
(2016) 02 KL CK 0082

In the High Court Of Kerala

Case No : W.A. Nos. 1145, 1296, 1328, 1606, 1609, 1801, 1802, 1804, 1859
and 2018 of 2015

Muhammed Siyad P.A. and Others

APPELLANT

Vs

Sreejith Appu and Others

RESPONDENT

Date of Decision : 15-02-2016

Acts Referred:

Right to Information Act, 2005 — Section 2, Section 2(f), Section 2(i), Section 2(j),
Section 20, Section 3, Section 7, Section 8

Citation : (2016) 1 KerLJ 819 : (2016) 3 KHC 233

Hon'ble Judges : Ashok Bhushan, C.J. and A.M. Shaffique, J.

Bench : Division Bench

Advocate : P.B. Krishnan, Sabu George, P.B. Subramanyan, P.M. Neelakandan
and S. Nithin, Advocates, for the Appellant; S.P. Aravindakshan Pillay, N. Santha,
K.A. Balan, Peter Jose Christo and S.A. Anand, Advocates, for the Respondent

Final Decision : Allowed

Judgement

A.M. Shaffique, J.—1. These appeals are filed against common judgment dated 18/3/2015 in a batch of writ petitions. By the aforesaid judgment, the learned Single Judge directed the Kerala Public Service Commission (for short KPSC) to advise 394 vacancies reported by the Kerala State Electricity Board (for short KSEB) based on interim orders passed by the Court, taking into account the ranking positions of the respective candidates and observing the rules of reservation and communal rotation. The appeals have been filed by the KSEB and its officers as well as third parties seeking leave of this Court.

2. Facts of the case as disclosed in WP(C) No. 29942/13 against which WA No. 1606/2015 has been filed are:

"Petitioner claimed that he is included as rank No. 5 in the supplementary list for Viswakarma community in the ranked list published by the KPSC for the post of Assistant Engineer (Electrical) in the KSEB. The rank list was to expire on 15/12/2013. According to the petitioner, large number of vacancies were

available in the KSEB with reference to the aforesaid post. However, only very few candidates have so far been advised and appointed from the ranked list. Petitioner in paragraph 5 of the writ petition refers to the number of vacancies available in each circle of KSEB and therefore according to the petitioner, 585 vacancies were available to be reported. It is alleged that large number of persons are employed on contract basis in various sub stations of the KSEB and despite such vacancies being available, no action is being taken to report those vacancies to KPSC. It is also contended that by virtue of Ext. P30, 92 Assistant Engineers (Electrical) were promoted to the category of Assistant Executive Engineer as per Board order dated 4/8/2012 and the said vacancies are required to be filled up in public interest. It is alleged that since the Board has not taken any steps to report such vacancies, the petitioner had approached this Court seeking for a direction to the KSEB and the Chief Engineer (HRM) to report all the existing vacancies before the expiry of the ranked list including all anticipated vacancies and for a direction to KPSC to forthwith advise such candidates. In fact, the petitioner relied upon the information received from various circle offices under the Right to Information Act (hereinafter referred as the RTI Act) to contend that there were 585 vacancies in different transmission circles of the Board during the relevant time."

3. Counter affidavit has been filed on behalf of the 2nd respondent inter alia stating that the post of Assistant Engineer is filled up in the ratio 1:4:3:2 between appointment by transfer from among Board employees having B.Tech Degree, appointment by direct recruitment through KPSC from open market, appointment by promotion from among Diploma holding Sub Engineers and appointment by promotion from among ITI Certificate holding Sub Engineers. It is therefore stated that out of the total cadre strength in the post of Assistant Engineer (Electrical), only 40% is set apart for direct recruitment through KPSC. At present, the sanctioned strength of Assistant Engineer (Electrical) of KSEB is 2265 out of which the 40% quota would be 906. It is stated that 550 appointments were made from the existing rank list of Assistant Engineer through KPSC. It is also stated that all the vacancies which had arisen in the 40% quota had already been reported and upon advice, they were given appointment by the Board. It is also stated that if any vacancy of Assistant Engineer under the 40% quota arises during the currency of the ranked list, the same will be reported to KPSC. Details of the sanctioned strength, the quota available for direct recruitment and other particulars have also been given. It is stated that though by virtue of interim orders issued by this Court, the 2nd respondent has reported 180 vacancies provisionally on condition that KPSC shall not advise those candidates, it is stated that in the absence of sanctioned cadre strength available for advising any of those candidates, it is not possible for KSEB to absorb any other person. In WP(C) No. 34684/2010, an additional statement has been filed on 21/12/2011 stating that the sanctioned strength of 40% direct recruitment quota was 906 and the working strength against the said quota was 945. Further 21 vacancies were reported to KPSC as NJD since the number of

persons actually working in the quota far exceeded the sanctioned strength. With reference to Board order dated 26/02/2011, it was indicated that Board envisaged upgradation of 167 posts of Assistant Engineers in various offices in KSEB to the cadre of Assistant Executive Engineer after obtaining sanction from the Government. It is stated that in case sanction is obtained from Government to proceed in terms of the said Board order, it would result in reduction of 167 posts of Assistant Engineer (Electrical) in the total cadre strength and so much post would be upgraded as Assistant Engineer (Electrical) which does not add to the total sanctioned strength in the cadre whereas it reduces the sanctioned strength.

4. The learned Single Judge after elaborately considering the matter formed an opinion that from the information received under the RTI Act, it was evident that there were sufficient posts in the said cadre which were not reported. It is observed that though it was contended on behalf of the KSEB that the information received cannot be taken into consideration as it is for the Chief Engineer (HRM) to decide on the availability of vacancies in the cadre strength, especially with reference to the 40% quota, the learned Single Judge did not agree with the same. It was found that new offices were opened, which requires new posts to be created, there was promotion effected at least with reference to 23 posts in the cadre of Assistant Executive Engineer as a result of re-designation and 69 posts of promotions were effected and certain documents indicate that 92 candidates were promoted to the post of Assistant Executive Engineer. It was therefore found that the available vacancies were not reported by the KSEB and accordingly the learned Single Judge proceeded to issue the directions as stated above.

5. Sri. Raju Joseph, learned senior counsel appearing on behalf of the KSEB submitted that the learned Single Judge has committed serious error of law in arriving at a conclusion that there are several vacancies in the said cadre. It is argued that the main reason for arriving at the existence of vacancies is based on information received from various circle offices of the KSEB regarding the vacancies to the post of Assistant Engineer (Electrical). It is argued that none of the information that has been obtained are correct informations with reference to the 40% vacancies under the direct recruitment quota. Such materials are available only with the Chief Engineer (HRM) and none of the parties have sought for any information from the said authority. It is also argued that no records are being maintained in the transmission circles with reference to the vacancy position on quota basis and therefore, whatever information received by the petitioners from the various transmission circles should not have been relied upon by the learned Single Judge. It is stated that out of the ranked list, about 766 persons have already been appointed and the details of which have been clearly mentioned in ground (J) of the memorandum of appeal. Learned counsel Sri. P.B. Krishnan appearing on behalf of the 3rd party appellants in Writ Appeal No. 1145/15 submitted that as the ranked list have been expired as on 31/12/2013, it cannot be permitted to remain in force as it will affect the interest

of candidates who had already applied on the basis of the notification issued by the KPSC. Learned counsel Sri. P.M. Pareeth appearing on behalf of the 3rd party appellants in WA No. 1328/15 also supported the stand taken by the KSEB. It is argued that the direction of the learned Single Judge to advise 394 candidates from Ext. P1 rank list is unworkable and therefore the said judgment is liable to be set aside. Sri. P.C. Sadidharan, learned Standing counsel appearing on behalf of KPSC submitted that the KPSC has advised candidates to those vacancies which were already reported and after expiry of the ranked list, steps had been taken for fresh recruitment. However, no advice was made based on the vacancies reported as per interim orders. It is stated that recruitment to KSEB is an on going process and at all times when vacancies are reported, KPSC should have a list of selected candidates for being advised and therefore after expiry of the present rank list, fresh notification has been issued and the preparation of select list is going on. He also relied upon the judgment in Public Service Commission v. PYLO (1986 KLT 46).

6. On the other hand, Sri. Kaleeswaram Raj, learned counsel appearing on behalf of the respondents in WA No. 1801/2015 submitted that the figures given by the Board were absolutely baseless. He strongly relied upon the information received under the RTI Act, and contended that the said documents have evidentiary value and cannot be discarded easily. The learned Single Judge had come to the conclusion that there were 394 vacancies based on the information so received which cannot be doubted at all and the Board is estopped from taking a different view from what has been stated in the documents produced by the petitioners. It is further argued that even based on certain materials available, it could be seen that the total number of vacancies available in the post of Assistant Engineer (Electrical) would come to 2859 and after subtracting certain overlapping number of vacancies, it would come to 1728 and when 40% of 1728 is taken, definitely it will be more than the number of vacancies as specified by the learned Single Judge. He also relied upon the judgment of the Supreme Court in Pratima Chowdhury v. Kalpana Mukherjee [, (2014) 4 SCC 196] in order to bring home the proposition of estoppel. Para 37 is relevant, which reads as under:

"37. Insofar as the instant aspect of the matter is concerned, the legal position declared by this Court fully supports the conclusion drawn by us hereinabove. In this behalf, reference may be made, firstly, to the judgment rendered by this Court in Kasinka Trading v. Union of India, wherein this Court noticed as under: (SCC p. 283, para 11)

"11. The doctrine of promissory estoppel or equitable estoppel is well established in the administrative law of the country. To put it simply, the doctrine represents a principle evolved by equity to avoid injustice. The basis of the doctrine is that where any party has by his word or conduct made to the other party an unequivocal promise or representation by word or conduct, which is intended to create legal relations or effect a legal relationship to arise in the future, knowing as well as intending that the representation, assurance or the promise would be

acted upon by the other party to whom it has been made and has in fact been so acted upon by the other party, the promise, assurance or representation should be binding on the party making it and that party should not be permitted to go back upon it, if it would be inequitable to allow him to do so, having regard to the dealings, which have taken place or are intended to take place between the parties."

(emphasis supplied)

Another judgment relied upon is *Asha Kaul v. State of Jammu and Kashmir* [, (1993) 2 SCC 573]. Para 8 is relevant, which reads as under:

"8. It is true that mere inclusion in the select list does not confer upon the candidates included therein an indefeasible right to appointment (*State of Haryana v. Subhash Chander Marwaha*; *Mani Subrat Jain v. State of Haryana*; *State of Kerala v. A. Lakshmikutty*) but that is only one aspect of the matter. The other aspect is the obligation of the Government to act fairly. The whole exercise cannot be reduced to a farce. Having sent a requisition/request to the Commission to select a particular number of candidates for a particular category, - in pursuance of which the Commission issues a notification, holds a written test, conducts interviews, prepares a select list and then communicates to the Government - the Government cannot quietly and without good and valid reasons nullify the whole exercise and tell the candidates when they complain that they have no legal right to appointment. We do not think that any Government can adopt such a stand with any justification today. This aspect has been dealt with by a Constitution Bench of this Court in *Shankarsan Dash v. Union of India* where the earlier decisions of this Court are also noted. The following observations of the Court are apposite: (SCC pp. 50-51, para 7) "It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in *State of Haryana v. Subhash Chander Marwaha*, *Neelima Shangla v. State of Haryana* or *Jatendra Kumar v. State of Punjab*."

Learned counsel Sri. Sasikumar appearing on behalf of the party respondents in WA No. 1296/15 also supported the stand taken in the matter and submitted that the information received under the RTI Act cannot be rejected merely on the

ground that the information is incorrect. It shall not be open to the Board to contend that such information is incorrect and cannot be relied upon at all. Sri. Dinesh, learned counsel appearing on behalf of the 1st respondent in WA No. 1802/15 made submissions supporting the judgment of the learned Single Judge. He also relied upon the judgment of the Supreme Court in K.Jayamohan v. State of Kerala [, (1997) 5 SCC 170]. Para 5 is relevant, which reads as under:

"5. It is settled legal position that merely because a candidate is selected and kept in the waiting list, he does not acquire any absolute right to appointment. It is open to the Government to make the appointment or not. Even if there is any vacancy, it is not incumbent upon the Government to fill up the same. But the appointing authority must give reasonable explanation for non-appointment. Equally, the Public Service Commission/recruitment agency shall prepare a waiting list only to the extent of anticipated vacancies. In view of the above settled legal position, no error is found in the judgment of the High Court warranting interference."

Smt. Renu, learned counsel appearing on behalf of the respondent in WA No. 1804/15 also supported the stand taken in the matter. Sri. George Varghese, learned counsel appearing for the 1st respondent in WA No. 1859/2015 also supported the over all view taken on behalf of the respondent and contended that RTI Act contains a penal provision for giving false information or misleading information. Sri. Kaleeswaram Raj, learned counsel relied upon Ext. P12 produced along with IA No. 14225/2011 which is a document submitted by the KSEB to the Regulatory Commission. It shows the cadre strength of various officers in the year 2008 and 2009. It is submitted that in Sl. No. 7 containing the category of employees as Assistant Engineers or equivalent, the total sanctioned post is 3632 whereas those working is 2847. On this basis it is contended that the total cadre strength as contended by the KSEB was totally incorrect. That apart, several posts were created by the Board as per Exts.P9 and P10 as well. Therefore, according to the learned counsel, there are 1367 posts in addition to 2265 as per the cadre strength, and 40% of which would come to 547. This, according to the learned counsel, clearly demonstrates the fact that the learned Single Judge had not committed any error in relying upon the information received under the RTI Act. On a mere perusal of Ext. P12, it is evident that the number given for sanctioned strength for 2008-09 is with reference to "Assistant Engineers or equivalent". We are concerned with the cadre strength of Assistant Engineer (Electrical), which is not separately shown in the said document. Hence the above contention cannot support the stand taken by the writ petitioners.

7. Having regard to the aforesaid factual situation, the short question to be considered is whether the learned Single Judge was justified in relying upon the information received under the RTI Act for arriving at a conclusion that there are sufficient number of vacancies which were not reported during the currency of the rank list. First of all, a perusal of the information received under the RTI Act

which forms part of the writ petitions are information received from various sub stations/circle offices of the KSEB. According to KSEB, the said information is not correct as the quota wise vacancy position is available only with the Chief Engineer (HRM).

8. Before proceeding further, it will be useful to refer to certain provisions of the RTI Act. Sections 2(f), 2(i) and 2(j) of the RTI Act read as under:

"Sec. 2(f) "Information" means any material in any form, including records, documents, memos, emails, 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;"

"Sec. 2(i) "Record" includes

- (a) any document, manuscript and file;
- (b) any microfilm, microfiche and facsimile copy of a document;
- (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- (d) any other material produced by a computer or any other device;"

"Sec. 2(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;"

The Supreme Court in Central Board of Secondary Education and another v. Aditya Bandopadhyay and Others [, (2011) 8 SCC 497] held at para 63 as under:

"63. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of "information" and "right to information" under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or

regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide "advice" or "opinion" to an applicant, nor required to obtain and furnish any "opinion" or "advice" to an applicant. The reference to "opinion" or "advice" in the definition of "information" in Section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

It is therefore clear that though RTI Act provides access to all information that is available and existing, if the information sought is not a part of the record, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast any obligation, to collect such non-available information and then furnish it to an applicant. The Information Officer is also not required to furnish information which require drawing of inferences and/or making of assumptions.

9. Now we shall refer to the information sought from the Public Information Officer. In WP(C) No. 34684/2010 from which WA No. 1801/15 has arisen, Ext. P2 series are the questionnaires and Ext. P3 series are the respective information received under the RTI Act. Ext. P2 dated 22/2/2010 are the questions on which information is sought from the Executive Engineer, Transmission Division, KSEB. The questions asked are as under:

"(1) The number of sub-stations (220KV/110KV/66KV) under your control.

(2) The Total Number of sanctioned posts of Assistant Engineers(Electrical)/Operators/Shift Duty Engineers/equivalent posts in each substation (sub-station-war details):

(3) Number of KSE Board's Assistant Engineers (Electrical)/Operators/Shift Duty Engineers are working against such posts (sub-station-war details):

(4) Number of persons other than KSE Board's Assistant Engineers (Electrical)Operators are working on labour supply contract basis (substation-war details):

(5) Number of open vacancies of Assistant Engineers(Electrical) (sub-station-war details):

(6) Total Vacant places of Assistant Engineers (items 4+5)."

10. In the case on hand, the question is whether the information which were given to the petitioners were actually available with the respective Officers of KSEB. A perusal of the request for information indicates that the petitioners wanted to know the vacancy position of Assistant Engineer (Electrical). No one

has sought for any information with reference to the vacancies in regard to the 40% quota. Apparently, such details were not available in the said offices and the concerned Public Information Officers could not have given such information. It cannot be disputed that the Chief Engineer (HRM) is the competent authority to provide data relating to the cadre strength in the Electrical Division especially Assistant Engineer (Electrical) and the 40% quota of the sanctioned cadre strength. When the said authority has in categorical terms indicated that the total quota available for 40% direct recruitment is only 906 and against the said sanctioned strength, 966 persons were working when the ranked list expired on 15/12/2013 and that 766 persons were already appointed from the said ranked list, we do not think that the learned Single Judge was justified in relying upon the information received under the RTI Act, which was only a partial information and had no relevance to the 40% direct recruitment quota. That apart, the question by itself does not give any indication that the request is for considering the vacancy position in respect of the 40% quota available for direct recruitment. For that reason itself, the answers given have no relevance to the subject matter in issue. Hence we are unable to accept the contention that the information now produced from various Circle Offices amounts to correct information regarding the cadre strength and the available vacancies in regard to the 40% quota of Assistant Engineers (Electrical).

11. Writ petitions were filed on the allegation that no steps were being taken for reporting the vacancies. The reliefs sought for in WP(C) No. 34684/10 are as under:

"(ia) to declare that the cadre strength of Assistant Engineer in KSE is not 2265 as claimed by the Board and it is above 4000.

(ib) to declare that the fixation of cadre strength by the Board as 2265 is not on the basis of any legally sustainable order or statutory rule.

(i) to issue a writ of mandamus directing the respondents 1 and 2 to report 1216 substantive vacancies of Assistant Engineer (Electrical) to the 3rd respondent.

(ii) to issue a writ of mandamus directing the 3rd respondent to advise the candidates from Ext. P1 ranked list against the vacancies so reported.

(iii) to issue a writ of mandamus directing the 2nd respondent to appoint the candidates so advised."

As already stated, there is no material to arrive at a conclusion that the cadre strength of Assistant Engineer (Electrical) in KSEB is 4000 as claimed. Materials placed on record by KSEB clearly indicate that the cadre strength is 2265 and out of which the 40% quota would be 906. The information received therefore has no relevance to the subject matter in issue and it is not possible for this Court to rely upon unsubstantiated materials to arrive at a conclusion regarding the cadre strength of Assistant Engineer (Electrical) and the vacancy position with reference to the direct recruitment quota.

12. It is argued on behalf of the respondents that Section 20 of the RTI Act provides for imposing penalty on Public Information officers in giving wrong, incomplete or misleading information. Section 20 reads as under:

"Sec. 20: Penalties

(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-sec. (1) of Sec. 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-sec. (1) of Sec. 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him."

We are not considering the question regarding penalty to be imposed on a Public Information Officer. When the petitioners have produced certain materials regarding the vacancy position of Assistant Engineer (Electrical), KSEB has taken a contention that the said authorities did not have material to provide such information and therefore it was wrong and cannot be the basis for a decision by this Court. As already observed, an information is something which is in a material form. Here the question asked is to give the vacancy position of Assistant Engineer (Electrical). The person who asked the question is not asking

for a particular document or official document or material maintained by the department. The very scope of information as held by the Supreme Court in Central Board of Secondary Education (*supra*) is to seek the information which is available in a material form. As far as the KSEB is concerned, the materials regarding the vacancy in the 40% quota available to Assistant Engineer (Electrical) in regard to direct recruitment is available in the office of Chief Engineer (HRM). Therefore, it could be said that the petitioners have not approached the proper officer who has the relevant document for providing the information. They have only collected the vacancy position of Assistant Engineer (Electrical) from the sub offices of KSEB, and those Officers do not maintain any official document for the 40% quota. Therefore, we do not think that the learned Single Judge was justified in relying upon Ext. P3 series for the purpose of deciding the case.

13. One other contention taken is with reference to the principle of estoppel. The principle of estoppel cannot be made applicable to the facts of the present case as the right to information received by the petitioners have no clarity regarding the 40% quota and the attempt of the learned counsel for the petitioners is to derive a formula from the total number of vacancies that has been stated in the various information received. This, we do not think will be a correct approach to consider the actual vacancy position in regard to the 40% quota. Therefore, the principle of estoppel cannot be made applicable to the facts of the case.

14. There is no dispute about the fact that the inclusion in the select list does not confer upon the candidates any indefeasible right to appoint them. However, it is contended that the KSEB will have to justify their action for not effecting appointment. The said principle has been stated in *Asha Kaul (supra)* as well as *K. Jayamohan (supra)*. There is no doubt about the legal proposition emanating from the aforesaid judgments. Such an issue may arise only when available vacancies are not reported before expiry of the ranked list.

15. Learned Single Judge proceeded on the basis that interim orders were issued to report 430 vacancies with a direction not to advise those candidates and when it was mentioned that advice was given to 36 candidates by KPSC, direction was issued to fill up the 394 vacancies. The information under the RTI Act produced at best can only be treated as the vacancy position as understood by the respective officers and will not bind the appointing authority in any manner especially on account of the fact that the said officers do not maintain any document in material form to provide information regarding the vacancy position with reference to the respective cadre strength of Assistant Engineers (Electrical). Hence, we are of the view that the judgment of the learned Single Judge is liable to be set aside.

Accordingly, the writ appeals are allowed setting aside the judgment of the learned Single Judge and dismissing the writ petitions.

Parties shall bear their own costs.