



W.P. No.33642 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.33642 of 2022 and
W.M.P. No.33095 of 2022

V.Thirumurugan

... Petitioner

vs.

Tamil Nadu Public Service Commission,
TNPSC Road, Park Town,
Chennai – 600 003.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent to consider the representation dated 09.11.2022 and permit the petitioner to upload the certificates and participate in the Main Examination to be conducted by the respondent for Combined Civil Services Examination-II (Interview Posts/Non-Interview Posts) (Group-II Services/Group-II A Services).

For petitioner : Mr.V.Karthikeyan

For respondent : Mr.R.Bharanidharan,
Standing Counsel for TNPSC

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the respondent to consider the petitioner's representation dated 09.11.2022 seeking permission for the petitioner to upload the certificates and participate in the Main



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Examination to be conducted by the respondent for Combined Civil Services Examination-II (Interview Posts/Non-Interview Posts) (Group-II Services/Group-II A Services).

2.The petitioner claims that he has participated in the written examination pursuant to the recruitment notification issued for the aforementioned posts. According to him, he has answered correctly 149 questions out of 200 questions, based on the key answers published by the respondent. However, according to him, without declaring the marks of the petitioner secured in the preliminary written examination, the respondent has published the list of the selected candidates for the main examination. The petitioner's name does not find a place in the selection list for the main examination.

3.The grievance of the petitioner is that if his written examination was valued correctly based on the key answers, published by the respondent, he would have been qualified to write the main examination. In such circumstances, he has given a representation on 09.11.2022 to the respondents to upload his certificates and permit him to participate in the main examination to be conducted by the respondent for Combined Civil Services Examination-II (Interview Posts/Non-Interview Posts) (Group-II



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Services/Group-II A Services). Since the petitioner's representation referred to supra has not been considered, he has filed this writ petition.

4.Heard Mr.V.Karthikeyan, learned counsel for the petitioner and Mr.R.Bharanidharan, learned Standing Counsel, who accepts notice on behalf of the respondent.

5.Learned Standing Counsel appearing for the respondent drew the attention of this Court to the recruitment notification and in particular, to Clause 14(I) and would submit that as per the said Clause, any request from candidates for furnishing of their marks or answer keys before completion of the entire selection process, will not be entertained by the respondent Commission. According to him, having accepted to the said conditions, the petitioner cannot seek for a direction to furnish his marks pertaining to his preliminary written examination for the said posts. Learned Standing Counsel appearing for the respondent also drew the attention of this Court to the Full Bench Judgment of this Court dated 18.02.2020 passed in W.P. Nos.10010 of 2015 and 3611 of 2020 in the case of Vidya Devarajan and K.Visu vs. The Secretary, Tamil Nadu Public Service Commission and in particular, he referred



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to paragraph Nos.21 to 24 of the said Full Bench Judgment and would submit that the Full Bench has also held that once the candidates have accepted the conditions of the recruitment notification and they have participated in the selection process, they are estopped from challenging the different stages of selection. According to him, only after the entire selection process gets completed, the petitioner if aggrieved can challenge his non-selection.

6.Learned counsel for the petitioner would however contend that the petitioner has not sought for production of answer sheets of the petitioner in this writ petition and therefore, the Full Bench decision relied upon by the learned Standing Counsel appearing for the respondent Commission is not applicable to the facts of the instant case.

Discussion

7.The main grievance of the petitioner is that he had given correct answers to 149 questions out of 200 questions in the preliminary examination, conducted by the respondent Commission. Admittedly the entire selection process has not got over. The results of only the candidates, who have qualified for the main examination,



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have been published. If the writ petitions of this nature are entertained at this stage when selection process is yet to be completed, it would result in the derailment of the selection thereby defeating public interest.

8. Even though the learned counsel for the petitioner would categorically contend that the petitioner has not sought for production of answer sheets for the preliminary examination written by him, the relief sought for by the petitioner in this writ petition to upload the certificates and to permit the petitioner to participate in the Main Examination would indirectly amount to seeking such a relief. The petitioner has attempted to achieve indirectly in this writ what he cannot achieve directly, namely, seeking for production of his answer sheets. The recruitment notification dated 23.02.2022 based on which the petitioner had applied for the said posts also makes it clear that the Commission shall not publish the final answer key until the completion of the entire selection process. Rule 14(I) of the recruitment notification reads as follows:

'(I) Tentative answer keys will be hosted in the Commission's website within 3 days from the date of conduct of objective type examination. Candidates can challenge the tentative answer keys of the objective type examination through the 'Answer Key Challenge' window available in the Commission's website [Results – Answer



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Keys].

Representations, if any challenging the tentative answer keys shall be submitted only through online mode within seven days from the date of publication of tentative answer keys. Representations received by post or e-mail will receive no attention.

Detailed instructions, procedures to challenge the tentative answer keys have been made available in the Commission's website. Representations made online/offline after the closure of the window will also receive no attention. The challenges submitted on time, through the online mode, shall be referred to a Committee comprising of experts in each subject. The decision on the final answer key shall be made, based on the recommendations of the expert committee and paper evaluation shall commence thereafter.

The Commission shall not publish the final answer key until the completion of the entire selection process.

Requests from candidates for furnishing of their marks or answer paper copy before the completion of the entire selection process, will not be entertained by the Commission.

After conclusion of the entire selection process, relevant particulars of all candidates who had applied for recruitment to the post shall be made available on the Commission's website.'

9. Admittedly, the selection process has not been completed by the respondent Commission. Only the preliminary examination has

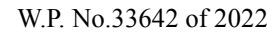


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been completed and selected candidates have been called for the main examination. There are further stages in the selection process to be completed by the respondent Commission. When the recruitment notification makes it clear that the Commission shall not publish the final answer key until the completion of the entire selection process, the petitioner is now estopped at this stage from challenging his non-selection in the main examination. The Full Bench judgment of this Court in the case of Vidya Devarajan and K.Visu vs. The Secretary, Tamil Nadu Public Service Commission dated 18.02.2020 passed in W.P. Nos.10010 of 2015 and 3611 of 2020 has held as follows:

'21. As per the above decision of the Hon'ble Supreme Court, furnishing of marks will cause problems as pleaded by the UPSC and further more, considering the confidentiality of sensitive information on the other, the marks in Civil Services Exam cannot be directed to be furnished mechanically.

22. Before us as well as before the Division Bench and the Hon'ble Supreme Court, TNPSC had taken a specific stand that till viva voce is conducted and the process of selection is over, no candidate is entitled to get copies of answer books. If a direction is issued for production of copy of answer book, it will hamper the purity of the selection process and if every candidate seeks copies of the answer books even before the



23. Though the Division Bench in its judgement dated 20.03.2015 noted this argument, it has not given a specific finding as to how the stand taken by TNPSC is not justified. The Division Bench observed that merely because the copies of the answer books are given to the petitioner, he is not going to gain any knowledge of the marks secured by the other candidates. In our considered view, that would not be a proper answer especially when selection is to the post of Civil Judge.

24. The instructions to candidates form part of the application for selection to the post of Civil Judge. The instructions are in the nature of rules of selection akin to conditions in a prospectus. The candidates have accepted the conditions and participated in the selection process. The instructions to candidates clearly bar information being divulged as regards causes of their failure in their test, that too, before the completion of the selection process. Therefore, the petitioner is estopped from arguing contrary to the instructions. To ensure purity in the oral test and unbiased the evaluation, marks secured by the candidate in the written examination should not be disclosed till the completion of the selection process.'

10.As seen from paragraphs 21 to 24 of the Hon'ble Supreme Court judgment referred to supra, it is clear that once the



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candidates have accepted the conditions and participated in the selection process and the recruitment notification clearly bars information being divulged till the selection process is completed, the question of an unsuccessful candidate challenging his non-selection for the main examination will not arise. If the writ petition of this nature is entertained at this stage that too before the completion of the selection process, it will open the flood gates ultimately leading to the derailment of the selection process resulting in affecting public interest.

11.Learned Standing Counsel appearing for the respondent submits that there were 13 lakhs aspirants for the subject posts. While that be so, at this stage, the relief sought for by the petitioner cannot be granted by this Court as it is premature and if the same is granted, it will be in violation of the terms and conditions of the recruitment notification as well as the Full Bench decision of this Court referred to supra. For the aforesaid reasons, this Court does not find any merit in the writ petition.



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ABDUL QUDDHOSE, J.

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12. Accordingly, the writ petition stands dismissed.
Consequently, connected W.M.P. stands closed. No costs.

14.12.2022

Index: Yes/No

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Note: Issue order copy on 15.12.2022

To

Tamil Nadu Public Service Commission,
TNPSC Road, Park Town,
Chennai – 600 003.

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