



Serial No.01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP (C) No.216/2018

Date of Order: 11.07.2018

Shri Mantiphrang Lyngdoh Kiri Vs. The Public Information Officer
(PIO), Meghalaya Energy
Corporation Limited (MeECL) &
ors

Coram:

Hon'ble Mr. Justice Mohammad Yaqoob Mir, Chief Justice

Appearance:

For the Petitioner/Appellant(s) : Mr. N Syngkon, Adv
For the Respondent(s) : Mr. N Mozika, Adv for R1, 3 & 4
Mr. K Khan, Sr.GA

i)	Whether approved for reporting in Law journals etc.:	Yes
ii)	Whether approved for publication in press:	Yes/No

1. The petitioner has prayed for mandamus so as to command the respondents to pay an amount of Rs.25,000/- as compensation after recovering the same as penalty from Public Information Officer under Section 20 of the RTI Act with a further prayer to direct the respondent to provide the information to the petitioner including inspection of record as has been sought *vis-à-vis* item Nos. 4, 5 and 6 of the application dated 19.11.2016 otherwise, to direct an enquiry through an independent agency about the original score sheet.

Background of the case:

2. The Meghalaya Energy Corporation Limited (MeECL) vide advertisement notice dated 15.06.2011 invited application from Indian citizens for the post of Jugali, amongst others, the petitioner had also applied and competed for the post.

3. (Physical Test-long distance running) of all Garo candidates was held on 25th, 26th and 27th July 2012 at MP Stadium, Dakopgre by the Selection Committee as was constituted.



4. Likewise, all the candidates belonging to East Khasi Hills, West Khasi Hills, Jaintia Hills and Ri-Bhoi District, who had applied for the post of Jugali (physical test-long distance running) was held on 29th, 30th and 31st August 2012 at Polo Ground No.II.

5. Five Selection Committees consisting of different members were constituted to conduct personal interview of the candidates. Finally, proposal for 772 candidates was considered for appointment as Jugali in MeECL and its three subsidiary companies in three phases, 1st Phase 306 Nos., 2nd Phase 233 Nos. and 3rd Phase 233 Nos. On the recommendation of Selection Committee Board of Directors approved 772 candidates in order of merit (phase-wise) for recruitment to the post of Jugali.

6. The petitioner filed an application under the RTI Act, 2015 requesting the Public Information Officer (PIO), office of the Meghalaya Energy Corporation Limited, Lumjingshai, Short Round Road, Shillong for providing the following information:

- (1) Detailed vacancy position of the post of Jugali.
- (2) Notified copy of the result of Jugali.
- (3) Name of the interviewers who were conducting the personal interview.
- (4) Clear Xerox copies of the Score Sheets of the Physical Test.
- (5) Clear Xerox copies of the Score Sheets of the Personal Interview as used by the interviewers who were conducting the personal interview.
- (6) Clear Xerox copies of the list of candidates as per recommendation of the Selection Committee.
- (7) If the marks for the physical test and personal interview compiled together in a compilation Sheet, to provide clear Xerox copies of the compilation sheet.

7. The PIO in response furnished the information item-wise. The petitioner not satisfied with the information *vis-à-vis* item Nos.4 to 7 filed First Appeal under the RTI Act before the



Appellate Authority alleging therein that full information to query Nos.4 and 5 (item Nos.4 and 5) has not been provided and information *vis-à-vis* to query Nos.6 and 7 (item Nos.6 and 7) has been denied. However, the marks obtained by the petitioner in physical test and personal interview were furnished to him whereas, marks by other candidates were not provided because third party permission was required. The list of candidates as per the recommendation of the Selection Committee has been notified on 01.08.2016 which is available on the official website www.meecl.nic.in.

8. The petitioner again being dissatisfied with the information filed the Second Appeal under sub-section (3) of Section 19 of Right to Information (Appeal and Procedures of the State Information Commission) Rules 2007. In the second appeal, the State Commission vide order dated 11.04.2017 directed the authorities to produce the relevant documents to enable the Commission to take appropriate decision. Then vide order dated 24.04.2017 directed the PIO to submit a written submission as to why the Meghalaya Energy Corporation Limited could not provide the information required by the appellant (petitioner). Then, the State Commission after hearing both the parties vide detailed order dated 29.05.2017 directed:-

- (i) while score sheets for the interview may be given according to the pattern of marks given by each interviewers without disclosing the names of the interviewers;
- (ii) to provide a copy of the complete combined score sheet to the appellant (petitioner) showing the marks obtained by all the candidates and;
- (iii) to provide list of candidates recommended for appointment. Regarding matters pertaining to third party, the procedure under Section 11 should be undertaken.



9. The petitioner seems to have filed a review petition before the State Commission and in the said petition in the order dated 18.10.2017 it has been recorded as under:

“The respondent-PIO in her submission stated that in relation to this interview for the post of Jugali no records are available other than the combined score sheets of all the candidates and that she does not have any other documents recording the scores except a combined score sheet.”

10. In the order recorded on 24.10.2017, it has been mentioned that Shri G. Dkhar, Law Officer, MeECL on behalf of the respondent requested that the respondent PIO be given opportunity again to go through all the records connected with this recruitment and be given permission to present the records before the Commission, the matter was deferred for 07.11.2017. However, it was taken up on 08.11.2017. In the said order, it is recorded as under:

“The Commission examined all the records/papers/documents/files, found that the record brought by the respondent-PIO is the original copy of the one which was given to the appellant.”

11. The Commission during hearing inquired from the respondent PIO and she submitted that **“after clarification from the higher authorities, the combined score sheet is the spot final marking and there is no record other than this.”**

12. After advertizing to other facts, the Commission directed the PIO to file an affidavit wherein the recruitment procedure followed by the Public Authority, shall be clearly stated in detail right from the time of advertisement till the final selection. In compliance thereof, the respondents No.1 and 2 filed a detailed affidavit copy of which is placed on record.

13. In the combined score sheet for physical test and personal interview for recruitment to the post of Jugali held on 25th, 26th and 27th July 2012 in Tura, 29th, 30th and 31st August and 4th, 5th, 7th and



10th September 2012 in Shillong, the petitioner figure at serial number 746 is shown to have secured 70 marks.

14. The grievance of the petitioner is that the information as sought for regarding item Nos.4, 5 and 6 of the application under RTI Act i.e. (4) Xerox copies of the score sheets of physical test; (5) Xerox copies of the score sheets of the personal interview as used by the interviewers who were conducting the personal interview and; (6) Xerox copies of the list of candidates as per recommendation of the Selection Committee have not furnished to him.

15. The right to have information is guaranteed under the Right to Information Act. Non providing of the information is to be remedied by having resort to the measure and mechanism as envisaged by the RTI Act and Rules. The petitioner has availed the remedies under the Act.

16. The PIO, First Appellate Authority and Second Appellate Authority have carefully looked into the grievance of the petitioner. The requisite information has been furnished to him except item Nos.4, 5 and 6 as referred above. The question is whether the information has been withheld, the answer is 'no' because it is categorical stand of the respondents before the First Appellate Authority as reflected in the order dated 18.10.2017 recorded by the Meghalaya Information Commission that there is no record other than the combined score sheets of all the candidates available. Further, it is clarified that she (PIO) does not have any other documents recording the scores sheets except a combined score sheet.

17. Then in the order recorded by the State Commission on 08.11.2017, it has been clearly mentioned that **Commission has examined all the records and found the record brought by the respondent PIO is the original copy of the one which was given to the appellant and it is further added that the PIO after**



clarification from higher authorities, the combined score sheets is the spot final marking and there is no record other than this.

18. The Commission in its order dated 15.05.2018 after exhausting all options to redress the grievance of the petitioner has recorded satisfaction that the PIO has no further information over and above what has been given to the complainant (petitioner), that being so, the case has been closed.

19. From the records and proceedings of the PIO, First Appellate Authority, Second Appellate Authority and the affidavit filed by the PIO, **it is clear that no information has been withheld.** When Xerox copies of the score sheets of physical test and personal interview as is alleged to have been used by the interviewers, and the Xerox copies of the list of candidates as per recommendation of the Selection Committee are not on records, and when it is made clear that the combined score sheet was prepared on spot meaning thereby no Xerox copies were maintained by the interviewers separately then, it cannot be said that the PIO has withheld the information. **Once the information is not withheld there is no scope for any further action under the RTI Act.**

20. In the stated facts and circumstances, petition at the threshold, after hearing both the learned counsel for the parties is found to be without any merit and accordingly dismissed.

(Mohammad Yaqoob Mir)
Chief Justice

Meghalaya
11.07.2018
"Lam AR-PS"