

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

W.P.(C).6532/2006

Treesa Irish

Petitioner

v.

Central Public Information  
Officer and others

Respondents

**REPLY AFFIDAVIT FILED BY THE PETITIONER**

I, Treesa Irish, W/o Milton Lopez, aged 48 years, Postman, Ernakulam North Post Office, Kochi-682018, residing at Kadavathuparambil, Vallarpadam P.O., Cochin 682 031. , do hereby solemnly affirm and state as follows:

1. I am the petitioner in the above Writ Petition. I am conversant with the facts and circumstances of the case.
2. A Counter affidavit filed by the respondents is on record. All contentions raised therein are hereby denied save to the extent they are specifically admitted hereunder.
3. With respect to para 1 it is not known how the 3<sup>rd</sup> respondent can be represented by the 1<sup>st</sup> respondent going by the scheme of the Right to Information Act. The 3<sup>rd</sup> respondent is expected to be an independent body and normally debarred from taking a partisan attitude.
4. Contentions at para 2 and 3 are denied. There is no proper consideration of the claim of the petitioner in any of the impugned orders. The orders impugned are amenable to judicial review and the writ petition is maintainable.
5. Contentions at para 4 are denied. The exemptions under Section 8(1) (e) and 8 (1) (j) are not attracted in the case of evaluated answer sheets in a departmental examination. The larger public interest is always in favour of disclosing such answer sheets to the person writing the exam because it will reveal any possible malpractice or callousness in the evaluation process. Even if there is no malpractice

or callousness the candidate will be in a position to appreciate where she went wrong and better her performance. Individual strive for perfection is a fundamental duty under Article 51A(j). such an attempt cannot be considered as one not coming under public interest. Further presence or absence of public interest in the context of Sections 8(1) (e) and 8(1) (j) of the Act is not to be considered and decided by the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> respondents. They could have only placed the matter before the appropriate authority for consideration going by the scheme of the Act.

6. Averments at para 5 are denied. Provisions of a non statutory manual cannot over run, limit or replace statutory prescriptions. The “age old time tested procedure” was found to be inadequate by the collective will reflected in the legislative step of enacting the Right to Information Act. “Administrative difficulties” cannot exclude operation of a statute.
7. Averments in para 6 to 13 are denied. Apart from blanketly denying the averments based on law made in the Writ Petition the respondent do not give any logical explanation in support of their contentions.
8. Contention in para 14 are denied. It is submitted that the intention the petitioner is indeed to take appropriate legal steps and to expose whoever is responsible, if in case there has been any malafide or callous action which resulted in, she not getting required minimum marks. The averments in para 14 in fact shows lack of faith of the respondent in the evaluation process. It is infact with the intention of exposing corruption, malafies, callousness etc the Right to Information Act was enacted. One of the reasons stated for enacting the statute in the preamble of the Act is “Whereas, democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold

governments and their instrumentalities accountable to the Governed”

9. Whether on such legal action being taken it will disclose a case warranting interference by the judiciary is not relevant to decide whether the information is disclosable to the petitioner. The respondents cannot prejudice the issue. Intention or motive behind the demand of information is not relevant to determine whether the information is disclosable.

In light of what is stated above, it is humbly prayed that this Honourable Court may be pleased to allow the Writ Petition with exemplary costs.

All what is stated above are true to the best of my knowledge, information and belief. I have not suppressed any material facts.

Dated this the 28<sup>th</sup> day of August, 2006

Deponent

Solemnly affirmed and signed before me by the deponent whom I know personally on this the 28<sup>th</sup> day of August, 2006 in my office at Ernakulam.

**M.R. Hariraj**  
Advocate

