
(2011) 07 DEL CK 0121
In the Delhi High Court
Case No : Writ Petition (C) 5289 of 2011

Neeraj Mehta

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 27-07-2011

Acts Referred:

Right to Information Act, 2005 — Section 24, 24(1)

Citation : (2011) 07 DEL CK 0121

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Raman Kapur, for the Appellant; Preeti Dalal, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The Petitioner claims to have, in pursuance to the advertisement issued by the Government of India (Cabinet Secretariat), applied for the post of Deputy Field Officer in Government of India Organization and claims to have appeared in the examination held on 15th October, 2000 for the said purpose. It is the case of the Petitioner that the result of the said examination was not declared and upon his making enquiry under the Right to Information Act, 2005 (RTI Act), the PIO, the First Appellate Authority as well as the Central Information Commission (CIC) have held that since the organization had been exempted u/s 24(1) of the RTI Act, the information could not be allowed. Aggrieved therefrom, the present petition has been filed.

2. The counsel for the Respondent appearing on advance notice has contended that the application under the RTI Act was highly belated having been made after nearly 10 years of the examination; that as per the terms of the advertisement in pursuance to which the Petitioner had applied, "only selected candidates" were to be "informed of their selection in due course after selection process" and no correspondence on the subject was entertainable. Attention is also invited to the Second Schedule to the RTI Act where the Research and Analysis Wing (RAW) of the Cabinet Secretariat has been included as exempted from the provisions of

the RTI Act.

3. Per contra, the counsel for the Petitioner has urged that unless transparency is maintained, possibility of malpractices in the selection process cannot be ruled out. It is thus contended that the Respondents were obliged to declare the comparative marks secured by each and every candidate who had appeared in the written test and without the same being declared, the Petitioner presumes that bias in selection has been practiced. Qua the objection as to delay, it is contended that the RTI Act provides for enquiry to be made within 20 years. It is also contended that the advertisement nowhere stated that the appointments were for Research and Analysis Wing of the Cabinet Secretariat.

4. The counsel for the Respondent has contended that the Petitioner in the petition has admitted that the appointment was for RAW.

5. I am of the view that once the advertisement in pursuance to which the Petitioner had applied, itself stated that only selected candidates would be informed of their selection and no correspondence will be entertained and the Petitioner had appeared and participated in the selection process on the said terms, the Petitioner is not entitled to now challenge the same. A catena of judgments in this regard was recently noticed in Vipul Bhole and Another Vs. The School of Planning and Architecture and Others, The principle laid down by the Division Bench of this Court in Rohit Kumar Vs. Delhi Subordinate Services Selection Board qua re-examination/re-evaluation that in the absence of a rule or regulation, the same cannot be permitted, would also squarely apply to such a clause also. Moreover, it is not controverted by the Petitioner that the appointments were for RAW, though undoubtedly the advertisement inviting applications did not state so but the PIO as well as the First Appellate Authority and CIC have consistently held so and the said part has not been controverted by the Petitioner. It is further the admitted position that to maintain secrecy and confidentiality, the admit cards earlier issued to the applicants were also taken back at the time of interview. I may also notice that the Division Bench of this Court recently in Esab India Limited Vs. Special Director of Enforcement and Another, has upheld the validity of Section 24 and Second Schedule of the RTI Act.

6. Once the Organization from which the reply/information was sought is exempted, no error can be found in the orders impugned.

7. The petition is dismissed.

No orders as to costs.