



W.P.No.2690



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.26901 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.

Mr.M.Perumal

...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 02.08.2010 made in Case No.24260/Enquiry/2007 on the file of the Tamil Nadu Information Commission, Chennai 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



ORDER

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The Writ Petition has been filed challenging the order of the Tamil Nadu Information Commission directing the petitioner to provide information as sought for 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.The respondent herein by his application dated 06.02.2007 had sought for certain information which was refused by the petitioner as even in the website of the petitioner as per Clauses 3 & 8 under Paragraph 7 of the TNPSC Manual on Right to Information, the answer sheet & key answers are exempted to be shared. But, however, had furnished the list of subject-wise marks obtained by the candidates who had appeared in the oral test. Not being satisfied with the reply, the respondent had approached the Tamil Nadu Information Commission which by detailed order dated 09.01.2008 had directed the petitioner to furnish the information. Against which, the petitioner had preferred a Writ Petition in W.P.No.10327 of 2008, the said Writ Petition was



dismissed these Writ Petitions upholding the order passed by the Tamil Nadu Information Commission.

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4. Upon dismissal of the aforesaid Writ Petition, a communication was received by the petitioner to furnish the information. As the petitioner had proposed to file a Writ Appeal against the order of the learned Single Judge, it had intimated the same to the Information Commission. However, by a communication dated 02.08.2010, the Commission had intimated the petitioner that there is no provision in the RTI Act to await any Court Resolution and directed the information sought for to be provided, the same is the subject matter of this Writ Petition.

5. Mr. R. Bharanidaran, learned counsel appearing for the petitioner/TNPSC would submit that the order passed by the learned Single Judge was stayed by this Court by its interim order dated 14.09.2010. He would heavily 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 also a Full Bench judgment of this Court dated 18.02.2010 in W.P.Nos.10010 of 2015 and 3611 of 2020 to contend that such information as required by the respondent could not be furnished.



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6.I have considered the submissions made by the learned counsel appearing for the petitioner and perused the order impugned in this Writ Petition.

7.At the outset, when the order of the learned Single Judge was the subject matter of lis in the Writ Appeal, the Commission ought to have waited for the result in the Writ Appeal. It is also very unfortunate that the Tamil Nadu Information Commission does not want to wait for a Court Resolution before implementing the order, it would only suggest that the Tamil Nadu Information Commission wants to abuse the process of this Court by forcing the petitioner to disclose the information which according to it, the claimant was not entitled to. For better appreciation, the relevant paragraph of the judgment of the Hon'ble Apex Court 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.”

8.I am of the considered view that the impugned order at that point of time was wholly illegal.

9.In view of the aforesaid reasonings, I am of the considered view that the impugned order passed by the Tamil Nadu Information Commission dated 02.08.2010 is liable to be set aside.

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.

07.11.2023

Index: Yes/No
Speaking order: Yes/No
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W.P.No.2690



K.KUMARESH BABU, J.

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07.11.2023