to become 60% of the total marks 50, though his interview was excellent. And surprisingly the marks given by the individual panel members to each individual candidates were not disclosed in the website rather average marks awarded by the three panellist members were uploaded in the website while declaring the result and the same was against the precedent of Gauhati High Court. It is also submitted that he filed an

application under RTI Act to know the marks awarded by the individual panel members to each individual candidate. But the same was denied by the Id. PIO. He has cited as many as 28 instances where the Gauhati High Court has disclosed the marks given by each panel member to each individual candidate. It is also submitted that the case laws cited by the respondent PIO would not help him; rather the same vindicates his (appellant's) right. He therefore, prayed for allowing his appeal.

7. Whereas, the Id. PIO has submitted that he has discharged his obligation under the RTI Act effectively by furnishing a copy of the result sheet, comprising of the final rank wise marks statement of the candidates, who appeared in the main written examination and viva-voce of the AJS Grade-III Examination-2018, showing Roll numbers/genders/social status/ paper wise marks obtained in the main written examination along with average marks obtained in interview and the total marks obtained (written +viva voce). It is also submitted that the result sheet is available in the public domain also. The Id. PIO also submitted there is no merit in the appeal and he referred four case laws:- (i) Shri Buddhiswar Naskar Vs. Central Public Information Officer, Syndicate Bank, No. CIC/SH/C/2016/000093, (ii) Shri Akhilesh Kumar Tiwari Vs. IOCL, Bhopal No. CIC/LS/A/2012/902738 (iii) CIC/WB/A/2011/000270/SG (iv) UPSC Vs. Mahesh Mangalat, Writ Petition No. 7431/2011 of Delhi High Court and (iv) Bihar Public Service Commission (Appellant) Versus Saiyed Hussain Abbas Rizwi & Anr. (Respondents), CIVIL APPEAL NO.9052 OF 2012 (Arising out of SLP (C) No. 20217 of 2011), in support of his submission.

Decision and reasons thereof:-

8. I have gone through the appeal and the documents enclosed therewith carefully. Also I have gone through the written submission of the appellant. And also I have gone through the case laws referred during hearing. It appears from the record that the learned PIO has replied that the final rank wise marks statement of the candidates, who appeared in the main written examination and viva- voce of the AJS Grade-III Examination-2018, showing Roll numbers/genders/social status/ paper wise marks obtained in the main written examination along with average marks obtained in interview and the total marks obtained (written +viva voce), is published in the official website of the Gauhati High Court at www.ghconline.gov.in. The Id. PIO also replied that information regarding disclosure of name of individual candidates, marks obtained by them in individual papers, marks awarded by individual interview panel members to them and also the name of interview panel members and the marks awarded by them to each individual candidate, is under consideration of the appropriate authority looking after recruitment of Judicial Officers. The decision of the said appropriate authority, if any, shall be communicated to you in due course. The Id. PIO also



enclosed a copy of said published result with the reply. But the appellant has preferred the appeal assuming that the sought for information was denied to him.

9. Now, the point to be decided here is whether the PIO is under obligation to provide the required information i.e. the marks awarded to each individual candidate by the individual panel members of the interview board, while the average marks obtained in interview and the total marks obtained (written +viva voce), by the appellant is made available in the official website of the Gauhati High Court.

10. Section 8 (1) (g) of the RTI Act is relevant in this regard. To deal with the controversy at hand in a better way let the provision of Section 8(1) (g) of the Act be discussed. Section 8 of the RTI Act read as under:-

"8. Exemption from disclosure of information -- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

11. While dealing with the scope of section 8 (1)(g) of the RTI Act, Hon'ble Supreme Court in **CIVIL APPEAL NO.9052 OF 2012 (Arising out of SLP (C) No.20217 of 2011) Bihar Public Service Commission (Appellant) Versus Saiyed Hussain Abbas Rizwi & Anr. (Respondents)**, in para 29 of the Judgment observed as under:-

"29. Now, the ancillary question that arises is as to the consequences that the interviewers or the members of the interview board would be exposed to in the event their names and addresses or individual marks given by them are directed to be disclosed. Firstly, the members of the Board are likely to be exposed to danger to their lives or physical safety. Secondly, it will hamper effective performance and discharge of their duties as examiners. This is the information available with the examining body in confidence with the interviewers. Declaration of collective marks to the candidate is one thing and that, in fact, has been permitted by the authorities as well as the High Court. We see no error of jurisdiction or reasoning in this regard. But direction to furnish the names and addresses of the interviewers would certainly be opposed to the very spirit of Section 8(1) (g) of the Act....."

12. In the instant case the PIO has enclosed a copy of the result, so published in the website of the Gauhati High Court, in his reply to the appellant, which contains average

marks obtained in interview and the total marks obtained (written +viva voce), by the appellant and other candidates. Now it is available in the public domain. The obligation of the PIO, under the RTI Act, thus stood discharged. In view of the observation of the Hon'ble Supreme Court, in the above discussed case, the marks given by the individual panel members of the interview board to each individual candidate cannot be furnished to the appellant as the same is against the very spirit of Section 8(1) (g) of the RTI Act, as it will exposes the members of the board to danger of their life or physical safety and also the same will stand in the way of effective performance as examiner and discharge of their duty.

13. It is, of course, a fact that on previous occasions the marks given by the individual panel members of the interview board to each of the candidate have been uploaded in the website. The appellant has rightly pointed this out in the written argument. But, earlier instance cannot be a ground for the PIO to provide the marks given by the individual panel members of the interview board to each individual candidate to the appellant while it is expressly barred by Section 8(1) (g) of the RTI Act.

14. I have gone through the other four case laws referred by the Id. PIO and detail discussion of the same is found to be unwarranted as the ratio laid down by the Hon'ble Supreme Court in SLP (C) No.20217 of 2011 aptly covered the present case.

15. In the result, the appeal is found to be bereft of merit, and accordingly the same stands dismissed. Let this order be communicated to the appellant as well as the PIO, Gauhati High Court.


11-06-19
**Registrar General
-cum-
Appellate Authority**