

CENTRAL INFORMATION COMMISSION
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Decision No. CIC/SM/A/2011/001455/SG/15158
Appeal No. CIC/SM/A/2011/001455/SG

Relevant facts emerging from the Appeal:

Appellant : Mr. Ashwani Kumar Avasthi,
H.N.1/307, Govind Nagar, Gali No. 3,
Sanjay Gandhi Colony,
Near Etah Chungi, G.T. Road,
Aligarh(U.P.)-202001

Respondent : Mr. Uday Kumar
PIO & DGM
Vijaya Bank,
Head Office: 41/2,
M.G. Road,
Bangaluru-560001

RTI application filed on : 03/03/2011
PIO replied on : 11/04/2011
First Appeal filed on : 13/04/2011
First Appellate Authority order on : 26/04/2011
Second Appeal received on : 18/05/2011

Q.No	Query	Reply of PIO
1.	Please provide the information about objective test(subject wise)wise marks obtained by Appellant in the said written test held on 12.12.2010.	Concerned PIO replied by sending the mark sheet of the objective test to the Appellant.
2	Please provide the certified photocopy from both sides of O.M.R. answer sheet submitted by Appellant in the said written test held on 12.12.2010.	Concerned PIO replied that the O.M.R. and answer key are not in the possession of the Bank. In view of the above, we are unable to provide the said information.
3	Please provide the certified photocopies of every page from both sides written test held on 12.12.2010.	Same as (2).
4	Please provide the certified copy of the correct answer key of my question booklet which was submitted by Appellant in the said written test held on 12.12.2010.	Same as (2).
5	Please provide the cut-off marks of every category.	Concerned PIO replied that the cut off marks for the candidates to be called for interview is clearly mentioned in the vacancy notification.

Grounds for the First Appeal:

Reply of the PIO was dissatisfactory.

Order of the First Appellate Authority (FAA):

The FAA ordered that the recruiting agency engaged by the Bank for recruitment of Probationary Assistant Manager is not a Public Authority Manager is not a Public Authority; therefore your application has not been transferred by the Bank to the said agency.

Ground of the Second Appeal:

Information furnished by the FAA, was vague and not satisfactory.

Relevant Facts emerging during Hearing:

The following were present

Appellant : Absent;

Respondent : Mr. Uday Kumar, PIO & DGM on video conference from NIC-Bengaluru Studio;

The respondent states that the answersheets are held by another body IBPS which conducts the exam on behalf of the Bank. Section 2(f) of the RTI Act defines, “*information*” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;”. It is natural that if any other body is given the job to conduct examinations it must be in complete control of the Public Authority. If a Government organization claims that the selection exams are conducted by a private body and it cannot access the information, this would be an unacceptable situation. By such logic public authorities may decide to outsource their purchasing and various functions and then claim that the information available with such sources is not available under RTI since it not under their control. The Commission directs the PIO to use the full force of the law and obtain the information which has been sought by the Appellant. In case the examining body refuses to part with the information the Commission recommends that the Bank should consider either changing the examining body or ensuring it is able to access all information with respect to the examination from any body to whom it contracts examinations. This recommendation is being made by the Commission under its powers under Section 25(5) of the RTI Act.

Decision:

The Appeal is allowed.

The PIO is directed to provide the information sought by the Appellant after obtaining it before 10 November 2011. If IBPS refuses to provide such information the Commission recommends to the Chairman of the Bank to devise methods whereby information should be made available to the Citizens in matters of selection examinations for staff.

This decision is announced in open chamber.

Notice of this decision be given free of cost to the parties.

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
12 October 2011

(In any correspondence on this decision, mention the complete decision number.) (ved)