केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/BARCM/A/2022/606792**

Shri Rishabh Sharma ... अपीलकर्ता/Appellant

VERSUS/बनाम

PIO ...प्रतिवादीगण /Respondent
Bhabha Atomic Research Centre, Mumbai

Date of Hearing	:	28.02.2023
Date of Decision	:	07.03.2023
Chief Information Commissioner	**:**	**Shri Y. K. Sinha**

Relevant facts emerging from appeal:

RTI application filed on	:	09.08.2021
PIO replied on	:	02.09.2021
First Appeal filed on	:	28.09.2021
First Appellate Order on	:	08.11.2021
2nd Appeal/complaint received on	:	03.02.2022

Information sought and background of the case:
The Appellant filed an online RTI application dated 09.08.2021 and the PIO/Chief Administrative Officer, BARC, Mumbai vide letter dated 02.09.2021 replied as under:-

Sr. No.	Information Sought	Information Given
1.	Please provide a copy of answer sheet and question paper (report writing section) of ASO(A), Post code: DR/01 exam	As informed by deemed PIO, copy of OMR sheet is available with the candidate. Answer Key of Part A & B is already uploaded on BARC website. https://recruit.barc.gov.in. For Part C, answer sheet and question paper will be made available on payment of ₹ 18/- (@ ₹ 2/- per page for 08 no. of pages of answer sheets and 01 page of question paper) by way of Demand Draft or Pay order issued by any Bank payable at Mumbai or Indian Postal Order or e-IPO payable to "Accounts Officer, BARC.
2	Please provide my marks (section wise) of written examination of ASO(A).	
3.	What was the highest marks (in total) out of 75 marks general (UR) category select list	The information sought relates to third party and is covered under personal information which is exempted from disclosure under section 8(1)(j) of the RTI Act, 2005.
4.	What was the lowest marks (in total) out of 75 marks general (UR) category select list	
5	What was the highest marks (in total) out of 75 marks general (UR) category wait list	
6	What was the lowest marks (in total) out of 75 marks general (UR) category waitlist	

7	What was the cut-off for General (UR) category for select list in terms of marks (Out of 75 marks)	The cut-off mark in terms of percentage is readily available in BARC website https://recruit.barc.gov.in. under the subject as "**Salient features**" of recruitment process select panel for the post of ASO (A) Post Code (DR-01).
My details are as follows: Name: Rishabh Sharma, Fathers name: Jitendra Sharma DOB: 27.03.1997, Application No. : 120248003869 Panel position: General Wait list - 01		

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 28.09.2021. The FAA/Actg. Controller, BARC, Mumbai vide order dated 08.11.2021 stated as under:-

4. The points raised by the appellant in his appeal are considered as under :

i. **Point No. (1) of the RTI application :** The appellant is requested to remit the fees through e-IPO and forward a scanned copy of the receipt of e-IPO through email to barcrti@barc.gov.in On receipt of proof of payment, the documents will be made available to the appellant as communicated by PIO vide RTI reply letter No. BARC/RTI/2021/08/6183/7587 dated 02.09.2021.

ii. **Point No. (2) of the RTI application :** It is observed that Shri Sharma has scored 23.50 marks in Part A & B and 15 marks in Part C. Total Score 38.50.

iii. **Point Nos. (3) to (6) of the RTI application :** It is observed that cut-off mark in terms of percentage is readily available in BARC website https://recruit.barc.gov.in under the subject as "Salient features" of recruitment process select panel for the post of ASO (A) Post Code (DR-01).

iv. **Point No. (7) of the RTI application :** It is observed that PIO can provide information which exists in material form and in the form in which it is readily available. Since, the cut off marks are available in percentage form and displayed on BARC website https://recruit.barc.gov.in, the appellant was requested to refer the same by PIO vide RTI reply letter No. BARC/RTI/2021/08/6183/7587 dated 02.09.2021.

5. **AND NOW THEREFORE** the appeal of Shri Rishabh Sharma stands disposed of.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

A written submission has been received from the PIO cum CAO (A) vide letter dated 22.02.2023, the relevant extract of which is as under:

5. The Appellant has now preferred a second appeal to the Hon'ble CIC stating that information sought at Query Nos.1 & 2 were provided, however the information sought at Query Nos. 3 to 7 were not provided to him. In his second appeal the Appellant has requested to consider his request for the following reasons:

(i) As regards Query Nos. 3 to 6, He has the right to know the highest and lowest marks in Gen(UR) category both in Select and wait list as he was placed in (panel position-01) in the waitlist of Gen (UR) category so that he can know the competitiveness of examination.

(ii) As regards Query No.7, the Appellant's concern is that department has published combined cut-off for both select and waitlist which seems department is concealing the cut-off for select list as Point No.5 (Selection Criteria) for Gen (UR) is 46% & above which is 34.5 marks out total 75 marks, is the marks scored by the last candidate in the Gen (UR) waitlist. Hence, department should clearly mention both cut-off for Select and waitlist in terms of marks.

6. In view of the above, the following points are respectfully submitted before Hon'ble CIC for consideration as under:

As regards Query Nos. 3 to 6,

(i) It is observed that cut-off mark in terms of percentage is readily available on BARC website https://recruit.barc.gov.in under the subject as "Salient features" of recruitment process select panel for the post of ASO (A). It is also informed that a candidate can access cut-off percentage whether he is empanelled (i.e. select or waitlist) based on marks obtained by him in the written test.

(ii) It is also informed that panel (both Select and Waitlist) is prepared based on the marks obtained by the candidates in the examination and panel position is based on vacancy as advertised at the time recruitment advertisement.

(iii) As the cut-off for Gen (UR) for selection panel is 46% & above, all the candidates who scored 46% and above will be placed in panel, but the select list and waitlist will be prepared based on the vacancy advertised. As there are five (05) vacancies advertised for Gen (UR), five candidates are placed in the select list and remaining is placed in the waitlist.

(iv) It is clearly observed that the candidates who are in select list scored more marks than the Appellant and the appellant is indirectly seeking the marks of other candidates (both in select and wait list) which is purely personal information of individual concerned, disclosure of which has no larger public interest. Hence, the same may be exempted under 8(1)(j) of RTI Act, 2005.

As regards Query No.7,

PIO can provide information which exists in material form or in the form of readily Available. Since the cut-off marks available in percentage form and available on BARC website https://recruit.barc.gov.in, the Appellant may refer the same, which was already informed vide RTI reply No.BARC/RTI/2021/08/6183/7587 dated 02.09.2021. The panel is based on marks and Select List & Waitlist is based on the vacancy as advertised in the recruitment advertisement.

The Appellant remained absent during the hearing despite prior intimation.

The Respondent represented by Shri B V Balaji, CAO participated in the hearing through video conference. He stated that a copy of the above mentioned written submission was forwarded to the Appellant. In addition, he stated that the name of the selected candidate and their position in the merit list was disclosed. However, the percentage of marks scored by them being personal information of candidates was not disclosed as per Section 8 (1) (j) of the RTI Act, 2005.

Decision:

Keeping in view the facts of the case and the submissions made by the Respondent, the Commission is of the view that an appropriate response as per the provisions of the RTI Act, 2005 has been provided by the Respondent. In a recent judgment in CPIO, Supreme Court of India vs Subhash Chandra Agrawal and Civil Appeal No. 10044 OF 2010 with Civil Appeal No. 10045 OF 2010 and Civil Appeal No. 2683 of 2010 dated 13.11.2019, the Hon'ble Supreme Court of India**,** had observed as under:

> *"59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive."*

Hence, no further intervention of the Commission is required in the instant matter. For redressal of his grievance, the Appellant is advised to approach an appropriate forum.

With the above observation, the instant Second Appeal stands disposed off accordingly.

Y. K. Sinha (वाई. के. सिन्हा)
Chief Information Commissioner **(मुख्य सूचना आयुक्त)**

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

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