

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF APRIL, 2022

BEFORE

THE HON'BLE MR.JUSTICE P.KRISHNA BHAT

WRIT PETITION NO.57977 OF 2016(GM-RES)

BETWEEN:

- 1 . THE MEMBER SECRETARY OF
A P P CUM AGP RECRUITMENT COMMITTEE,
6TH FLOOR, CAUVERY BHAVAN,
KHB COMLEX, K.G. ROAD,
BENGALURU 560009.
- 2 . THE DIRECTOR OF PROSECUTION
DEPARTMENT OF PROSECUTION AND
GOVENMENT LITIGATION,
KHB COMPLEX,
6TH FLOOR, CAUVERY BHAVAN,
K.G. ROAD, BENGALURU.

...PETITIONERS

(By Sri : B.V.KRISHNA, AGA)

AND:

- 1 . THE KARNATAKA STATE INFORMATION
COMMISSION
M.S. BUILDING,
BENGALURU 560001
BY COMMISSIONER

2 . SRI. G. VIJAYA KUMAR

...RESPONDENTS

(By Sri: RAJASHEKHAR K, ADV, FOR R1,
R2 IS SRVED & UNREPRESENTED)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE QUASH THE IMPUGNED ORDER PASSED BY THE R-1 DATED. 30.06.2016 VIDE ANNEXURE-G & DISMISS THE APPEAL FILED UNDER SECTION 19[3] OF RIGHT TO INFORMATION ACT, 2005 BY THE R-2.

THIS WP COMING ON FOR 'PRELIMINARY HEARING IN 'B' GROUP' THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Calling in question the order dated 30th June, 2016, passed by respondent No.1. in No. ಕಮಾೞ 2564 ಎಪಿಎಲ್ 2015, the State has come up with this writ petition.

2. Respondent No.2 filed an information application before the Member Secretary, Assistant

Public Prosecutor-cum-Assistant Government Pleader Recruitment Committee, seeking certified copy of the Answer Book-let(Main Examination) held on 31-08-2013 and 01-09-2013 written by him with Registration No.1357. The Public Information Officer rejected the said application. On account of the same, respondent No.2 filed an appeal before the appellate authority, namely, respondent No.1 in Appeal DPN/ HQA/RTI/29/2014/15. After hearing, respondent No.1 rejected the said appeal against which, respondent No.2 filed a second Appeal under Section 19(3) of the Right to Information Act. Respondent No.1 passed the following order on 30th June, 2016.

‘ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ಆದೇಶದನ್ವಯ ಪ್ರಕರಣಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಅರ್ಜಿದಾರರಿಗೆ ತನ್ನ ಸ್ವಂತಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ದಿನಾಂಕ 31.08.2013 ಮತ್ತು 01.09.2013 ರಂದು ಜರುಗಿದ ಮುಖ್ಯ ಪರೀಕ್ಷೆಯ ಉತ್ತರ ಪತ್ರಿಕೆಯನ್ನು ಪರಿವೀಕ್ಷಣೆ ಮಾಡಲು ದಿನಾಂಕವನ್ನು ನಿಗದಿ ಪಡಿಸಿ ಆ ದಿನಾಂಕದಂದು ಅವರ ಸ್ವಂತಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಉತ್ತರ ಪತ್ರಿಕೆಯ ಪರಿವೀಕ್ಷಣೆಗೆ ಒಂದು ಗಂಟೆಯ ಕಾಲ ಉಚಿತವಾಗಿ ಅವಕಾಶ ಮಾಡುವುದರ ಮೂಲಕ ಮಾಹಿತಿ ಹಕ್ಕು ಕಾಯ್ದೆ ಜನಸಾಮಾನ್ಯರ ಕಾಯ್ದೆಯೆಂದು ಭಾವಿಸಿ ಅವರ ಹಕ್ಕನ್ನು ಎತ್ತಿ ಹಿಡಿಯುವ ಜಬಾಬ್ದಾರಿ ಸಾರ್ವಜನಿಕ ಹಿತದೃಷ್ಟಿಯಿಂದ ಪ್ರಾಧಿಕಾರದ ಕರ್ತವ್ಯವಾಗಿರುತ್ತದೆ. ಪ್ರಕರಣದ ಮುಂದಿನ ವಿಚಾರಣೆಯಲ್ಲಿ ವರದಿ ಸಲ್ಲಿಸಲು ಪ್ರತಿವಾದಿಯಾದ ಶ್ರೀ ಪಿ.ಕೆ.ಮಲಪುರೆ, ಸಾರ್ವಜನಿಕ ಮಾಹಿತಿ ಅಧಿಕಾರಿ ಹಾಗೂ ಸದಸ್ಯ ಕಾರ್ಯದರ್ಶಿ(ಪ್ರ), ಸಹಾಯಕ ಸರ್ಕಾರಿ

ಅಭಿಯೋಜಕರ-ವ-ಸಹಾಯಕ ಸರ್ಕಾರಿ ವಕೀಲ ಆಯ್ಕೆ ಸಮಿತಿ, ಬೆಂಗಳೂರು
ರವರಿಗೆ ಮಾಹಿತಿ ಹಕ್ಕು ಅಧಿನಿಯಮ 2005 ರ ಕಲಂ 19(8)(ಎ)ರ ಅನ್ವಯ
ನಿರ್ದೇಶಿಸಿದೆ.”

3. The learned AGA contends that even though respondent No.2 sought for certified copy of the answer scripts written by him in the examination held for the selection of Assistant Public Prosecutor on 31-08-2013 and 01-09-2013, in view of the matter being investigated by the Lokayukta police and the original answer scripts having already been seized by the Lokayukta police, the grant of certified copy of the answer scripts of the respondent No.2 to him, would impede the process of investigation and therefore it falls within the exemption under Clause(h) of sub-Section(1) of Section 8 of the Right to Information Act, 2005 and accordingly, the writ petition is entitled to succeed.

4. Learned counsel for respondent No.1, per contra, contends that respondent No.2 is seeking only the certified copy of the answer scripts and since the originals

are already in the custody of the Lokayukta, granting of a copy of the same will in no way impede the investigation and therefore the direction given by respondent No.1 is fully in accordance with law and there is no merit in the writ petition and is liable to be dismissed.

5. There is no dispute about the fact that respondent No.2 had taken the examination for the selection of Assistant Public Prosecutor with Registration No.1357 in the examination held on 31-08-2013 and 01-09-2013. By the Information Act, he is only seeking the certified copy of his own answer scripts. Even on this, there is absolutely no dispute. The only contention of the learned AGA in support of his writ petition is that grant of certified copy of the answer scripts is exempted under Clause(b) of sub-Section(1) of Section 8 of the Right to Information Act, 2005 and therefore respondent No.2 is not entitled to a copy of the same. Section 8(1)(h) reads as follows:-

"(h) Information would impede the process of investigation or apprehension or prosecution of offenders."

There is also no dispute about the fact that the entire original answer scripts including that of respondent No.2 has already been seized by the Lokayukta police in proceedings in Crime No.59/2015. Therefore, grant of certified copy of the answer scripts from the xerox copy maintained by the petitioners to respondent No.2 would in no way impede the process of investigation. It is also required to be borne in mind that respondent No.2 is not seeking the copy of the answer scripts of any other candidate but of his own. In that view of the matter, I do not find any ground to interfere with the order passed by respondent No.1 who has only permitted respondent No.2 to make an inspection of the same. Accordingly, this writ petition lacks merits, and it is dismissed.

**Sd/-
JUDGE**

Rsk/-