

**ODISHA INFORMATION COMMISSION
BHUBANESWAR**

**Present : Shri Sunil Kumar Misra,
State Chief Information Commissioner**

Date 12th February, 2019

Second Appeal No.157/2015

Susanta Kumar Dash,
At-Khandayat Sahi,
PO-Mangalabag,
District-Cuttack.....Appellant

-Vrs-

1. Public Information Officer,
Board of Secondary Education,
Odisha, Bajrakabati Road,
Cuttack.
2. First Appellate Authority,
Board of Secondary Education,
Odisha, Bajrakabati Road,
Cuttack.Respondents

Decision

1. Appellant, Sushanta Kumar Dash, is present. The PIO and the First Appellate Authority of the Board of Secondary Education, Odisha are not present. However, Ramasis Hazra, Secretary; Amar Behera, PIO; N.K. Lenka, Dealing Assistant of the Examination Confidential-I Section and B. Sarangi, Senior Assistant of the Board had attended the hearing on 08.02.2019. The appellant was also present at the said hearing.

1.1 At the time of the hearing on 08.02.2019, the appellant as well as the Secretary of the Board had submitted show-cause written memoranda. The appellant had also submitted a rejoinder on the written submission dated 31.01.2019

of Hadibandhu Behera, Ex-PIO, Examination Confidential-I & II Sections of the Board. These have been considered.

2. Vide an application in Form-A dated 27.10.2014 filed with the PIO of the Board of Secondary Education, Odisha, Cuttack, the appellant had requested the PIO to provide him xerox copies of the answer-scripts of his son in General Science, S.Sc, Mathematics and English in the Annual HSC Examinations, 2014.

3. After processing the application in Form-A, the Assistant Secretary, Board of Secondary Education, Odisha, Cuttack sent an intimation to the appellant asking him to make a deposit of Rs.560/- worked out @Rs.140/- per answer-script whereupon copies of the said answer books would be provided. The appellant was also informed that under the Board's scheme and, as per extant provisions, answer books would be despatched after the process of checking of addition of marks was completed.

4. The appellant followed up his application in Form-A by filing first appeal vide an appeal memo in Form-D dated 18.10.2014 alleging that the PIO erred in demanding excess fees without mentioning the number of pages etc. The First Appellate Authority of the Board disposed of the first appeal vide an order dated 12.01.2015. It was held by him that the Board of Secondary Education was governed by the Odisha Secondary Education Act, 1953; and the said Act being much older than the RTI Act, 2005, it could not be over-ridden by the RTI Act. In this connection, the First Appellate Authority placed reliance on the decision of the Hon'ble Supreme Court in the case of R.S. Raghunath Vrs. State of Karnatak (AIR - 1992 SC.81). Reference was also made to the decision of the Odisha Information Commission in the case of Himansu Sekhar Behera Vrs. PIO in Second Appeal No.668/2012 wherein the Commission had directed the appellant in the said case to obtain information by taking recourse to the Odisha Records Manual which has prescribed the fees to be paid and the procedure to be followed for supplying

