

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.01.2020
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

Writ Petition No.16308 of 2010
and
MP No.2 of 2010

United India Insurance Co. Ltd.
Rep. by its Deputy General Manager,
24, Whites Road,
Chennai - 600 014.Petitioner

Vs

D.Sunderarajan Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari to call for the records of the Central Information Commission, proceedings relating to the case no. appeal / Complaint No.Central Information Commission, New Delhi /D5/A/200009/001233, dated 10.06.2010 and quash the same.

For petitioner : Mr.S.Sandeep
for M/s.V.Perumal

For respondent : No appearance

ORDER

This writ petition has been filed challenging the order dated 10.06.2010 passed by the Central Information Commission, New Delhi, directing the petitioner to provide copies of answer sheets to the respondent for the examination conducted on 19.10.2008 at Chennai for the promotion from Scale III to Scale IV, within three weeks from the date of receipt of the said order.

2. It is the case of the petitioner that it is only the examining body namely National Insurance Academy (hereinafter referred to as "NIA"), Pune, who is having custody of the mark sheets. Therefore, according to the Central Information Commission, New Delhi ought not to have directed the petitioner

to provide the copy of the answer sheets to the respondent.

3. It is also their case that the Promotion Policy for Officers - 2006 does not provide for supply of answer sheets to the respondent. Having accepted the Promotion Policy for Officers introduced in the year 2006, the respondent cannot request the petitioner company to furnish answer sheets that too when the examination was conducted by a reputed body "NIA", Pune. According to the petitioner, the production of answer sheets would lead to gross and indefinite uncertainty particularly with regard to relative ranking of the candidates besides leading to utter confusion on account of enormity of the labour and the time involved in the process.

4. Aggrieved by the order dated 10.06.2010 of the Central Information Commission, New Delhi directing the petitioner to supply the answer sheets to the respondent, this writ petition has been filed.

5. Heard Mr.S.Sandeep, learned counsel for the petitioner. Despite service of notice on the respondent and his name having been printed in the cause list today, there is no representation on his side.

6. Admittedly, the examination has not been conducted by the petitioner and it has been conducted by the "NIA", Pune. It is the case of the petitioner that the custody of the answer sheets are only with "NIA", Pune. According to the petitioner, the examining body is a reputed body and it is also their case that under the Promotion Policy for Officers - 2006, there is no necessity to supply the answer sheets. Instead of making a request to the examining body viz., "NIA", Pune, the respondent has made a request to the petitioner's Company for production of the answer sheets. The Central Information Commission, New Delhi under its order dated 10.06.2010 has not taken note of the admitted fact that the custody of the answer sheets are only with the examining body viz., "NIA", Pune and not with the petitioner -Company. Without applying its mind to the same, the Central Information Commission, New Delhi, under its order dated 10.06.2010 has directed the petitioner -Company to furnish the answer sheets to the respondent. Further any request for production of answer sheets must be supported by sufficient and adequate reasons to the satisfaction of the examining body viz., "NIA", Pune.

7. In the case on hand, no request has been made by the respondent to the examining body viz., "NIA", Pune, for production of answer sheets. Without making any such request, the petitioner has made a request only to the petitioner, who is not having custody of the answer sheets. The relevant portion of the judgment of the Hon'ble Supreme Court reported in AIR 2007 Supreme Court 3098 which has been extracted in the affidavit filed in support of the petition reads as follows :

"The Courts normally should not direct the production of answer scripts to be inspected by the writ petitioners unless a case is made out to show that either some questions has not been evaluated or that the evaluation has been done contrary to the norms fixed by the Examining Body".

8. As seen from the judgment referred to supra, unless the petitioner makes out a case to show that either some questions have not been evaluated or that the evaluation has been done contrary to the norms fixed by the examining body, there is no necessity for production of answer sheets to the respondent either by the petitioner or by the examining body.

9. In the case on hand, excepting for stating in the application dated 26.03.2009 submitted by the respondent that he requires copies of the answer sheets for the examination conducted on 19.10.2008 for promotion from Scale III to Scale IV, no reasons have been given by the respondent for such a request.

10. For the foregoing reasons, this Court is of the considered view that the directions given by the Central Information Commission, New Delhi, on 10.06.2010 to the petitioner to provide copies of answer sheets to the respondent for the examination conducted on 19.10.2008 at Chennai for promotion from Scale III to Scale IV, within a period of three weeks from the date of receipt of a copy of the order, is in not in accordance with law and it has to be quashed. Accordingly, the order dated 10.06.2010 passed by the Central Information Commission, New Delhi in its Proceedings relating

to Appeal / Complaint No.CIC/D5/A/200009/001233, is hereby
quashed and the writ petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

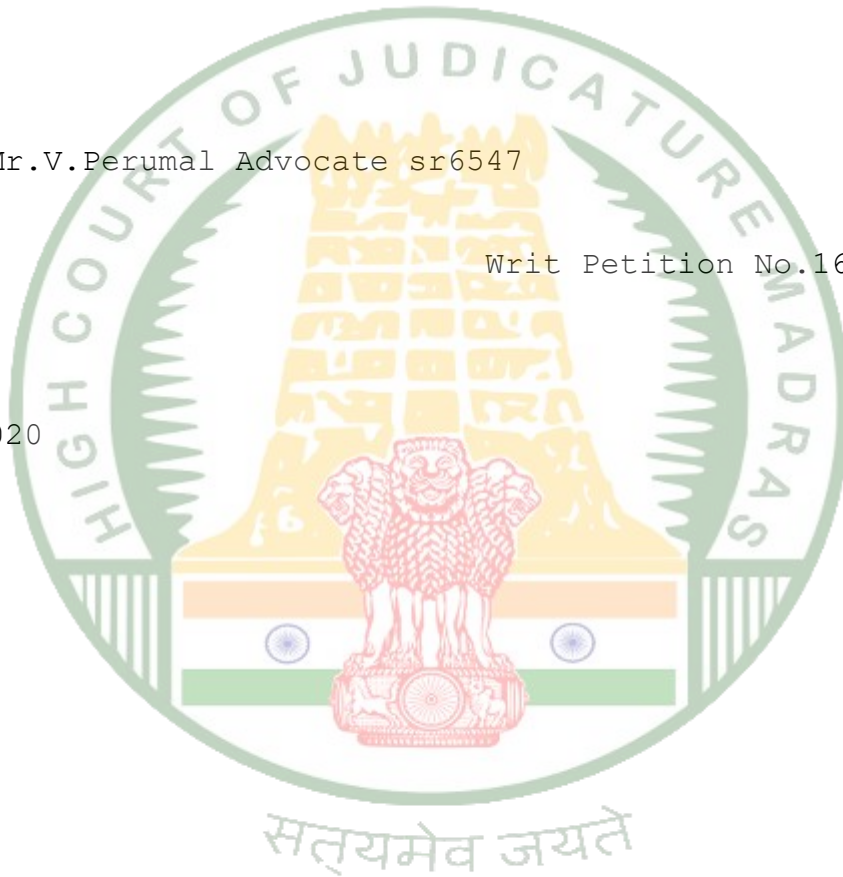
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Sub Asst. Registrar

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+1 cc to Mr.V.Perumal Advocate sr6547

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