

To

21st July, 2019

President

Institute of Chartered Accountants of India
ICAI Bhawan
Indraprastha Marg
Post Box No. 7100
New Delhi-110002

Vice-President

Institute of Chartered Accountants of India
ICAI Bhawan
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Post Box No. 7100
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Secretary

Institute of Chartered Accountants of India
ICAI Bhawan
Indraprastha Marg
Post Box No. 7100
New Delhi-110002

Sub: Request to follow the law laid down by the Supreme Court of India with regard to providing Students copies of their Answer-scripts under the Right to Information (RTI) Act,2005.

Dear Sir/Madam,

We are responsible advocates and work in form of a group of law students & young advocates. Our group has been working towards protecting and promoting transparency in the affairs of public authorities for the last five years.

It is brought to your notice that in 2011, the Hon'ble Supreme Court of India through its Division Bench comprising Justice R.V. Raveendran & Justice A.K. Patnaik in the case titled CBSE & Anr. Vs. Aditya Bandopadhyay & Ors., Civil Appeal No. 6454/2011 vide Para 11 held that:

The definition of 'information' in section 2(f) of the RTI Act refers to any material in any form which includes records, documents, opinions, papers among several other enumerated items. The term 'record' is defined in section 2(i) of the said Act as including any document, manuscript or file among others. When a candidate participates in an examination and writes his answers in an answer-book and submits it to the examining body for evaluation and declaration of the result, the answer-book is a document or record. When the answer-book is evaluated by an examiner appointed by the examining body, the evaluated answer-book becomes a record containing the 'opinion' of the examiner. Therefore, the evaluated answer-book is also an 'information' under the RTI Act.

In view of aforesaid ruling and law laid down by the Hon'ble Supreme Court, every Public Authority including the Institute of Chartered Accountant of India (ICAI), conducting examination are required to allow its candidates to inspect and to obtain their answer-scripts as information as per the provisions of the RTI Act, 2005 and its rules made thereunder. For this purpose, Rule 4 of the RTI Rules, 2012, prescribes fee for information as follows:

- i. Rs. 10/- for the RTI application, under this cost inspection may be allowed and
- ii. Rs. 2 per page for obtaining documents

In utter disregard of above law, ICAI has been denying the answer-scripts to the candidates and compels candidates to seek their answer-scripts as per its internal guidelines/rules/regulations which provides for cost of Rs. 500/- per subject. This unfair practice of ICAI denies candidates access to their answer-scripts, especially the ones who cannot afford such an exorbitant fee leading to denial of information.

Similar unfair practice was also adopted by the Institute of Company Secretaries of India (ICSI) and was challenged by us. Now, the Hon'ble Supreme Court of India through its Division Bench comprising Justice N.V. Ramana & Justice S. Abdul Nazeer in case titled *Institute of Companies Secretaries of India (ICSI) Vs. Paras Jain, Civil Appeal No. 5665/2014* has held vide its order dated 11.04.2019 that:

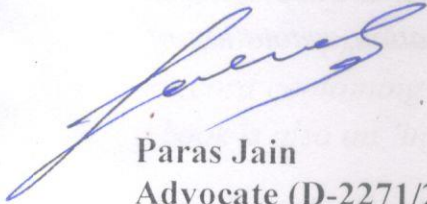
11. *We are cognizant of the fact that guidelines of the appellant, framed by its statutory council, are to govern the modalities of its day-to-day concerns and to effectuate smooth functioning of its responsibilities under the Company Secretaries Act, 1980. The guidelines of the appellant may provide for much more than what is provided under the Right to Information Act, such as re-evaluation, retotaling of answer-scripts.*

12. *Be that as it may, Guideline No. 3 of the appellant does not take away 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.*

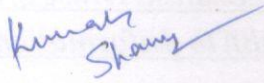
In view of settled legal position discussed above, this is our humble and sincere request to this Public Authority to allow ICAI Students to access their Answer-scripts as per cost prescribed under the RTI Rules and the law laid down by the Hon'ble Supreme Court of India, and not to compel students to follow ICAI internal Guidelines/Rules/Regulations.

If this Public Authority either fails to provide information of Answer-scripts as information under the RTI Act or compels any student to follow ICAI Guidelines/Regulations, in such a circumstance it shall be deemed to have refused to follow the rule of law & all designated officers including the **President, Vice-President and Secretary** of ICAI shall be held responsible for the *Contempt of Court* & necessary legal action under the Contempt of Courts Act, 1971 against such officers shall be taken accordingly.

We sincerely hope that ICAI as a responsible and professional Institution shall scrupulously observe and follow the rule of law.



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