

THE HIGH COURT OF SIKKIM : GANGTOK

(Civil Extraordinary Jurisdiction)

SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

WP(C) No.56 of 2025

Petitioner : Sikkim Public Service Commission

versus

Respondents : Sikkim Information Commission and Another

Application under Article 227 of the Constitution of India

Appearance

Mr. Aarohi Bhalla, Senior Advocate with Mr. Bhusan Nepal, Advocate for the Petitioner.

Mr. Thinlay Dorjee Bhutia, Advocate for the Respondent No.1.

Respondent No.2 present in person.

Date of Hearing : 02-04-2026

Date of Judgment : 02-04-2026

Date of Uploading : 03-04-2026

JUDGMENT (ORAL)

Meenakshi Madan Rai, J.

1. The instant application under Article 227 of the Constitution of India has been filed by the Sikkim Public Service Commission (SPSC), the Petitioner herein, impugning the Orders dated 17-06-2025 and 22-07-2025, of the State Information Commission, Sikkim, Respondent No.1, in Appeal No.7/SIC/2025 [*Mrs. Reha Bhandari vs. State Public Information Officer (SPIO), Sikkim Public Service Commission, Gangtok, Sikkim*].

2. The facts, briefly summarised, are that, the Respondent No.2 herein filed an application under the Right to Information Act, 2005 (hereinafter, "RTI Act"), dated 07-12-2024, before the Petitioner, State Public Information Officer (hereinafter, "SPIO"), SPSC, *inter alia*, seeking the disclosure of consolidated merit list of

all candidates who appeared in the interview/viva-voce for the Sikkim Services (Combined Recruitment) Examination, 2022. The Petitioner vide communication dated 26-12-2024 informed the Respondent No.2 that the information sought would be considered on completion of the examination process. On 19-03-2025 the requisite information was furnished to the Respondent No.2.

(i) The Respondent No.2 being dissatisfied with such information, filed an Appeal before the First Appellate Authority, i.e., the Secretary, SPSC, on 04-04-2025 under the provisions of the RTI Act.

(ii) After hearing the parties, the First Appellate Authority, SPSC, vide its Order dated 19-05-2025, disposed of the Appeal with the direction that the SPIO, SPSC, shall initiate the process of seeking consent from the selected candidates for disclosure of their marks in accordance with Section 11 of the RTI Act.

(iii) The Respondent No.2 being dissatisfied by the Order of the First Appellate Authority, SPSC, preferred a Second Appeal before the Respondent No.1, State Information Commission, on the same date, i.e., 19-05-2025.

(iv) The Petitioner submitted its counter statement on 10-06-2025 before the Respondent No.1, highlighting the legal aspects, as two matters concerning the said examination were pending before the High Court. The Respondent No.1, it is urged by Learned Senior Counsel for the Petitioner, without considering the submissions put forth by the Petitioner passed an Order dated 17-06-2025 directing the SPIO, SPSC, to provide the consolidated merit list of all candidates who appeared in the interview/viva-voce including their marks, within fifteen days from the date of Order and

to file a compliance report on or before 03-07-2025 to the Respondent No.1. It is further contended by Learned Senior Counsel for the Petitioner that, despite the two Writ Petitions pending before this Court, the Respondent No.1 vide its Order dated 22-07-2025 directed the Petitioner to file a compliance report, in detail, along with the documentary proof as to how furnishing the information to the Petitioner, Respondent No.2 herein, would hamper the matters pending before this Court.

(v) It was also contended that the provisions of the RTI Act provides a limited mechanism to deal with third party information under Section 11 of the RTI Act. In the instant matter, the Petitioner issued Notice to the third party, under Section 11(1) of the RTI Act, but did not receive consent from the third parties except from one candidate. Recourse was also taken to Section 8(1)(j) of the RTI Act and it was urged that the information sought was personal information and an invasion of privacy, consequently, the entire information could not be furnished to the Respondent No.2. The impugned Orders, according to Learned Senior Advocate, were passed in a mechanical manner, without any reference to the threshold of the larger public interest nor do the Orders record any findings as to why such interest outweighs the right of a third party. Information cannot be disclosed without complying with the express provisions contained in the RTI Act and such direction cannot be sustained in the eyes of law being contrary to the Statute. Hence, the impugned Orders dated 17-06-2025 and 22-07-2025 passed by the State Information Commission, Respondent No.1, be set aside being without jurisdiction and contrary to the provisions of the RTI Act. It was further prayed that this Court declare that the Petitioner

was justified in denying disclosure of the information sought being exempted under Section 8(1)(j) of the RTI Act.

3. The Respondent No.2 did not file any written response, however she is present in the Court room and submitted that she had in fact no submissions to make before this Court. The Court informed her that being a woman, she is entitled to "free legal aid" and should she require, the Court would immediately engage a Counsel for her from the panel of legal aid lawyers present in the Court room or an Advocate of her choice. The Respondent No.2 in the open Court room submitted that she did not desire to engage any Advocate to represent her and she would make her submissions which were to the extent that, all that she had required from the Petitioner, was the consolidated list of marks of the selected candidates as the examination, viz., Sikkim Services (Combined Recruitment) Examination, was to a public office and, according to her, the marks obtained by the candidates ought to have been put out in the public domain.

4. Heard Learned Counsel for the parties and the Respondent No.2 *in extenso* and perused the documents relied on by the Petitioner.

5. It appears that the Petitioner had issued an advertisement on 29-09-2022, inviting online applications for the posts of Deputy Superintendent of Police, Under Secretary and Accounts Officer under the Sikkim Services (Combined Recruitment) Examination, 2022 and the results of the preliminary examination was declared on 07-01-2023. On 04-02-2024, the Mains examination was conducted. On 07-10-2024, a Notice was issued for scrutiny of original documents and conduct of the viva-voce of

the qualified candidates for the advertised posts and on 05-12-2024 Notice of the final results of the selected candidates for the three posts was declared. The Respondent No.2 admittedly failed to get selected. On 07-12-2024, the Respondent No.2 filed the RTI Act application before the SPIO, SPSC, who undertook to furnish the information after completion of the entire selection process. The information was accordingly given to the Respondent No.2 on 19-03-2025. In the information supplied to the Respondent No.2, it was replied *inter alia* that the information sought by the Respondent No.2 relates to a third party and information is of a personal nature and as such it is exempted from disclosure under Section 8(1)(j) of the RTI Act.

(i) The Respondent No.2 approached the First Appellate Authority, SPSC, who vide its Order dated 19-05-2025, observed *inter alia* as follows;

“.....

1. The SPIO shall initiate the process of seeking consent from the selected candidates for disclosure of their marks, in accordance with Section 11 of the RTI Act, 2005.

.....”

The First Appeal was accordingly disposed of.

(ii) On the same day, i.e., 19-05-2025, before the SPIO could even comprehend the Order of the First Appellate Authority, the Respondent No.2 was before the State Information Commission, Respondent No.1, in Second Appeal, aggrieved by the Order of the First Appellate Authority, SPSC.

(iii) The Respondent No.1, the State Information Commission (the Second Appellate Authority) in Second Appeal, after hearing both parties on 17-06-2025 advised the Petitioner to release the information, i.e., the consolidated merit list with marks

of written and viva-voce of all selected candidates on its website, to reduce the burden of individual RTI Act applications and to uphold transparency as per Section 4 of the RTI Act. On 22-07-2025, the Respondent No.1 issued another Order, observing therein that, the Order of the Respondent No.1 had directed the Petitioner to provide the consolidated merit list of all selected candidates, including their marks in written and viva-voce within fifteen days from the date of Order and to file a compliance before the Commission.

(iv) The Petitioner however informed the Respondent No.1 that in relation to the Sikkim Services (Combined Recruitment) Examination, 2022, two matters are pending before the High Court of Sikkim and disclosure of the consolidated marks could prejudice the pending judicial proceedings. The Respondent No.1 was of the contrary view that the Petitioner ought to file a compliance report in detail with the documentary proof as to how the information would hamper the proceedings before this Court.

(v) From the obtaining circumstances, it is apparent that on 19-05-2025 the Petitioner was to initiate the process of seeking consent from the selected candidates for disclosure of their marks in accordance with Section 11 of the RTI Act. Section 11 provides for third party information and as the marks sought was with regard to third persons, the consent of the persons who was selected was sought by the Petitioner. Section 11(3) of the RTI Act provides that, the State Public Information Officer shall within forty days after the receipt of the request under Section 6 (i.e., request for obtaining information), if the third party has been given an opportunity to make a representation under sub-Section (2), the SPIO shall make a decision as to whether or not to disclose the information, or record,

or part thereof and give in writing the Notice of his decision to the third party.

(vi) Thus, it is clear that the said provision requires the concerned authority to take steps within forty days after receipt of the request, however instead of waiting for the time period as prescribed therein, the Respondent No.2 had immediately on the same day, i.e., 19-05-2025, dissatisfied with the Order of the First Appellate Authority approached the Respondent No.1, the Second Appellate Authority, against the Order of the First Appellate Authority, SPSC.

(vii) Besides the Second Appellate Authority failed to address the apprehensions raised by the Petitioner that the information was of a personal nature, by putting forth its own opinion as to how such information was not of a personal nature or how disclosure of such information satisfied larger public interest.

6. The application of the Respondent No.2, in my considered view, was a premature application and the Respondent No.1 before passing the impugned Orders failed to take note of the Orders of the First Appellate Authority, which had invoked the provisions of Section 11(3) of the RTI Act, 2005. Besides the application of the Respondent No.2 at Serial No.4 itself is ambiguous and reads as follows;

“.....

4. Marks Obtained:

- **Kindly provide the marks I obtained in the Mains Written Examination for each paper.**
- **Please include the marks separately for subjective papers and objective papers.**

.....” [emphasis supplied]

Sikkim Public Service Commission vs. Sikkim Information Commission and Another

7. The impugned Orders dated 17-06-2025 and 22-07-2025 of the Respondent No.1 are quashed and set aside being contrary to the provisions of the RTI Act as discussed hereinabove.

8. The Respondent No.2 is however at liberty to take steps in the instant matter, before the First Appellate Authority and the Respondent No.1, in terms of the legal provisions.

9. With the above observations, the Writ Petition stands disposed of.

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

(Meenakshi Madan Rai)
Judge

02-04-2026

Approved for reporting : **Yes**

ds