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/2021/661669**

Shri Mohan Madhukar Kothekar ... अपीलकर्ता/Appellant

VERSUS/बनाम

PIO, Bhabha Atomic Research Centre, Mumbai ...प्रतिवादीगण /Respondent
Through: Shri B V Balaji - CPIO

Date of Hearing	:	28.12.2022
Date of Decision	:	29.12.2022
Chief Information Commissioner	**:**	**Shri Y. K. Sinha**

Relevant facts emerging from appeal:

RTI application filed on	:	11.08.2021
PIO replied on	:	03.09.2021
First Appeal filed on	:	08.09.2021
First Appellate Order on	:	28.09.2021
2nd Appeal/complaint received on	:	21.12.2021

Information sought and background of the case:
The Appellant filed an online RTI application dated 11.08.2021 and the CPIO/Chief Administrative Officer, Bhabha Atomic Research Center vide letter dated 03.09.2021 replied as under:-

Sr. No.	Information Sought	Information Given
1.	Request you to provide my original Answer Sheet of part A, B and part-C of written examination that I had appeared for the post of Assistant Security Officer-A against Advt No. 2/2019 (R-II)	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. As far as Part-C is concerned, answer sheets will be made available on payment of ₹ 16/- (@ ₹ 2/- per page for 08 no. of pages) 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	Provide departmental certified Hindi and English version of model answer key of Part-C with question set.	As informed by deemed PIO, information sought is not available
3.	Provide part wise obtained mark list of the selected and waiting list candidates in all categories.	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.	Provide details cut-off marks of all category for final selection.	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).

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 08.09.2021. The FAA/Controller, BARC vide order dated 28.09.2021 decided the Appeal as under:-

> 5. **AND WHEREAS** the undersigned as the Appellate Authority under RTI Act has called for the records related to this case and it is seen that the application was received by PIO, BARC on 11.08.2021 and the RTI application was replied vide letter No. BARC/RTI/2021/08/6188/7616 dated 03.09.2021 and further copy of requisite documents were provided on receipt of documentation charges communicated vide letter No. BARC/RTI/2021/08/6188/7912 dated 13.09.2021. However points raised by the appellant in his appeal are considered as under :
>
> i. The information now sought in Appeal was not part of the original RTI application. CIC in the case of Shri Harish Prasad Divedi vs BPCL dated 28.01.2014 had mentioned that an information seeker cannot be allowed to expand the scope of his RTI enquiry at the appeal stage and no disclosure of information can be made to the Appellant for raising a new query at the appeal stage. However, it is informed that copy of OMR sheet (Part A & B) and copy of Part C answer sheet is made available to the appellant as requested in point No. (1) of the RTI application. Answer key of Part A & B is already uploaded on the BARC website https://recruit.barc.gov.in, which is a public domain.
>
> ii. No such information is available as informed by Deemed PIO. As per section 2(f) of the RTI Act, 2005, PIO can provide information which exist in material form. The Act does not cast any obligation on the public authority to create and provide such non available information.
>
> iii. The information sought regarding mark list of selected and wait listed candidates in all categories is personal information related to a third party and as per CIC decision No. CIC/CPCOI/A/2018/137114/02218 dated 21.11.2019, the said information is exempt from disclosure under section 8(1)(j) of the RTI Act, 2005.
>
> 6. Therefore, I do not see any scope for review or intervention in the Appeal.

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

Facts emerging in Course of Hearing:

A written submission dated 19.12.2022 has been received from the Appellant reiterating the contentions raised by him earlier and citing two decisions of the Commission in support of his case:

a) **Decision No. CIC/PNBNK/A/2017/121074+108026+107988, dated. 28.03.2018, Pammi Lal vs. CPIO, Punjab National Bank, Inspection and Audit Department, Divisional Office, Pipali Road, Kurukshetra.**

b) **CIC/EPFOG/A/2018/614958, Shailendra Kumar Singh v. PIO, EPFO**

Another written submission has been received from PIO, BARC vide letter dated 21.12.2022 maintaining their stance from of the PIO's reply and FAA's order.

Hearing was scheduled through virtual means after giving prior notice to both the parties. Both parties are present for the virtual hearing and the Appellant specifically pointed out that information with respect to queries 2 and 3 had been incorrectly denied to him. The Respondent stated that since the query number 2

related to a descriptive answer, there is no answer key, hence information sought by the Appellant could not be furnished. The Respondent further clarified that information about marks sought by the Appellant vide query 3 could not be disclosed in view of the fact that it is personal in nature. It was further stated that candidates who secure marks above the cut off limit form part of the wait listed candidates, including the Appellant.

Decision:

Examination of the records of the case and deliberations between parties reveals that information as defined under Section 2(f) of the RTI Act and available on records had been duly provided by the PIO, in terms of the provisions of the Act. No legal infirmity is found in the response furnished by the Respondent.

In the given circumstances, since the information held by the Respondent stands duly disseminated, no further action is warranted under the RTI Act.

The appeal is disposed off as such.

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

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)
Dy. Registrar (उप-पंजीयक)
011-26186535