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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.No.306 of 2020  
and C.M.P.No.5278 of 2020

- 1.State of Tamil Nadu  
rep. by its Secretary to Government,  
Home (Police-III) Department,  
Secretariat, Chennai - 600009.
- 2.The Director General of Police,  
Dr.Radhakrishnan Road, Mylapore,  
Chennai - 600004.
- 3.The Inspector General of Police/Member Secretary,  
TNUSRB,  
Old Commissioner of Police Office Complex,  
Pantheon Road, Chennai - 600008.  
... Appellants

-vs-

- 1.R.Anbarasan
- 2.S.Selvan
- 3.K.Dhinakaran
- 4.C.Karthik Raja
- 5.S.Soundar
- 6.B.Dhilip Kumar
- 7.M.Hariharan
- 8.A.Leo Vinith
- 9.P.Ayyanar
- 10.K.Nantha Kumar
- 11.V.Arul Jothi
- 12.K.Sathish
- 13.G.Suresh Kumar
- 14.M.Aathi Arunkumar
- 15.M.Kumaresan

... Respondents

Appeal filed under Clause 15 of the Letters Patent Act against the interim order dated 20.02.2020 passed in W.P.No.4292 of 2020 on the file of this Court.

Writ Petitions and writ miscellaneous petition filed under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to issue a writ



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of mandamus or any other order or direction in the nature of writ by calling for records of the 3rd respondent and quashing the impugned Provisional Selection List for the Post of Grade-II PC (AR and TSP), Jail Warder and Firemen, 2019 dated 04.02.2020 vide RC.No.850/R2/TNUSRB/2019 issued by the 3rd respondent as illegal and null and void and consequently direct the 3rd respondent to grant 1 mark to petitioners for the Question No. 64 in A Type Question Paper and for the same question in other types of question papers in the above selection by holding that all options are correct answers as was done by the respondents in the previous year 2017-18 selection for the same Question besides directing the respondents to issue the Provisional Selection List afresh after disclosing the cut-off mark for each category and giving 20% preference to PSTM candidates as declared in clause x(a) of the Notification No.1/2019 dated 06.03.2019 within time frame(in WP.No.4292/2020)

For Appellants : Mr.Vijaya Narayan (Advocate General) Assisted by Mr.V.Kathirvel  
Additional Government Pleader

For Respondents : Mr.Ravi Anantha Padmanaban

#### JUDGMENT

(Delivered by The Hon'ble Chief Justice)

We have heard learned Advocate General and learned counsel for the respondent petitioner.

2. This appeal has been presented against an interim order passed in a writ petition, challenging the selection process of Police Personnel conducted by the appellants. The allegation principally made by the respondents/writ petitioners and as recorded in the order, is that 1091 candidates, who have been declared successful in the said selections, are from one particular district and that all these candidates are stated to have undergone coaching in a particular tuition center. The learned Single Judge has observed that this is one of the sample of allegations that has been made. Without discussing anything further apart from the said recital contained in the impugned order, the learned Single Judge has directed that in view of the allegations made, this Court is of the considered view that the entire selections should be kept in abeyance.

3. The learned Advocate General contends that the direction so issued are not based on any prima facie material that could form the basis of the satisfaction for issuing such a direction that too without a counter from the State, and therefore, the impugned interim order attaches finality thereby staying the entire selection process, which has almost



been concluded. He, therefore, submits that such a wide sweeping direction for keeping the entire selections in abeyance, amounts to granting a final relief at the interim stage itself.

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4. Learned counsel for the respondents/petitioners has vehemently opposed the appeal contending that the direction is only an interim direction in order to protect the interest of the concerned and aggrieved parties particularly, with regard to the sanctity of selections, which is vitiated on the account of not only one, but several irregularities. He, therefore, submits that in view of the dimension of the irregularities, it is all the more necessary that the selection process should not be finalized or else, this will create a future complications after the selections.

5. Learned counsel for the parties have agreed for a final disposal of this appeal at this stage itself.

6. We have considered the submissions raised and we find that such issues have time and again arisen before a Court of law and on facts we find it necessary to entertain this appeal against an interim order, inasmuch as it attaches a permanent impetus to the entire selection process which has almost been concluded.

7. The Apex Court in the case of State of U.P. And others Vs. Ram Sukhi Devi reported in (2005) 9 SCC 733 on the issue of not granting an interim relief that can be granted only finally had to rule as under :-

"8. To say the least, approach of the learned Single Judge and the Division Bench is judicially unsustainable and indefensible. The final relief sought for in the writ petition has been granted as an interim measure. There was no reason indicated by learned Single Judge as to why the Government Order dated 26.10.1998 was to be ignored. Whether the writ petitioner was entitled to any relief in the writ petition has to be adjudicated at the time of final disposal of the writ petition. This Court has on numerous occasions observed that the final relief sought for should not be granted at an interim stage. The position is worsened if the interim direction has been passed with stipulation that the applicable Government Order has to be ignored. Time and again this Court has deprecated the practice of granting interim orders which practically give the principal relief sought in the petition for no better reason than that of a prima facie case has been made out, without being concerned about the balance of convenience, the public interest and a host of other considerations.



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[See Assistant Collector of Central Excise, West Bengal v. Dunlop India Ltd. (1985 (1) SCC 260 at p. 265), State of Rajasthan v. M/s Swaika Properties (1985 (3) SCC 217 at p.224), State of U.P. and Ors. v. Visheshwar (1995 Supp (3) SCC 590), Bharatbhushan Sonaji Kshirsagar (Dr.) v. Abdul Khalik Mohd. Musa and Ors. (1995 Supp (2) SCC 593), Shiv Shankar and Ors. v. Board of Directors, U.P.S.R.T.C. and Anr. (1995 Supp (2) SCC 726) and Commissioner/Secretary to Govt. Health and Medical Education Department Civil Sectt., Jammu v. Dr. Ashok Kumar Kohli (1995 Supp (4) SCC 214).] No basis has been indicated as to why learned Single Judge thought the course as directed was necessary to be adopted. Even it was not indicated that a prima facie case was made out though as noted above that itself is not sufficient. We, therefore, set aside the order passed by learned Single Judge as affirmed by the Division Bench without expressing any opinion on the merits of the case we have interfered primarily on the ground that the final relief has been granted at an interim stage without justifiable reasons. Since the controversy lies within a very narrow compass, we request the High Court to dispose of the matter as early as practicable preferably within six months from the date of receipt of this judgment."

8. A perusal of the aforesaid ratio would clearly demonstrate that before an interim order is passed, the principles of prima facie case, balance of convenience, public interest and irreparable injury as well as other considerations, have all to be kept in mind and an interim order should be passed only with a view to prevent any disadvantage to either of the parties.

9. In the instant case, the entire selections have almost been concluded and the allegations that have been made, are in relation to the alleged irregularities on account of the selection of certain candidates from a particular district as well as the inclusion of certain candidates who ought not to have been selected for several reasons.

10. This, in our opinion, is a matter of inquiry and investigation and for that it was necessary for the learned Single Judge to have called for an affidavit from the State Government as well as any other respondents arrayed in the writ petition for the purpose of assessing the material on record in order to arrive at a prima facie conclusion so as to give rise to a need for the passing of an interim order. A mere description of allegations without any opportunity of rebuttal to the State amounts to an assumption without even a prima facie adjudication. The allegations, therefore, have to be assessed only after the State is allowed an opportunity to



file an affidavit either controverting or otherwise giving any explanation in that regard. To treat the entire selection throughout the State to have been vitiated only on allegations in the given circumstances of the case would not be a sound exercise of judicious discretion. To record a satisfaction, some objective material coupled with a subjective satisfaction must be discussed or else the interim relief would amount to granting a final relief even before parties are allowed to exchange affidavits. The approach of the learned Single Judge, therefore, is not sustainable in law.

11. Learned counsel for the respondents/writ petitioners while opposing the appeal contends that there were documents available on record to justify the allegations made. This has been seriously opposed by the learned Advocate General contending that the allegations are incorrect. We do not find any mention of any document of the State or material mentioned or discussed in the impugned order so as to gather any such impression.

12. The matter entails serious consequences either way, and therefore, without there being an affidavit of the State Government, it was not at all appropriate for the learned Single Judge to have proceeded to pass an order of keeping the entire selection process in abeyance. We, therefore, find the interim order passed to be totally unjustified on the facts of the present case.

13. The Writ Appeal is allowed. The impugned order dated 20.02.2020 is hereby, set aside. It shall be open to the parties to exchange the affidavits before the learned Single Judge and the learned Single Judge having a roster in the matter, shall proceed to decide the case as expeditiously as possible. No costs. Connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. Secretary to Government,  
State of Tamil Nadu,  
Home (Police-III) Department,  
Secretariat, Chennai - 600009.

2. The Director General of Police,  
Dr. Radhakrishnan Road, Mylapore,  
Chennai - 600004.



3.The Inspector General of Police/Member Secretary,  
TNUSRB,  
Old Commissioner of Police Office Complex,  
Pantheon Road, Chennai - 600008.

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+1cc to Mr.K.Ravi Anantha Padmanabhan, Advocate, S.R.No.  
19316

+1cc to the Government Pleader, S.R.No. 18924

W.A.No.306 of 2020

KS (CO)  
GN(27/05/2020)