



W.P.No.2528



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.25281 of 2010
and M.P.No.1 of 2010

The Tamil Nadu Public Service Commission,
Rep. by its Secretary,
No.1, Greams Road,
Chennai – 600 006.

...Petitioner

vs.

P.Pillai Vinayakam

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned order dated 16.08.2010 made in Case No.6763/Enquiry/2010 on the file of the Tamil Nadu Information Commission and to quash the same as void, unlawful, unjust and unconstitutional.

For Petitioner : Mr.R.Bharanidaran for TNPSC

For Respondent : Notice served – name printed - no appearance



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ORDER

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The Writ Petition has been filed challenging the order issued by the Tamil Nadu Information Commission directing furnishing of certain information as claimed by the respondent.

2.Mr.R.Bharanidaran, learned counsel appearing for the petitioner/TNPSC. In spite of notice being served on the respondent and his name being printed in the cause list, no representation either in person or through counsel.

3.Mr.R.Bharanidaran, learned counsel appearing for the petitioner/TNPSC would submit that the respondent had participated in the process of selection pursuant to the Publication issued by the Tamil Nadu Public Service Commission. Thereafter, the respondent had made an application under the Right to Information, Act, 2005 seeking for particulars including his answer sheet in the selection process. To which, a reply had been made indicating that till the selection process is over, it would not be possible to provide certain information and also indicating that since it is an examination which includes both written and oral tests, a rank list would only be furnished based upon both the tests.



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4.Challenging the said order, the respondent had originally preferred an appeal and a further appeal to the Tamil Nadu Information Commission. However, the Tamil Nadu Information Commission had originally issued a summon to the petitioner to appear on 05.08.2010, on which date the petitioner had appeared and submitted its explanation. In spite of its explanation, a direction was issued accepting the case of the respondent in respect of Question Nos.3 & 4 information had been furnished. With respect to Question Nos.1 & 2 had sought for, had directed the petitioner to furnish information within a period of one week.

5.He would strongly rely upon a Judgment of the Hon'ble Apex Court in the case of *Union Public Service Commission and Others vs. Angesh Kumar and Others* reported in *(2018) 4 SCC 530* and contend that it would be impossible to furnish the information as sought for by the respondent as it would derail the entire selection process.

6.I have considered the submissions made by the learned counsel appearing for the petitioner and also perused the materials available on record.

7.From a plain reading of the impugned order, there has been no reasons assigned by the Tamil Nadu Information Commission as to why such



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information as sought for by the respondent would have to be furnished by the petitioner. The said order, according to me, is wholly arbitrary as being made without application of mind. As rightly pointed out by the learned counsel appearing for the petitioner, when information as required by the respondent is being furnished even before the conclusion of the selection process, it would necessarily create a delay which would derail the selection process.

8.It is also pertinent to consider the law laid down by the Hon'ble Apex Court in the Judgment relied upon by the learned counsel appearing for the petitioner. For better appreciation, the relevant paragraph of the aforesaid judgment is extracted hereunder:

“Weighing the need for transparency and accountability on the one hand and requirement of optimum use of fiscal resources and confidentiality of sensitive information on the other, we are of the view that information sought with regard to marks in Civil Services Exam cannot be directed to be furnished mechanically. Situation of exams of other academic bodies may stand on different footing. Furnishing raw marks will cause problems as pleaded by the UPSC as quoted above which will not be in public interest. However, if a case is made out where the Court finds that public interest requires furnishing of information, the Court is certainly entitled to so require in a given fact situation. If rules or practice so require, certainly such rule or practice can be enforced. In the present case, direction has been issued without considering these parameters.”



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9.In view of the law laid down by the Hon'ble Apex Court as extracted supra, I have no other option except to set aside the order passed by the Tamil Nadu Information Commission which has been impugned in this Writ Petition.

10.In fine, the order impugned in the Writ Petition is set aside and the Writ Petition is allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order: Yes/No
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K.KUMARESH BABU, J.

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