

## **Instructions to examiners can be made public post exam: SC**

The Supreme Court (SC) on Friday ruled that instructions issued to examiners in competitive examinations by the agency conducting the exam could be disclosed under the right to information (RTI) law, once the test is held.

The court pronounced the decision in the case between the Institute of Chartered Accountants of India (ICAI) and a candidate who had failed in one of the rounds of the chartered accountancy tests.

It reasoned that question papers, model answer sheets and instructions issued to those correcting exam papers, whether written or oral, could be construed as intellectual property that should not be made public before a test is administered. But this right lapses once the examination is held, said the court.

“The RTI Act does not bar or prohibit the disclosure of question papers, model answers (solutions to questions) and instructions, if any, given to the examiners and moderators after the examination and after the evaluation of answer scripts is completed,” said a bench comprising justices R.V. Raveendran and A.K. Patnaik. But the court clarified that any instructions issued to examiners and moderators, which came under the information held in a ‘fiduciary relationship’, would be exempt from disclosure as there would be an expectation of confidentiality.

The court also held ICAI to be a public entity, under the constitutional definition of “state” and, therefore, said it could not take shelter in the exemptions under the RTI Act.

It also observed that “public authorities owe a duty to disseminate the information widely suo moto to the public so as to make it easily accessible to the public”.

The court also noted that an object of “democracy is to bring about transparency of information to contain corruption and bring about accountability. But achieving this object does not mean that other equally important public interests, including efficient functioning of the governments and public authorities, optimum use of limited fiscal resources, preservation of confidentiality of sensitive information, etc., are to be ignored or sacrificed.”

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