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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6270/2021**

AKRITI AGGARWAL & ANR. Petitioners
Through: Mr. Paras Jain, Advocate.

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY
THROUGH ITS REGISTRAR Respondent
Through: Mr. Parvindu Chauhan, Advocate for
R-1.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE SACHIN DATTA

ORDER
19.05.2022

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C.M. Appl. No. 19892/2022 (for early hearing)

This is an application filed by the petitioners seeking early hearing of the present petition.

For the reasons stated in the application, same is allowed and the present petition is taken up for disposal today itself.

The application stands disposed of accordingly.

W.P.(C) 6270/2021

1. The present petition, filed by the petitioner under Article 226 of the Constitution of India, is directed against the respondent - Guru Gobind Singh Indraprastha University. The petitioner is seeking direction to the

respondent to provide certified copies of answer scripts by charging the fee prescribed under the Right to Information Rules, 2012, in the event of a candidate making a request to the respondent for seeking information of his/her answer scripts under the Right to Information Act, 2005. To seek the said relief, the petitioner places reliance on the judgment of the Supreme Court in the case titled as *Institute of Companies Secretaries of India (ICSI) Vs. Paras Jain* in Civil Appeal No. 5665/2014 decided on 11.04.2019, by the Division Bench. The Supreme Court in this decision has, *inter alia*, observed as under:-

“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 reevaluation, retotaling 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.”

2. The respondent - University has filed its counter affidavit. The same

is, however, not on record as it was returned under objections. Mr. Parvinder Chauhan, learned counsel who appears on behalf of the respondent has tendered in Court the hard copy of the counter affidavit, which is taken on record.

3. The submission of learned counsel for the petitioner is that the respondent – University is a Public Authority and bound by the provisions of the Right to Information Act, 2005. He further submits that the Central Government has framed the aforesaid Rules in the year 2012 and in Rule 4 thereof, the fee for providing information is prescribed (a) Rs.2/- for each page (in A-4 or A-3 size paper) created or copied; (b) actual charge or cost price of a copy in larger size paper; and (c) actual cost or price for samples or models. He further submits that the respondent is, however, demanding Rs.1,500/- as fees for providing the answer scripts in any subject. It is further submitted that this is contrary to Rule 4 of the Right to Information Rules, 2012, and, therefore, cannot be enforced. He further submits that since the petitioner has right to apply under the Right to Information Act, 2005, to seek the answer scripts, the respondent is bound to follow the aforesaid Rules framed under the Right to Information Act, 2005.

4. On the other hand, the submission of Mr. Parvindu Chauhan, learned counsel appearing on behalf of the respondent, is that the respondent University has been instituted under the Guru Gobind Indraprastha University 1998, by the Legislative Assembly of Delhi. He further submits that the said Act has been enacted with the Presidential consent and, therefore, it will prevail over the general law contained under the Right to Information Act, 2005. He further submits that the issue raised by the petitioner is squarely covered by the subsequent Three Judge Bench decision

of the Supreme Court in the case titled as *Chief Information Commissioner Vs. High Court of Gujrat and Anr. (2020) 4 SCC 702*.

5. Upon the aforesaid decision being cited, learned counsel for the petitioner has sought to argue that Section 22 of the Right to Information Act has not been considered which provides that the provisions of the said Act shall have effect, notwithstanding, anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than the said Act. Therefore, according to the petitioner, the Rules framed under the Right to Information Act would prevail over the Rules framed by the respondent for providing copies of answer scripts to students for which they have also prescribed the fees.

6. We have considered the submissions of learned counsels appearing on behalf of the parties and we are of the view that in the light of the latter judgment of the Supreme Court in the case titled as *Chief Information Commissioner (supra)*, which is also the judgment of the Larger Bench of the Supreme Court and by which we are bound, the petitioner cannot claim the right to seek the copies of the answer scripts by relying upon the Rules framed under the Right to Information Act, 2005, and the fee structure thereunder. In *Chief Information Commissioner (supra)*, the Supreme Court has, *inter alia*, observed as under:-

“30. While examining the issue of where two mechanisms exist for obtaining the information i.e. the Supreme Court Rules and the RTI

Act, in The Registrar Supreme Court of India v. R S Misra (2017) 244 DLT 179, the Delhi High Court held that “once any information can be accessed through the mechanism provided under another statute, then the provisions of the RTI Act cannot be resorted to.” In (2017) 244 DLT 179, the Delhi High Court held as under:-

“53. The preamble shows that the RTI Act has been enacted only to make accessible to the citizens the information with the public authorities which W.P.(C) 3530/2011 Page 22 of 36 hitherto was not available. Neither the Preamble of the RTI Act nor does any other provision of the Act disclose the purport of the RTI Act to provide additional mode for accessing information with the public authorities which has already formulated rules and schemes for making the said information available. Certainly if the said rules, regulations and schemes do not provide for accessing information which has been made accessible under the RTI Act, resort can be had to the provision of the RTI Act but not to duplicate or to multiply the modes of accessing information.

54. This Court is further of the opinion that if any information can be accessed through the mechanism provided under another statute, then the provisions of the RTI Act cannot be resorted to as there is absence of the very basis for invoking the provisions of RTI Act, namely, lack of transparency. In other words, the provisions of RTI Act are not to be resorted to if the same are not actuated to achieve transparency.

55. Section 2(j) of the RTI Act reveals that the said Act is concerned only with that information, which is under the exclusive control of the 'public authority'. Providing copies/certified copies is not separate from providing information. The SCR not only deal with providing 'certified copies' of judicial records but also deal with providing 'not a certified copy' or simply a 'copy' of the document. The certification of the records is done by the Assistant Registrar/Branch Officer or any officer on behalf of the Registrar. In the opinion of this Court, in case of a statute

which contemplates dissemination of information as provided for by the Explanation to Section 4 of the RTI Act then in such situation, public will have minimum resort to the use of the RTI Act to obtain such information.

56. There are other provisions of the RTI Act which support the said position, namely, Sections 4(2), (3) and (4) which contemplate that if an information is disseminated then the public will have minimum resort to the use of the RTI Act to obtain information. In the present case, the dissemination of information under the provisions of the SCR squarely fits into the definition of “disseminated” as provided in the aforesaid Explanation to Section 7(9) and the Preamble contemplate a bar for providing information if it „disproportionally diverts the resources of the public authority”.

57. Section 4(2) also provides that it shall be constant endeavour of every public authority to take steps in accordance with the requirements of subSection (1) thereof and to provide as much information suo-motu to the public at regular intervals through various means of communications including intervals so that the public has minimum resort to the use of the RTI Act to obtain information.”

[Underlining added]

The same view was taken up by the Karnataka High Court in State Public Information Officer and Deputy Registrar (Establishment) v. Karnataka Information Commission and Another WP No.26763 of 2013 dated 09.01.2019.

31. We fully endorse above views of the Delhi High Court. When the High Court Rules provide for a mechanism that the information/certified copies can be obtained by filing an application/affidavit, the provisions of the RTI Act are not to be resorted.”

7. In view of the aforesaid position, it is impermissible for the petitioner to insist that the mechanism/fee under the RTI should apply in derogation of the procedure/fees prescribed by the Respondent University for obtaining copies of answer scripts.

8. We are, therefore, inclined to dismiss the present petition. Ordered accordingly.

9. We, however, clarify that we have not examined the issue whether the charges/fee prescribed by the respondent of Rs. 1500/- per examination answer sheet is excessive, or could be said to defeat the right to obtain information, as no challenge has been raised by the petitioner to the prescription of the said fee under its Rules, and therefore, no submission in this regard has been advanced before us.

VIPIN SANGHI, ACJ

SACHIN DATTA, J.

MAY 19, 2022/ AK