

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No. 5665/2014

**INSTITUTE OF COMPANIES
SECRETARIES OF INDIA**

...Appellant

VERSUS

PARAS JAIN

...Respondent

O R D E R

1. This appeal is directed against the order dated 22.04.2014 of the Delhi High Court wherein, while allowing the Letters Patent Appeal, filed by the respondent herein, it set aside Guideline No.3 notified by the statutory council of appellant—Institute of Companies Secretaries of India and directed it to charge fee prescribed as per Rule 4 of the Right to Information (Regulation of Fee and Cost) Rules, 2005.

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VISHAL ANAND
Date: 2019.04.20
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Reason:

2. The factual matrix of the case is that the respondent appeared in the final examination for Company Secretary conducted by the Appellant in December, 2012. On being unsuccessful in qualifying the examination, the respondent made an application under the Right to Information Act for

inspection of his answer sheets and subsequently, sought certified copies of the same from the appellant. The appellant thereafter has demanded Rs.500/- per answer sheet payable for supply of certified copy(ies) of answer book(s) and Rs.450/- per answer book for providing inspection thereof respectively as per Guideline No.3 notified by the statutory council of the appellant. It is to be noted that the respondent obtained the said information under the Right to Information Act, 2005.

3. Being aggrieved by the demand made by the appellant, the respondent preferred a Writ Petition before the Delhi High Court wherein the Learned Single Judge dismissed the petition. A Letters Patent Appeal was thereafter preferred by the respondent wherein, the Division Bench quashed Guideline No.3 notified by the appellant and held that the appellant can charge only the prescribed fee under Rule 4, The Right to Information

(Regulation of Fees and Cost) Rules, 2005.

4. The short issue before us is when the answer scripts of appellant's examination is sought whether the fee prescribed under Rule 4 of the Right to Information (Regulation of Fee and Cost) Rules, 2005 payable or that

under Guideline No. 3 of the Guideline, Rules and Procedures for Providing Inspection and/or Supply of Certified Copy(ies) of Answer Book(s) to Students, framed by the Examination Committee of appellant's statutory Council at its 148th Meeting held on 14.08.2013.

5. The learned counsel appearing on behalf of the appellant argued that it is undisputed that the Right to Information Act, 2005 is applicable to the appellant. However, in light of specific guidelines formulated under the Company Secretaries Act, 1980, the same should be applicable and not that which is provided under the Right to Information Act. He further contends that owing to quashing of Guideline No. 3 by the Division Bench of Delhi High Court, the appellant cannot collect any amount of fee except the one prescribed under Rule 4, The Right to Information (Regulation of Fees and Cost) Rules, 2005

which adds to financial strain on the appellant.

6. On the other hand, the learned counsel appearing on behalf of the respondent submitted that any candidate who seeks his answer scripts under Right to Information Act, 2005 can only be charged under Rule 4, The Right to Information (Regulation of Fees and Cost) Rules, 2005.

Further, the learned counsel submits that the candidates must have a choice to seek the answer scripts either by the avenue under Right to Information Act or under the Guidelines of the appellant framed by the examination committee of statutory Council under the Company Secretaries Act, 1980.

7. Having heard the learned counsels appearing for the parties and we have also meticulously perused the record.

8. The appellant is governed by the provisions of Company Secretaries Act, 1980 and under Sections 15, 15A and 17, the Examination Committee of the statutory Council has framed Guideline No. 3 providing an avenue to the candidates to either inspect their answer scripts or seek certified copies of the same on payment of the stipulated fees. Guideline no.3 stipulates payment of Rs. 500 for obtaining certified copies and Rs. 450 for seeking inspection of the same.

“3. Fee of ₹500 per subject/answer books payable for supply of certified copy(ies) of answer book(s) and ₹450 per answer book for providing inspection thereof respectively. The fee shall be paid through Demand Draft drawn in favour of “The Institute of Company Secretaries of India”, payable at New Delhi.”

9. On the contrary, Rule 4, The Right to Information

(Regulation of Fees and Cost) Rules, 2005 stipulates,

“4. For providing the information under sub-section

(1) of section 7, the fee shall be charged by way of cash against proper receipt or by demand draft or bankers cheque or Indian Postal Order payable to the Accounts Officer of the public authority at the following rates:—

(a) rupees two for each page (in A4 or A3 size paper) created or copied;

(b) actual charge or cost price of a copy in larger size paper;

(c) actual cost or price for samples or models; and

(d) for inspection of records, no fee for the first hour; and a fee of rupees five for each subsequent hour (or fraction thereof).”

(emphasis supplied)

10. Thus it is clear that the avenue for seeking certified copies as well as inspection is provided both in the Right to Information Act as well as the statutory guidelines of the appellant.

11. We are cognizant of the fact that guidelines of the appellant, framed by its statutory council, are to govern the modalities of its day-to-day concerns and to effectuate smooth functioning of its responsibilities under the Company Secretaries Act, 1980. The guidelines of the

appellant may provide for much more than what is provided under the Right to Information Act, such as re-evaluation, re-totaling of answer scripts.

12. Be that as it may, Guideline no.3 of the appellant does not take away from Rule 4, The Right to Information (Regulation of Fees and Cost) Rules, 2005 which also entitles the candidates to seek inspection and certified copies of their answer scripts. In our opinion, the existence of these two avenues is not mutually exclusive and it is up to the candidate to choose either of the routes. Thus, if a candidate seeks information under the provisions of the Right to Information, then payment has to be sought under the Rules therein, however, if the information is sought under the Guidelines of the appellant, then the appellant is

at liberty to charge the candidates as per its guidelines.

13. The appellant has submitted that the Division Bench of Delhi High Court erred in quashing Guideline no.3 which is affecting not only the appellant but also the candidates. Taking into consideration the fact that such quashing was done despite no prayer being made to that effect on behest of the respondent, we hold that quashing of Guideline No.3 was unwarranted. It is to this limited extent that we allow

the appeal and set aside the impugned order of Division Bench of Delhi High Court whereby it quashed Guideline No.3.

14. Learned counsel appearing for the appellant further submitted that owing to nominal fee fixed under the Right to Information Act, the dissemination of information by the appellant has become financially burdensome and he wants to make a representation to the Government for enhancing the fee prescribed under the Right to Information Act. It is left open to him to make such a representation.

15. The appeal is disposed of in the afore-stated terms and pending applications, if any, shall also stand disposed of.

.....J.
(N.V.RAMANA)

.....J.
(S. ABDUL NAZEER)

NEW DELHI;
APRIL 11, 2019.

ITEM NO.102(PH)

COURT NO.3

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 5665/2014

INST. OF COMPANIES SECRETARIES OF INDIA

Appellant(s)

VERSUS

PARAS JAIN

Respondent(s)

(IA 2/2014-VACATING STAY)

Date : 11-04-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
 HON'BLE MR. JUSTICE S. ABDUL NAZEEF

For Appellant(s)

Mr. Vikas Mehta, AOR
 Mr. Adith, Adv.
 Mr. Vasanth Bharani, Adv.
 Mr. R.D. Makheja, Adv.

For Respondent(s)

Mr. Prashant Bhushan, AOR (N.P.)
 Mr. Pranav Sachdeva, Adv.
 Ms. Neha Rathi, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

The appeal is disposed of in terms of the signed order.

Pending applications, if any, shall also stand disposed of.

(VISHAL ANAND)
 COURT MASTER (SH)

(RAJ RANI NEGI)
 ASSISTANT REGISTRAR

(Signed Order is placed on the file)