

Central Information Commission, New Delhi
File Nos.CIC/SM/A/2012/000081, 417, 418 & 419
Right to Information Act-2005-Under Section (19)

Date of hearing : **5 October 2012**

Date of decision : **5 October 2012**

Name of the Appellant : **Shri Partha Mandal,
C/o. Chittaranjan Kumar,
3/35, First Floor, Roop Nagar,
Delhi – 110 007.**

Name of the Public Authority : **CPIO, Union Public Service Commission,
(Sangh Lok Seva Ayog), Dholpur House,
Shahjahan Road, New Delhi – 110 069.**

The Appellant was present in person.

On behalf of the Respondent, the following were present:-

- (i) Dr. Kulbir Singh, JD & CPIO
- (ii) Shri N.P. Singh, Assistant

Chief Information Commissioner : **Shri Satyananda Mishra**

2. All the parties were present during the hearing and made their submissions.

3. The Appellant submitted at the outset that in addition to the present second appeal, he had filed three others exactly on the same subject and he would like the CIC to club all the four cases together and pass a single order. We think that this is a very just and fair request and, therefore, we would like to

pass an order covering all the four cases.

4. In all his RTI applications, he has sought similar information concerning the Civil Services Main examination from 2006 to 2011. The desired information concerns the evaluated answer sheets containing both the raw and the scaled up marks after moderation. In all these cases, the CPIO had refused to disclose the information on one or the other ground. The Appellate Authority had, by and large, endorsed the denial of information by the CPIO.

5. During the hearing, the Appellant strongly objected to the continued denial of such information by the UPSC. He pointed out that the UPSC had been employing a well coordinated tactics to refuse such information to the information seekers, first by denying the information on the ground that the examination process was not yet over, secondly by stating that the desired information was exempt under one or the other provision of the Right to Information (RTI) Act and finally, on the ground that the desired information had already been destroyed as per the record retention schedule. He further submitted that he and some others had approached the High Court against the UPSC in such matters and that the High Court had very clearly held that the raw marks as well as the scaled up marks must be disclosed. In spite of that, he submitted, the CPIO recently informed him that the evaluated answer sheets had since been weeded out and that no such information was any longer in existence. We, however, would like the CPIO to verify the records once again and to find out if the desired information or at least part of it is still available anywhere in the UPSC and, if it is found, he shall provide the desired information to the Appellant within 15 working days of receiving this order. In case, after renewed search, the desired records are not found to be in

existence, he shall inform the Appellant suitably.

6. The Respondents reiterated the response of the CPIO on the weeding out of the relevant records. Since the Appellant and many others had been contesting cases in the Supreme Court and various High Courts, it is unusual for the UPSC to weed out the relevant records. However, if the public authority does not any longer possess the relevant records, there is no way those can be produced. This brings us to a very peculiar situation. After a long battle for seeking such information, the Appellant and probably many others come to a situation where the information they have all along been seeking is no longer in existence. In order to avoid such a situation, at least in those cases where RTI applications have been filed before the UPSC, the records pertaining to those information seekers should be retained till the entire Appellant process is complete even if it would mean exceeding the period prescribed in the retention schedule. We would like the CPIO to place our observations before the competent authority in the Commission to pass appropriate instructions to all concerned in this regard.

7. All the four second appeals are disposed off accordingly.

8. Copies of this order be given free of cost to the parties.

(Satyananda Mishra)
Chief Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Vijay Bhalla)
Deputy Registrar