

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.3274 of 2010 and
M.P.No.1 of 2010

The Tamil Nadu Public Service Commission,
Represented by its Secretary,
Omanthoorar Government Estate,
Chennai - 600 002.

..Petitioner

Vs

1. The Tamil Nadu Information Commission,
Represented by its Registrar,
Kamadhenu Super Market,
First Floor, Old No.273, New No.378, Anna Salai,
Teynampet, Chennai - 600 018.

2. P. Mohanmuniyandi

..Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 14.07.2009 made in case No.33407/Enquiry/2008 on the file of the first respondent and to quash the same as void, unlawful, unjust and unconstitutional.

For Petitioner : Mr. M. Devendran

For R1 : Ms. Swetha
for M/s. G.R. Associates

For R2 : No Appearance

ORDER

This writ petition has been filed by the writ petitioner challenging the impugned order passed by the first respondent/Tamil Nadu State Information Commission by directing the writ petitioner/Tamil Nadu Public Service Commission dated 14.07.2009 made in case No.33407/Enquiry/2008 to furnish the information to the second respondent who had sought for the

answer keys under RTI Act on 15.08.2008 relating to the posts included in Group - I Services Examination, for which the preliminary examination was conducted on 23.12.2007.

2. Brief facts set out in the petition are that the second respondent had sought for answer keys for the questions of the Preliminary Examination-Question paper Booklet Series "B" General Knowledge for Group-I, Examination of TNPSC conducted on 23.12.2007 under the Right to Information Act, (hereinafter referred to as RTI Act) 2005, vide letter dated 15.08.2008 addressed to the Public Information Officer, Chennai. The request of the 2nd respondent was examined in the light of the information furnished by the UPSC, the major recruiting agency of the country, whose functions are similar to those of this Commission in respect of providing the answer keys. The UPSC had stated that providing answer keys to the test booklets of Civil Services (Preliminary) examination to the information seeker under the RTI Act, 2005, pertains to the core activity of the Commission and the issue is pending before the Division Bench of the High Court of Delhi. In view of the above position, the answer keys had not been furnished to the 2nd respondent. In this regard, the reply was sent to the 2nd respondent vide Memorandum No.5253/RID1/2008, dated 20.08.2008. Thereafter, the 2nd respondent filed an appeal to the Appellate Authority of the Petitioner/Commission under the RTI Act, by his letter dated 27.08.2008 stating that the Public Information Officer has denied him the information on flimsy and extraneous ground. The reply to this appeal has been sent to the 2nd respondent, vide Memorandum No.5253/RID2/2008, dated 08.09.2008. Even then, the 2nd respondent filed his further appeal to the petitioner under the RTI Act by his letter dated 22.09.2008. The reply to this further appeal has been sent to the 2nd respondent vide Memorandum No.5253/QD-E1/RID2/2008, dated 21.10.2008. Thereafter, the 2nd respondent filed second appeal to the Tamil Nadu Information Commission, the 1st respondent herein. Thereafter, the 1st respondent summoned the Public Information Officer of the petitioner on 13.07.2009 to appear before the Commission for further consideration of the matter. The Public Information Officer appeared before the 1st respondent on 13.07.2009 for enquiry and explained the position. The 1st respondent, by erroneous appreciation of law and facts, by order dated 14.07.2009, directed the petitioner herein to furnish the copies of documents to the 2nd respondent as requested by him in his petition dated 14.10.2008 within 15 days from the date of receipt of its order and to show cause as to why action should not be taken under Section 20 (1) of the RTI Act for not giving the information within a reasonable time. Hence, the petitioner has come forward with the present writ petition before this Court for the relief stated supra.

3. None appeared on behalf of the 2nd respondent.

4. Heard Mr. M. Devendran, learned Standing Counsel appearing for the petitioner/TNPSC and Ms. Swetha, learned counsel appearing for M/s.G.R. Associates, for the first respondent.

5. Today, when the matter is taken up for hearing, the learned Standing Counsel appearing for TNPSC, on instructions, had submitted that in the Commission's meeting held on 09.11.2011, it has been decided as follows:

"...it has already been decided to provide the tentative answer keys within 3 days from the date of examination starting with Labour Officer examination conducted on 25.09.2011. It is further decided that the final answer keys shall be published and put on the website of the Commission after the publication of final results.

In respect of court cases, it is decided that the answer keys should be furnished to the candidates who seek information. In respect of the answer sheets, the answer sheet relating to the candidate should be furnished to him/her. It is further decided that the candidate should establish his identity with reliable proof for getting either the answer keys or the answer sheets."

6. The learned Standing Counsel appearing for TNPSC further submitted that in the Commission's meeting held on 06.01.2012, it has been decided as follows:

"The Commission discussed the subject in depth and decided to provide the answer keys in respect of all the recruitments including past cases, in respect of which the select list has been sent to the Authorities concerned to the information seekers through RTI."

7. The learned Standing Counsel further submitted that, thereafter, from the recruitment of Labour Officer - 2011 till date, as per the aforesaid orders, the final answer keys are published in the Commission's website after the publication of final results.

8. In view of the submissions made by the learned Standing Counsel for TNPSC, it is open to the 2nd respondent to approach the Authority concerned seeking for appropriate remedy as per the impugned order passed by the first respondent/Tamil Nadu Information Commission, dated 14.07.2009 made in case No.33407/Enquiry/2008.

9. With the above observations, the writ petition stands dismissed. No Costs. Consequently, connected M.P.No.1 of 2010 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msm

To

1.The Secretary,
Tamil Nadu Public Service Commission,
Omanthoorar Government Estate,
Chennai - 600 002.

2.The Registrar,
Tamil Nadu Information Commission,
Kamadhenu Super Market,
First Floor, Old No.273, New No.378, Anna Salai,
Teynampet, Chennai - 600 018.

+1cc to M/s. G.R. Associates, Advocate sr.88515
+1cc to Mr. M. Devendran, Advocate sr.88508

W.P.No.3274 of 2010

kk(co)
nr 14/02/2020

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