

TAMILNADU INFORMATION COMMISSION

No.2 Theagaraya Road, Teynampet,  
Chennai 600 018. Tel: 24347590

**Case No. 35336/Enquiry/2012**

**Date of Enquiry: 07-11-2012**

Present : **Thiru K.S.SRIPATHI, I.A.S.,(Retd.)**  
**State Chief Information Commissioner**

**Thiru S.F. AKBAR, B.Sc.,B.L.,**  
**State Information Commissioner.**

Petitioner: Thiru S.S. Madhavan  
No.68, R-Block, MMDA Colony  
Arumbakkam, Chennai - 600 106.

Public Authority: The Public Information Officer  
Tamil Nadu Public Service Commission  
Brazer Bridge Road, V.O.C. Nagar,  
near Dental College, Chennai - 600 001.

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The petitioner Thiru S.S. Madhavan was present for today's (07-11-2012) enquiry. The Public Authority was represented by M. Latha, Public Information Officer/Under Secretary, Tamil Nadu Public Service Commission, Chennai.

2. The petitioner in his petition dt.10-01-2012 to the Public Information Officer has asked for details relating to Group-I Services 2000-2001 examinations conducted by the T.N.P.S.C. In his first appeal before the Appellate Authority dt.10-04-2012, he has asked for details in a different format on the same subject looking like an improvement over the earlier questions. On 18-06-2012 he has sent a second appeal to this Commission citing the appeal preferred before the first appellate authority. The Public Authority citing a letter dt.31-01-2012 received from the petitioner which has not been furnished to this Commission by the petitioner, the appeal petition dt.10-04-2012 and a copy of the second appeal petition filed before this Commission, has given various details on 16-07-2012.

3. During the course of the arguments, the petitioner represented that he is a candidate aggrieved by the decision of the T.N.P.S.C., that the case before the Hon'ble High Court having been disposed of, an S.L.P. is pending before the Hon'ble Supreme Court.

4. Item - 1 of his first appeal dt.10-04-2012 and the second appeal dt.18-06-2012 relates to furnishing of copy of "the notes and currents of the entire file" wherein the TNPSC took a decision in connection with the examination. The Public Authority in its reply had stated that the matter is "*subjudice*" before the Supreme Court of India and hence request for information made by the petitioner could not be complied with. In the facts of this case, the petitioner has included in his appeal before the first appellate authority the above item - 1. Significantly enough, this item did not find a place in his petition filed under Section 6(1) of the R.T.I. Act, 2005. It is too well settled, the petitioner, who omitted to include an item in the petition under Section 6(1) of the Act, would not be entitled to include it straightaway in the first appeal. The reason is quite obvious and it is that the petitioner will have no right under the law to go on appeal on an information which

has not been asked for in the original petition. If so viewed, the public authority would be well within its right to refuse to furnish information for this item. However, during the argument, the petitioner submitted that the R.T.I. Act does not prohibit furnishing of information when the matter is "*subjudice*". The Public Authority contended that as per Section 8(1)(b) & (d), such confidential information which are subject matter of a litigation before the High Court or Supreme Court could not be given. This contention could not be countenanced, for, the said provisions have no bearing whatsoever on the facts of this case.

5. Regarding item No.2, the Public Authority has furnished the list of A.S.O.s and S.O.s and other officials of the TNPSC. This appears to be a meaningless exercise done by the Public Authority in view of the fact that evaluation of the examination is carried out only by examiners/experts and not by A.S.O.s and S.O.s and other functionaries in the TNPSC. The question itself is erroneous and the public authority need not have wasted its time in furnishing such information.

6. Items 3 & 4 flow from item No.2 and therefore the public authority is not duty bound to give any information in this regard. However, it is found that by misconstruing the petitioner's query, they have given information. For item No.5, the public authority has rightly declined to give information under Section 7(9) of the R.T.I. Act.

7. During the course of the argument, the petitioner informed that he is one of the affected parties and that he would like to take up the matter before the appropriate forum and therefore he needed all these information. It is gatherable from both the petitioner and the public authority that the matter has already been agitated and decided by the Hon'ble High Court of Madras and an S.L.P. has been filed before the Hon'ble Supreme Court of India which is pending. Therefore, the question of taking action against the officials of the TNPSC would be only dependant on the outcome of the S.L.P. pending before the Supreme Court. The decision of the public authority in declining to give information in this regard is therefore upheld.

**8. This appeal is disposed of in the above terms.**

#### **TAMIL NADU INFORMATION COMMISSION**

Orders approved on this  
the 27<sup>th</sup> day of November 2012

Under the orders of the Commission

Assistant Registrar

**Case No. 35336/Enquiry/2012**

To

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