

State Information Commission
Himachal Pradesh

From:	
To:	

Handwritten: HWS 5/5/2016

The Registrar,
State Information Commission,
Majitha House, Shimla-2, H.P.

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To

1. Shri Piyush, BT 4020605,
B.Tech. Mech. Eng.
Student Rajiv Gandhi
Govt. Engg. College,
Nagrota Bagwan,
Distt. Kangra, HP-176047
2. ✓ PIO-cum-Assistant Controller,
HP Technical University,
Hamirpur,
Distt. Hamirpur, HP

Dated: Shimla-171002,

the Dated:

25-04-2016

Subject: Appeal filed by Shri Piyush, BT 4020605, B.Tech. Mech. Eng. Student
Rajiv Gandhi Govt. Engg. College, Nagrota Bagwan, Distt. Kangra,
HP-176047

Sir,

I am directed to enclose herewith the certified copy of order passed on
12.04.2016 by the Hon'ble State Information Commissioner, Himachal Pradesh in Appeal
No.0501/2015-16 filed by Shri Piyush, for information.

smt Himocholi Devi
Supply photocopy of the judgment
to all branches for information
plc.

AB
2-5-16.

Yours faithfully,

(Sanjay Sehgal)
Assistant Registrar,
State Information Commission,
Shimla-2, H.P.

Encl: 1. As above.

STATE INFORMATION COMMISSION
HIMACHAL PRADESH,
MAJITHA HOUSE, SHIMLA-2



Before: Sh. K.D. Batish, SIC

Dates of Institution: 05-01-2016
Date of Decision: 12-04-2016

Appeal No. 0501/15-16

Appellant: Shri Piyush, BT 4020605, B.Tech.
Mech. Eng. Student Rajiv Gandhi
Govt. Engg. College, Nagrota Bagwan,
Distt. Kangra, HP-176047

Absent

Vs

Respondent: PIO-cum-Assistant Controller,
HP Technical University, Hamirpur,
Distt. Hamirpur, HP

Present

Whether the judgment is approved for reporting?

Yes

ORDER

This is second appeal filed by the appellant on 5-1-2016. The P.I.O is present and has filed reply to the notice. The appellant has informed that he did not receive the notice from the Commission. He has made a request to decide the matter on the basis of record.

The appellant is a student of Rajiv Gandhi Govt. Engineering College-Kangra at Nagrota-Bangwa. He filed an R.T.I application on 22-8-2015. The subject of the application is:-

"Subject: Inspection and subsequent copy of final evaluated answer sheet for Roll No 8T4020605 under R.T.I Act.

I would like to state that I want to inspect my evaluated answer sheets of end semester examination held in June 2015 of 2nd semester, Mechanical Engineering for the following subjects:-

1. Engg. Mathematics-II
2. Basic Mechanical Engg.
3. C.P.S.E
4. Engg. Physics

You are requested to provide me with a suitable date as per R.T.I Act, 2005 and in compliance with Supreme Court judgment "

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State Information Commission
Himachal Pradesh, Shimla - 2

The P.I.O informed the applicant on 24-8-2015 that the provision to see an answer booklet already existed in the ordinance by depositing ₹ 1000/- per paper with the university in the prescribed period. As per the ordinance "if a candidate feels that his script has not been fairly evaluated he may apply for Re-checking /Re-evaluation within 21 days from the date of the declaration of the general result alongwith the prescribed fee."

Not satisfied with the reply the applicant filed first appeal which was fixed for 22-9-2015. The First Appellate Authority dismissed the appeal on the ground that H.P. Technical University has notified that certain information/documents was not to be disclosed to the general public under R.T.I Act, 2005. The information/document has been mentioned in the said notification. At point no six of said notification, the following is mentioned:-

(vi) "Photocopy and inspection of the Answer Booklets, as the provision to see Answer Booklet already exists."

It is clear from the order of First Appellate Authority that the provision to see the answer booklets is already existing and students have been using this since the inception of university.

The appellant has made detailed submissions in his second appeal and has referred to section 22 of the R.T.I Act and judgment of Hon'ble Supreme Court in the matter of "ICAI V/s SHAUNAK H. SATYA."

The appellant has also referred to a judgment of Central Information Commission in the matter of "Dr. A. Arun Thamburaj V/s CPIO, Union Public Service." A reference has also been made to the judgment of Supreme Court in the matter of "CBSE Vs Aditya Bandhopadhay."

The authorities relied upon by the appellant are not relevant in the present case. In the case of CBSE, the examinee applied for inspection and re-evaluation of his answer book. The CBSE Board rejected the said application. In the present case, the H.P. Technical University has a special provision for inspection and re-evaluation of answer booklet. The result of examination is conveyed to the examinee. He can inspect the evaluated answer

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sheet and apply for re-evaluation if he is not satisfied with the evaluation, within 21 days of the declaration of the result. It cannot be said that HP Technical University, does not maintain transparency in the examination. The provisions made by the university have force of law. It is special law made for the students who take the examination. R.T.I Act is a general law which provides for getting information from public authorities subject to certain exemption and restrictions. The special law is available to students and it is not required that the students should be citizens of India. R.T.I Act is available to the citizens of India only.

According to section 22 of R.T.I Act, the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. It cannot be said that the provisions for inspection and re-evaluation made by the HP Technical University are inconsistent with the R.T.I Act. When the Legislature has given its attention to a separate subject, and made provision for it, the presumption is that a subsequent general enactment is not intended to interfere with the special provision unless it manifests that intention very clearly. Each enactment must be construed in that respect according to its own subject-matter and its own terms. A general later law does not abrogate an earlier special one. It is presumed to have only general cases in view, and not particular cases, which have been already provided for by a special or local Act, or, what is the same thing, by custom. Having already given its attention to the particular subject, and provided for it, the legislature is reasonably presumed not to intend to alter that special provision by a subsequent general enactment, unless it manifests that intention in explicit language. Where there is a conflict between a special Act and a general Act, the provisions of the special Act prevail.

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It should also be noticed that the present R.T.I application has no relationship to accountability or corruption of any kind. The Hon'ble Supreme Court has also held in the matter of "ICAI V/s SHAUNAK H. SATYA" as under:-

"Para. 39. We however agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Sections 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the R.T.I Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions effecting other public interests, which include efficient operation of public authorities and the Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources."

In view of the observations made above, there is no merit in this second appeal and it is accordingly dismissed.

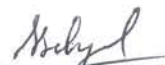
Announced.



(K.D. Batish)
State Information Commissioner,
Himachal Pradesh, Shimla.

Place. Shimla
Dated: 12-04-2016

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Himachal Pradesh, Shimla - 2