

LIST OF DATES

Date	Particulars
09-08-2011	Landmark Judgment passed by the Division Bench of this Hon'ble Court comprising of Justice R.V. Raveendran and Justice A.K. Patnaik in <i>CBSE & Anr. Vs. Aditya Bandhopadhyay & Ors. (Civil Appeal No. 6454/2011)</i> that Answer-Script is an information under Right to Information Act, 2005 and the examinees have the right to inspect their answer-sheets and obtain the copies thereof.
16-08-2016	Direction to CBSE vide Order dated 16-08-2016 given by this Hon'ble Court in <i>Kumar Shanu and Anr. Vs. YSK Seshu Kumar, Chairman, CBSE</i> , Contempt Petition (Civil) No. 9837/2016 in Civil Appeal No. 6454/2011 to scrupulously observe the direction of this Court given in Civil Appeal No. 6454/2011 and the rules framed under the Right to Information Act, 2005.
29-05-2017	Alleged Contemnor issued a similar Notice bearing number CBSE/Coord/2017/F.11 dated 29.05.2017 prescribing the fee of Rs 1200/- for obtaining the copies of evaluated answer-sheet, in violation of the direction issued by this Hon'ble Court in Civil Appeal No. 6454/2011 and Contempt Petition (Civil) No. 9837/2016.
07-06-2017	One student Yugantika Guha submitted her application to seek copies of her evaluated answer-sheets under RTI Act, 2005 but the Public Information Officer, CBSE vide

	his reply dated 07-06-2017 denied her the access of evaluated answer-sheet by way of directing her to refer the above mentioned Notice available on CBSE Website (www.cbse.nic.in).
31-05-2018	Alleged Contemnor has published an arbitrary and unfair notification bearing number CBSE/Coord/2018/F.11 dated 31/05/2018 wherein the Alleged Contemnor has prescribed the same exorbitant fee of Rs 1000/- (X Class) and Rs 1200/- (XII Class) for obtaining the evaluated answer-sheets copies, which is a Contempt of this Hon'ble Court.
	Hence this Application

IN THE SUPREME COURT OF INDIA
CONTEMPT PETITION (CIVIL) No. ____/2017

IN

CIVIL APPEAL NO. 6454/2011

In the matter of

Kumar Shanu
S/o Kundan Kumar Singh
D 5/13, Shiv Shakti Apartment, B-90, Sector-71
Noida, UP-201307

Paras Jain
S/o Satish Kumar Jain
B-9/3, Vallabh Vihar Society
Sector-13, Rohini, Delhi-110085

.....Applicants

Versus

Central Board of Secondary Education
Through its Chairman
Anita Karwal
Shiksha Kendra, 2
Community Centre
Preet Vihar, Delhi-110092

.....Alleged Contemnor/Respondent

In the matter of (Civil Appeal No. 6454/2011)

Between:

1. Central Board of Secondary Education
Through its Director,
Siksha Kendra,
2, Community Centre,
Preet Vihar,
Delhi 110092

.....Petitioner 1

2. The P.I.O/Assistant
Secretary(C & L),
Central Board of Secondary Education,
Regional Office,35-B,Civil Station,
M.G Marg,Civil Lines,
Allahabad-211001(U.P)

.....Petitioner 2

AND

1. Aditya Bandhopadhyay
Represented by Guardian
Mother IshaniBandhopadhyay
Wife of Debasish Bandopapadhyay
Residing at A Road,Anandapuri
30/2, Post Office-Chandanpukur,
Police Station-Titagarh,
District:North 24 Pargans
(West Bengal)Contesting Respondent
2. The Assistant Commissioner
Kendriya NO. 3 Vidyalaya Sangathan,
Kolkatta Region,
E.B Block, Sector-I,
Salt Lake City,
Kolkatta-700 064Proforma Respondent
3. The Principal
Kendriya Vidyalaya Army, No. 4
Barrackpore,
District: North 24 Pargans
(West Bengal)Proforma Respondent

**APPLICATION ON BEHALF OF THE APPLICANTS UNDER
SECTION-12 OF CONTEMPT OF COURT ACT, 1971 READ
WITH RULE 3 OF THE RULES TO REGULATE PROCEEDING
FOR CONTEMPT OF THE SUPREME COURT, 1975 FOR
INITIATING CONTEMPT PROCEEDINGS AGAINST THE
ABOVE-NAMED ALLEGED CONTEMNOR FOR NON-
COMPLIANCE OF THE JUDGMENT DATED 09-08-2011**

To

The Hon'ble Chief Justice of India

And his Companion Justices of Supreme Court of India

New Delhi

Most Respectfully Showeth:

1. That the Applicants have filed the instant application seeking initiation of Contempt Proceedings against the above named alleged Contemnors for

wilfully and deliberately disobeying the explicit direction given in the Judgment dated 9th August, 2011 passed by the Division Bench of this Hon'ble Court comprising of Justice R.V. Raveendran and Justice A.K. Patnaik in *CBSE & Anr. Vs. Aditya Bandhopadhyay & Ors. (Civil Appeal No. 6454/2011)* and Order dated 16-08-2016 passed in *Kumar Shanu and Anr. Vs. YSK Seshu Kumar, Chairman, CBSE Contempt Petition (Civil) No. 9837/2016* in Civil Appeal No. 6454/2011.

Copy of the Judgment dated 09-08-2011 in Appeal No. 6454/2011 and Order dated 16-08-2016 passed in Contempt Petition (Civil) No. D 9837/2016 are enclosed herewith as **Annexure-P1 at Page No. _____** and **Annexure- P2** at Page No. _____ respectively.

2. That the Applicants are practising lawyers. Applicants along with other public-spirited law students and young lawyers work for promoting transparency in affairs of public authorities. The Hon'ble High Court of Delhi in W.P.(C) 12018/2016 while allowing Applicants' petition over lack of clarity on Economic Weaker Section admissions in the national capital, directed Municipal Corporations of Delhi (MCD now known as EDMC, NDMC and SDMC after trifurcation of MCD) to make the admission procedure under *Section 12(1)(c) of The Right of Children to Free and Compulsory Education Act, 2009* transparent in the interest of children belonging to Economically Weaker Section (EWS) and Socially Disadvantaged Groups. The Hon'ble High Court of Delhi on a writ petition filed by Applicant No. 1 and 2 in W.P. (C) 10599/2015) had amended its Delhi High Court RTI Rules, 2006, to bring it in conformity with the main legislation Right to Information Act, 2005 (herein after to be referred as RTI Act). The Applicant No. 1 remained an active member and associate of all the academic and philanthropic

initiatives taken by his Law School. He was the Founding Member of the Legal Aid Cell, a body comprising of Law Students under the aegis of the Head of the Institution promoting *Clinical Legal Education*. He was further elected as the President of the Legal Aid Cell for 2012-2015. The Applicant No. 1 worked for the promotion of Clinical Legal Education among the masses via the Cell with the assistance of Government and Non-Government Organisations. Applicant No. 2 has been active in organising seminars and workshops creating awareness among law students about the use of RTI Act. He has also been honoured with “*Excellence in Public Interest Lawyering*” Award by his Law School for his significant contributions in public interest. The Applicants being responsible citizens have come before this Hon’ble Court to protect the fundamental and legal right of the students, which is being infringed by the Alleged Contemnor blatantly.

3. That the Hon’ble Supreme Court of India has held and established in in the matter of CBSE &Anr. Vs. Aditya Bandhopadhyay&Ors. (Civil Appeal No. 6454/2011) that Answer-Sheet is an Information as per Section-2(f) of the RTI Act and therefore, Examinees/Students have fundamental and legal right of having access to their Answer-Sheets under RTI Act. This Hon’ble Court while establishing it in the aforesaid case held that:

Para 24-“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." Rejecting the contention that exemption in Section-8(1)(e) of the RTI Act applies to answer book, the SC held: "If a relationship of fiduciary and beneficiary is assumed between the examining body and the examinee with reference to the answer book section 8(1)(e) would operate as an exemption to prevent access to any third party and will not operate as a bar for the very person who wrote the answer book, seeking inspection or disclosure of it.

4. That the Applicant No. 1 and 2 had earlier filed Contempt Petition (Civil) No. D 9837/2016 in Civil Appeal No. 6454/2011 against the Chairman, Central Board of Secondary Education (hereinafter referred to as 'CBSE'). In the said Contempt Petition, the same issue was raised by the Applicants against the Alleged Contemnor of charging exorbitant fee of Rs/- 1200 in providing the copies of answer-sheets. This Hon'ble Court through a bench comprising Shri Ranjan Gogoi J. and Shri Prafulla C. Pant J. had disposed of this contempt petition by giving direction to the Chairman, CBSE to scrupulously observe the directions of this Court in Civil Appeal No.6454 of 2011 and the Rules framed under the RTI Act. This direction makes it clear that only the fee prescribed under RTI Rules, 2012 shall be charged.
5. That despite the above directions issued by this Hon'ble Court, the Alleged Contemnor has published an arbitrary and unfair notification

bearing number CBSE/Coord/2018/F.11 dated 31/05/2018 wherein the Alleged Contemnor has prescribed the same exorbitant fee of Rs 1000/- (X Class) and Rs 1200/- (XII Class) for obtaining the evaluated answer-sheets copies. This arbitrary and notification is illegal and in contrary to the law laid by this Hon'ble Court in Civil Appeal No. 6454/2011 and Contempt Petition (Civil) No. 9837/2016 amounting to Contempt of this Hon'ble Court.

True Copy of the Notification bearing number CBSE/Coord/2018/F.11 dated 31/05/2018 is enclosed herewith as **Annexure-P3** at Page No.

_____.

6. That this Hon'ble Court and Hon'ble High Court of Delhi are also providing the copies of evaluated answer-sheets to the candidates in Advocate on Record and Delhi Judicial Services Examinations respectively. This may be easily acknowledged through the RTI Replies dated 19-05-2016 and 17-08-2017 furnished by the Public Information Officer of this Hon'ble Court and Hon'ble High Court of Delhi. The True Copies of the RTI Replies dated 19-05-2016 and 17-08-2017 furnished by the Public Information Officer of this Hon'ble Court and Hon'ble High Court of Delhi are enclosed herewith as **Annexure-P4** at Page No. _____ and **Annexure-P5** at Page No _____.
7. For the information of this Hon'ble Court, in the last year 2017, the Alleged Contemnor issued a similar Notice bearing number CBSE/Coord/2017/F.11 dated 29.05.2017 prescribing the fee of Rs 1200/- for obtaining the copies of evaluated answer-sheet, in violation of the direction issued by this Hon'ble Court in Civil Appeal No. 6454/2011 and Contempt Petition (Civil) No. 9837/2016. One student Yugantika Guha submitted her application to seek copies of her evaluated answer-sheets

under RTI Act, 2005 but the Public Information Officer, CBSE denied her the access of evaluated answer-sheet by way of directing her to refer the above mentioned Notice available on CBSE Website (www.cbse.nic.in). This practice of Alleged Contemnor of issuing notice every year prescribing exorbitant fee in contrary to the law laid by this Hon'ble Court is a clear attempt to surpass and to overrule the supreme authority of this Hon'ble Court.

True Copy of the Notice No. CBSE/Coord/2017/F.11 dated 29.05.2017 is enclosed herewith as **Annexure-P6** at Page No. _____.

True Copy of the RTI Reply dated 07-06-2017 received by Yugantika Guha is enclosed herewith as **Annexure-P7** at Page No. _____.

8. That the information of evaluated answer-sheets is retained by the Alleged Contemnor for a limited time period of 30-45 days, after which such information shall be destructed. If the immediate direction by this Hon'ble Court is not given to the Alleged Contemnor to preserve the vital information of evaluated answer-sheets, it shall lead to *miscarriage of justice*.
9. That the Alleged Contemnor even being the state-run education board and having the responsibility of educating a large section of the society, is blatantly violating law of the land laid down by this Hon'ble Court. This wilful disobedience is not only resulting into infringement of the fundamental and legal rights of students every year but also the Contempt of this Hon'ble Court.
10. That the Applicants have not filed any petition/application seeking similar relief before this Hon'ble Court or any other Court/Authority.

INTERIM RELIEF

In the present facts and circumstances and to protect the fundamental and legal right of Students, it is humbly requested to this Hon'ble Court to:

- i. Direct the Alleged Contemnor to preserve the copies of answer-sheets of the examinees till the final disposal of the present case.

PRAYER

In view of the above mentioned facts and circumstances, it is respectfully submitted that this Hon'ble Court may be pleased to:

- a) Initiate Contempt Proceeding against the Respondent/Contemnor for wilfully and deliberately disobeying the directions of this Hon'ble Court Civil Appeal No. 6454/2011 and Contempt Petition (Civil) No. D 9837/2016 in Civil Appeal No. 6454/2011.
- b) Set aside the Alleged Contemnor's unlawful Notice No. CBSE/Coord/2018/F.11 dated 31/05/2018 prescribing fee of Rs 1000/- and Rs 1200/- for obtaining the copies of evaluated answer-sheets.
- c) Direct the Alleged Contemnor to provide the copies of evaluated answer-sheets to examinees only as per the provisions of the Right to Information Act, 2005 and at the cost/fee prescribed under Right to Information Rules, 2012.
- d) Pass any other order or direction as it may deem fit and proper in the interest of justice and equity.

New Delhi
Date

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