



**OFFICE OF THE
ASSAM INFORMATIONS COMMISSION
JONAKEE COMPLEX, PANJABARI, GUWAHATI-781037**

Case No : KP (M).449/2019
Complainant/ Appellant : Sri Okram Prasanta Singha
Respondent : The SPIO of Assam Public Service Commission.
Date of hearing : 16.05.2019
Complaint/ Second : Shri H.S. Das. IAS (Retd)
Appeal heard by : Chief Information Commissioner, Assam

O R D E R

16.05.2019

1. The petitioner Sri Okram Prasanta Singha is present. The public authority is represented by Sri Naba Kr. Das, SPIO and Under Secretary of Assam Public Service Commission(APSC) accompanied by Sri Bhaba Ch. Das, and Sri Nagendra Baruah, both Jr. AAs of APSC.
2. The second appeal petition dated 22.1.2019 read with the RTI petition dated 6.11.2018 is taken up for hearing in presence of both the parties. By his RTI petition dated 6.11.2018 the petitioner sought two informations-
 - (i) Copy of the “Draft Rules” or APSC (Procedure and Conduct of Business) Rules, 2017, and,
 - (ii) The total expenditure incurred by APSC in conducting recruitment test for the posts of Inspector of Legal Metrology, result of which was declared on 20.1.2018
3. Vide letter dated 30.11.2018, the SPIO of APSC furnished specific informations to the petitioner in respect of point number 2(ii) above. The petitioner also submitted orally that he is satisfied with the information received.
4. As regards, point number 2(i) i.e. “Draft Rules”, the petitioner was informed that APSC was not in a stage/position to share the Draft Rules, 2017. The SPIO of APSC submitted a written statement dated 13th May, 2019 which has been entered into the case records. It has been mentioned in the written statement that the Draft Rules are subjudice in the Hon’ble Gauhati High Court and therefore, it cannot be disclosed without further direction of the Hon’ble High Court. The petitioner placed before this Commission a copy of Hon’ble Gauhati High Court’s order dated 19.7.2018 wherein it is recorded that the Draft Rules have been sent to the Commissioner and Secretary to the Govt. of Assam, Department of Personnel(Personnel-B) vide letter dated 24.1.2018 by APSC for approval of the Draft Rules by the State Government. The Hon’ble Gauhati High Court vide its order directed the State Government, particularly the Commissioner and Secretary to the Govt. of Assam Department of Personnel (Personnel-B), to immediately take decision on the Draft Rules. Section 8(1) (b) of the RTI Act, 2005 stipulates that “information which has been expressly forbidden to be published by any court of law

or tribunal or the disclosure of which may constitute contempt of court” - are exempted from disclosure. Hon’ble Gauhati High Court’s order mentioned above does not stipulate any of the restrictions contained in section 8(1)(b) of the RTI Act, 2005. There is no provision in the RTI ACT to exempt as a matter of course of subjudice matters from disclosure. This Commission is, therefore, of the view that the Draft Rules, which were sent to Personnel(B) Department for approval, cannot be deemed to be an exempted information under the provision of the RTI Act, 2005. The SPIO of APSC is, therefore, directed to furnish a copy of the Draft Rules to the petitioner within 15 days from the date of receipt of this order.

5. With the above order, the second appeal petition dated 22.1.2019 is disposed of.

Sd/-

(H. S. Das)

Chief Information Commissioners, Assam
Panjabari, Guwahati

Authenticated true copy.

Sd/-

Registrar i/c
Assam Information Commission

Memo No. SIC/KP (M).449/2019

Dated. 16.05.2019

Copy to:

1. The SPIO of the Office of Assam Public Service Commission, Khanapara, Guwhati-22, Assam for information and necessary action.
2. The Petitioner, Sri Okram Prasanta Singha, 2nd Floor, House No-14A, Byelane-4, Rajgarh, Guwahati-781003 for information.
3. Computer Section for Uploading in the Website.
4. Office File
5. Order Book

Registrar i/c

Assam Information commission