



W.P.(MD) No.1579 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.1579 of 2023 and
WMP(MD) No.1445 of 2023

M.Nivethan

... Petitioner

-VS-

1.The Secretary
Tamil Nadu Public Service Commission
VOC Nagar, Park Town,
Chennai 600 003.

2.The Under Secretary
Tamil Nadu Public Service Commission
VOC Nagar, Park Town, Chennai.

3.The Controller of the Examination,
Tamilnadu Public Service Commission,
VOC Nagar,Park Town
Chennai 600 003.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified mandamus to call for the records relating to the impugned notice passed by the 1st respondent vide his notification No.10/2022 dated 04.04.2022 insofar as it relates to clause



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13(1) which speaks about the publication of final key answer and marks of the written examination of the candidates and quash the same as illegal and consequentially direct the respondents to publish the written examination marks of the candidates along with final key answer and thereafter proceed with selection process within the period that may be stipulated by this Court.

For Petitioner : Mr.S.Mohammed Imran for
Ajmal Associates
For Respondents : Mr.J.Anandkumar

ORDER

The petitioner has filed this writ petition challenging the impugned notice passed by the 1st respondent vide his notification No. 10/2022 dated 04.04.2022 insofar as it relates to clause 13(1) which speaks about the publication of final key answer and marks of the written examination of the candidates and for a consequential direction to the respondents to publish the written examination marks of the candidates along with final key answer and thereafter proceed with selection process.

2.The case of the petitioner is that the first respondent issued a notification dated 04.04.2022 inviting application for direct recruitment to



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the post of combined Engineering Services Examination. The selection process consists of written examination and oral test. In pursuant to the notification, the petitioner applied to the post of Assistant Engineer (Civil) and the examination was conducted on 02.07.2022. Subsequently, the respondent commission published the tentative key answers calling for objections with regard to the questions and the key answers. The petitioner also submitted his objection for 10 questions. According to the key answers and the petitioner's assessment, he would have been called for selection. However, without publishing the final key answers, the respondent published the list of selected candidates, wherein, the petitioner's name was not found place. It is his case that as per Clause 13(1) of the notification, till the selection process is over, the respondents ought not to have published the final key answers. Since the selection is violative of Clause 13(1) of the notification, the petitioner is before this Court with this writ petition.

3. The learned counsel for the petitioner would submit that if the answer key is published after the selection process is over, the candidates



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will lose their legitimate right of challenge before the appropriate authority.

He would further submit that once the selection is over, the petitioner may not be in a position to challenge the wrong answer before the appropriate forum and hence, prays for interference.

3. Per contra, the learned standing counsel for the respondents would submit that the issue raised in the writ petition is no longer *res integra* and when the very same issue is raised before the Full Bench of this Court, the Full Bench has rendered a finding against the petitioner and prays for dismissal of the writ petition.

4. Heard the learned counsel on either side and perused the materials available on record.

5. The issue raised in this writ petition is no longer *res integra* in view of the categorical pronouncement of the Full Bench of this Court in ***Vidya Devarajan and another v. The Secretary, Tamil Nadu Public Service Commission, Chennai, dated 18.02.2020***. In the said decision, the



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Full Bench has held as follows:

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Doubting the correctness of the decision of the Division Bench in W.A.No.1656 of 2014, dated 06.02.2015 (The Director (JIPMER) Jawaharlal Institute of Postgraduate Medical Examination and Research and another vs Dr.A. Aiamperumal and another) and W.P.No.7997 of 2015 dated 26.03.2015 ([S. Sujatha vs Tamil Nadu Public Service Commission](#), rep by its Under Secretary, Chennai), the Division Bench in W.P.No.10010 of 2015, by order dated 15.04.2015, directed the matter to be placed before the Hon'ble Chief Justice to be referred to a Larger Bench of this Court to answer the following issue:-

“Whether the candidates, who had participated in the written examinations, as part of the recruitment process and who have not been called for viva voce, are entitled to receive the answer sheets and the marks before completion of the entire selection process for such recruitment”.

...

14. Further, it was contended that the respondent therein was not a successful candidate in the written examination to be short listed to the next stage of the selection process and therefore, not entitled for perusal of his answer papers even before the completion of the selection process. Further, the final stage of the selection process was yet to commence and any order, which will enable the candidate to know his marks which is kept secret to ensure purity and confidentiality in the conduct of the oral test, would hamper the selection process in toto. It was submitted that the papers will be made available after the selection list is drawn and that TNPSC is not



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willing to divulge the mark of any candidate, who took his/her written examination till the completion of the oral test only in order to conduct a free and unbiased oral test. During the pendency of the Special Leave Petition, the selection process was completed and the TNPSC thought fit to withdraw the Special Leave Petition.

...

26. In the light of the above, the question referred to us is answered by following the decision in Angesh Kumar (supra) and it is held that the candidates who had participated in the written examination as a part of the recruitment process and who have not been called for viva voce are not entitled to receive the answer sheets and the marks before completion of the entire selection process for such recruitment. Accordingly, W.P.No.10010 of 2015 is closed and W.P.No.3611 of 2020 is directed to be listed before the appropriate Bench. No costs.

6. In view of the decision rendered by the Full Bench of this Court, the relief as sought for by the petitioner cannot be granted. Accordingly, the writ petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

22.02.2023

NCC : Yes/No
Index : Yes/No
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M.DHANDAPANI, J.

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