

## CBSE v. Aditya Bandopadhyay, (2011) 8 SCC 497

Human and Civil Rights

Right to Information Act, 2005

Ss. 3, 6, 2(f), 2(i), 2(h), 2(j), 8, 9, and 24 - Public examination - Right of examinee to inspect his evaluated answer books - Permissibility and scope - Examinee in a public examination, held, has a right to inspect his evaluated answer books or taking certified copies thereof - Such book is a document and record in terms of Ss. 2(f) and 2(i) and therefore, "information" under RTI Act - However, right to information is a facet of freedom of speech and expression under Art. 19 and is subject to reasonable restrictions - Hence, it is subject to exemptions and exceptions under RTI Act that may be applicable [Ed.: For limits on the right to inspect answer books see Shortnotes J and K, below], (2011) 8 SCC 497-A

Human and Civil Rights

Right to Information Act, 2005

Statement of Objects and Reasons, Preamble and Ss. 3, 6, 2(f), 2(i), 2(h), 2(j), 8, 9 and 24 - Manner of interpretation: (a) object of providing right to information, and (b) rationale behind providing safeguards, exemptions and exceptions, discussed - Right to information, held, has to be read in harmony with exemption and exclusion provisions, (2011) 8 SCC 497-B

Human and Civil Rights

Right to Information Act, 2005

Ss. 24, 6 and 3 - Exemption under S. 24, whether applicable to examining bodies - Held, examining bodies are neither "intelligence" nor "security" organisations and therefore, not covered under S. 24 exemption, (2011) 8 SCC 497-C

Human and Civil Rights

Right to Information Act, 2005

Ss. 9, 6 and 3 - Exemption under S. 9, whether applicable to evaluated answer books in a public examination - Held, disclosure of information with reference to answer books does not involve infringement of any copyright and therefore, S. 9 will not apply, (2011) 8 SCC 497-D

Human and Civil Rights

Right to Information Act, 2005

Ss. 22, 8, 3, 2(f), 2(i), 2(h) and 2(j) - Overriding effect of S. 22, RTI Act over rules and bye-laws for public examinations - Effect on examinee's rights of (a) inspection, and (b) re-evaluation of answer books - Held, superior statute like RTI Act with overriding provisions like S. 22 will prevail over bye-laws of CBSE - Evaluation of answer books being information under RTI Act, inspection of answer book is permissible even if CBSE bye-laws do not provide for such inspection - Therefore, principles in Maharashtra State Board case, (1984) 4 SCC 27 or other decisions following it, will not apply so far as inspection of answer books is concerned - However, re-evaluation is not permissible as it is neither available under RTI Act nor bye-laws of CBSE, (2011) 8 SCC 497-E

Education and Universities

Examinations

Fiduciary relationship - Non-existence of - Examining body, held, is not a fiduciary in relation either to examinee or examiner - Rationale for, explained - Answer books are not information available to an examining body by virtue of a fiduciary relationship - Therefore, furnishing copy of answer book, is not breach of confidentiality, privacy, secrecy or trust - Examining body is "principal" and examiner is "agent" - Therefore, right of examinee to inspect his answer books is not barred by exemption under S. 8(1)(e), RTI Act, (2011) 8 SCC 497-F

## Education and Universities

### Examinations

Relationship of examining body with examiner, explained - With reference to answer books, although examining body is not in fiduciary relationship with examinee and/or examiner, examiner is in a fiduciary relationship with examining body, (2011) 8 SCC 497-G

## Education and Universities

### Examinations

Duties and roles of examining body and examiner, (2011) 8 SCC 497-H

## Equity

Fiduciary relationship - Meaning, examples and types of fiduciary relationship, explained and stated - Philosophical and wider meaning distinguished from normal and well-recognised meaning as used in S. 8(1), RTI Act, (2011) 8 SCC 497-I

## Education and Universities

### Examinations

Inspection of evaluated answer books by examinee - Safeguard of non-disclosure of persons associated with examination of answer book, pointed out - Names and particulars of such persons, held, will have to be severed under S. 10 of RTI Act from answer book prior to giving them to examinee for inspection, (2011) 8 SCC 497-J

## Education and Universities

### Examinations

Right of examinee to inspect evaluated answer books - Time-limit within which answer books may be assessed - Held, right to access information does not extend beyond period during which examining body is expected to retain answer books as per rules - In case of CBSE, answer books are required to be maintained for a period of three months and thereafter they are liable to be disposed of/destroyed - Hence application for inspection of the same must be made within that period - Information Commission cannot extend said period under S. 19(8) of RTI Act, (2011) 8 SCC 497-K

## Human and Civil Rights

### Right to Information Act, 2005

Ss. 19(8), 8(3), 8(1)(b), 8(1)(d), 8(1)(h) and 8(1)(j) - Duration for which information may be preserved - Extension of prescribed duration by exercise of power under S. 19(8), RTI Act - Whether can be made - Power of Information Commission under S. 19(8), held, cannot be used to extend duration for which information is required to be preserved under rules and regulations concerned - S. 8(3), RTI Act does not require all "information" to be preserved and maintained for twenty years or more, nor does it override any rules or regulations governing period for which record, document or information is required to be preserved by any public authority, (2011) 8 SCC 497-L

## Human and Civil Rights

### Right to Information Act, 2005

Ss. 4(1)(b), 4(1)(c), 8, 9, 24 and 2 - Three categories of information distinguished under RTI Act: (a) information which promotes transparency and accountability has to be suo motu published and disseminated by public authorities [i.e. that information mentioned in Ss. 4(1)(b) and (c)], (b) information other than that mentioned in Ss. 4(1)(b) and (c) which is important and can be accessed, and (c) information belonging to third category is information which is not available with

public authority and not required by public authority to maintain, cannot be accessed - Public authorities also have no obligation to provide information as to their opinion, advice, inferences or assumptions - Public authorities also cannot cater to indiscriminate and impractical demands (unrelated to transparency and accountability) which adversely affect their efficiency, (2011) 8 SCC 497-M

## Human and Civil Rights

### Right to Information Act, 2005

Ss. 8 and 3 - Manner of interpretation - Held, S. 8 should not be construed strictly, literally and narrowly - Exemption under S. 8 is not a fetter on right to information under S. 3 - Purpose of S. 8 is to protect public interest and democratic ideals - Therefore, harmonious construction prescribed - Purposive, reasonable and balanced construction also prescribed because it is not possible to enumerate all types of information which require to be exempted from disclosure in public interest, (2011) 8 SCC 497-N