IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

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THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.776 of 2011

S.S.Seethavasan ...Petitioner

-Vs-

1. The Government of Tamil Nadu
   rep.by the Secretary to Government
   Tamil Development, Religious Endowments
   and Information Department, Fort.St.George
   Chennai 600 009.

2. Hindu Religious and Charitable Endowments
   Department, Represented by its Commissione
   No.119, Nungambakkam High Road, Chennai 600 034.

3. Tamil Nadu Public Service Commission rep.by its
   Secretary, No.1, Commercial Taxes, Annex Building
   Greams Road, Chennai 600 006. ...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents directing the respondents to consider the petitioner for selection to the post of Assistant Commissioner in the Tamilnadu Hindu Religious and Charitable Endowments Administration Department pursuant to the TNPSC written examination held on 30.5.2010 and oral test conducted on 9.12.2010 for the direct recruitment to the post of Assistant Commissioner in the Tamilnadu Hindu Religious and Charitable Endowments Administration Department in the Tamilnadu Hindu Religious and Charitable Endowments Administration Service included in Group I B Service 2005-2006 to 2008-2009.

For Petitioner : Mr.Rajnish Pathiyil
For Respondents : Mrs.G.N.Jayantheswari,
Government Advocate - for RR 1 & 2
Mr.V.Govardhanan
Standing Counsel - for R3

O R D E R

The prayer sought for herein is to direct the respondents to consider the petitioner for selection to the post of Assistant Commissioner in the Tamilnadu Hindu Religious and Charitable Endowments Administration Department pursuant to the TNPSC written examination held on 30.5.2010 and oral test conducted on 9.12.2010 for the direct recruitment to the post

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of Assistant Commissioner in the Tamilnadu Hindu Religious and Charitable Endowments Administration Department in the Tamilnadu Hindu Religious and Charitable Endowments Administration Service included in Group I B Service 2005-2006 to 2008-2009.

2. That the third respondent TNPSC had issued a notification on 20.12.2009 inviting applications from eligible candidates for selection and appointment to the post of Assistant Commissioner in the Tamil Nadu Hindu Religious and Charitable Endowments Administration Department, pursuant to which the petitioner also made application and as per the method of selection, there would be written examination in descriptive type followed by an oral test ie., interview. Those who secured the necessary marks in written test in the respective communal category or General Turn, as the case may be, would be called for oral test.

3. In this context, according to the petitioner, he has done well in the written examination, and secured good marks despite the same, he was not called for oral test. Therefore, before conduct of the oral test, he seems to have approached this Court and got an interim order directing the third respondent/TNPSC to permit the petitioner to attend the oral test and accordingly he was permitted to attend the oral test, which he attended and thereafter he has not been considered for selection and therefore, seeking such a relief to select him and appoint him as Assistant Commissioner in the HR&CE Department, for which notification was issued, he seeks the indulgence of this Court.

4. Heard Mr.Rajnish Pathiyil, learned counsel for the petitioner, who reiterated the aforesaid facts and submitted that, the petitioner had performed well both in the written and oral test and obtained higher marks than the cut off marks fixed in this regard in the particular category, however his candidature was not considered and he was not selected. Such non selection is bad in law and the petitioner seeks the indulgence of this Court to give suitable directions to the respondents.

5. However, Mr.Govardhanan, learned Standing Counsel appearing for the third respondent, on written instructions, would submit that, the petitioner belongs to General Turn ie., "Others", which means he does not come under any communal reserved category like B.C., M.B.C., SC or ST. He would further submit that, the petitioner has secured 487.50 marks in the written examination (241.50 marks in Paper I and 246.00 marks in Paper II). However, the cut off marks in the General Turn category was 495, that means the last person who was called for oral test under the category 'General Turn' secured 495 marks in the written test. Therefore, below the said marks no-one was called for oral test under the said category. When that being so, since the petitioner has admittedly

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secured only 487.50 marks and the cut off marks were 495, he should not have been called for oral test. However, in view of the orders passed by this Court, pursuant to which he was permitted to attend the oral test and subsequently since the marks obtained by him in the written test was only 487.50, whereas the cut off was 495, he did not reach the zone of consideration and therefore, he was not considered for selection and appointment. Accordingly, his candidature was rejected.

6. I have considered the submissions made by the learned Standing Counsel for TNPSC and the learned Special Government Pleader for respondents 1 and 2, and have perused the materials placed on record.

7. Since the Standing Counsel for the third respondent, on instructions, has submitted that, the cut off marks in the category of General Turn, to which the petitioner belongs is 495, even for calling the candidate for oral test and since the petitioner secured only 487.50 marks in the written test, the question of calling him for the oral test does not arise. Despite the same, he was permitted to attend the oral test only pursuant to the orders of this Court, where only prima facie without taking into account the actual marks he secured, he was permitted to attend the oral test.

8. Therefore, merely because he was permitted to participate in the oral test, the petitioner cannot seek any advantage as he was not at all eligible to be called for oral test in view of the marks he has secured in written test, which is well below the cut off marks in that category.

9. In that view of the matter, this Court feels that, there is no merit in the claim made by the petitioner to select and appoint him in the post of Assistant Commissioner, HR & CE Department, for which the notification was isued and selection was made. Hence, this writ petition fails and accordingly it is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

KST

To

1.The Secretary to Government
Tamil Development, Religious Endowments
and Information Department, Fort.St.George
Chennai 600 009.

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2.The Commissioner,
Hindu Religious and Charitable Endowments
Department,
No.119, Nungambakkam High Road, Chennai 600 034.

3.The Secretary,
Tamil Nadu Public Service Commission
No.1, Commercial Taxes, Annex Building
Greams Road, Chennai 600 006.

+1cc to Mr.Rajnish Pathiyil, Advocate SR.No.9334
+1cc to Mr.V.Govardhanan, Advocate SR.No.9030
+1cc to Special Government Pleader SR.No.10173

W.P.No.776 of 2011

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