

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 1012 OF 2020
UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA
IN THE MATTER OF:

Vasireddy Govardhana Sai Prakash & Ors

....Petitioners

Versus

Union Public Service Commission & Ors

...Respondents

To,

The Hon'ble

Chief Justice of India

And Other Companion Justices

Most Respectfully Showeth

SHORT COUNTER AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 1 UNION PUBLIC SERVICE
COMMISSION

I Raj Kumar, Joint Secretary (Examination), UPSC, do hereby
solemnly affirm and declare as under:



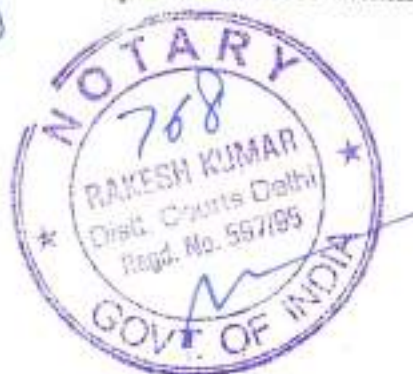
That I am the concerned Joint secretary in the Examination branch of the UPSC. In such capacity I am fully aquatinted with the facts and circumstances of the case and competent to file the present counter affidavit on behalf of UPSC.

1. At the outset, it is submitted that UPSC is a Constitutional Body which has been constituted under Article 315-323 Part XIV Chapter II of the Constitution of India to discharge its duties, functions and obligations assigned under Article 320. The UPSC is fully aware and conscious of its responsibilities under the Constitution and accordingly conducts various examinations, including Civil Services Examinations strictly in accordance with the Rules of examination as notified by the Government of India in a just, fair and impartial manner. The Civil Services Examination (CSE) is held annually for recruitment to premier Gr. 'A' and Gr. 'B' Services under the Govt. of India including Indian Administrative Service, Indian Foreign Service and Indian Police Service. It is imperative that the vacancies in these services are filled up in time so that the public services do not suffer due to lack of manpower in right place in right point of time. Over the years a cycle has evolved involving recruitment, training and final appointment ensuring that the Government gets its requisite manpower on time. Any disruption at any stage has the



potential of upsetting the entire cycle not only for once but likely to have cascading effects in future as well. The Commission decided to hold this examination on 4th October, 2020 after examining the feasibility to postpone the examination to the maximum extent keeping in view various factors including the examinations to be held in the year 2021. A calendar of examination of 2021 is already placed on the website in which the Civil Services (Prel.) Examination, 2021 is scheduled to be held on 27/06/2021. A copy of programme of examination published on the website of UPSC on 17.08.2020 is annexed herewith and marked as **Annexure R-1.**

2. That due to postponement of several examinations, the Commission has planned for accommodating as many as 10 examinations and recruitment tests in a short span of little over 2 and half months after the Civil Services (Prel.) Examination, 2020 on 04.10.2020 by straining its resources as much as possible in view of the unprecedented situation that the country is facing on account of COVID-19 pandemic so that the disturbance to the recruitment process of the subsequent years remains minimum. Thus, the Commission has already postponed almost all its examinations to the extent possible after examining the feasibility, which cannot



(4)

be delayed any further now. Usually the Civil Services (Main) Examination and Indian Forest Service (Main) Examination of a particular year are held in that year itself, which are multi-days examinations. However, due to postponement of Civil Services (Prel.) Examination, 2020, the Main (written) parts of both these examinations have to be shifted to 2021. Any postponement of the Civil Services (Prel.) Examination, 2020 will not only impact the examinations which are lined up during the remaining part of current year but will also entail further rescheduling of both the aforesaid Main examinations as also the 2nd Stage examinations of other examinations including their interviews, thereby impacting the Examination Calendar of the year 2020 as well as 2021. This would further delay the declaration of results of these examinations and thereby adversely affecting the availability of manpower at critical posts of the Government.

3. The Civil Services (Prel) Examination for the 2021, which is scheduled to be held on 27/06/2021, has been scheduled after taking into account all possible factors including the climate/weather conditions of the country. In the earlier years, this examination had been conducted in the last week of May or first week of June. Hence, its scheduling has



already been delayed and would get adversely affected further in case of again postponing the 2020 Preliminary Examination, which has been fixed for 04.10.2020 after considering all factors. Thus, normal schedule of the next year examination has already been delayed. This would multiply the delay in supply of manpower to the Government in the prevalent crunch time. Moreover, the Commission would not be in a position to declare the final result of the Civil Services Examination, 2020 before the Civil Services (Pre.) Examination, 2021, which would not be in the larger public interest at all.

4. It is also pertinent to mention that unlike an academic examination, the Civil Services Examination is meant for recruiting officers for the Govt. Services where no delay could be brooked for ensuring continuity in smooth delivery of public services. It is a common knowledge that aspirants prepare for this examination over the years and it will be extremely demotivating for them if the examination is not held in time. The Commission is in receipt of requests from various serious candidates not to postpone the examination. Copies of various emails received by the UPSC asking it not to postpone the examination are annexed herewith and marked as Annexure R-2/Colly. Further, this Hon'ble Court



in its order dated 17-08-2020 in WP(C) No.812/2020 (Sayantan Biswas &Ors. Vs. National Testing Agency (NTA)& Ors), in the context of the prayer for postponement of NEET UG-2020, held, *inter-alia*, as under:

"In our opinion, though there is a pandemic situation, but ultimately life has to go and the career of the students cannot be put on peril for long..."

5. Under the current scheme, the CSE comprises of (i) a Preliminary Examination – an objective type test for screening of candidates for the next stage, (ii) a Main (written) examination in conventional pattern and (iii) interview/personality test of written qualified candidates for final selection.

6. The CSE, 2020 was notified on 12.02.2020 with the scheduled date of the Civil Services (Prel.) Examination on 31.05.2020. However, the examination could not be held on the scheduled date due to country-wide lockdown in the wake of the COVID-19 pandemic. The candidates were duly informed in advance about the postponement through a Press Release on 04/05/2020 after a review of the situation by the Commission. Further, the Commission kept on further reviewing the matter from time to time and updates were



issued through Press Releases on 20/05/2020 and 05/06/2020. The revised calendar of examinations for the year was also published on 05/06/2020. Copy of press releases dated 04.05.2020, 20.05.2020 and 05.06.2020 are annexed and marked as **Annexure R-3/Colly.**

7. In the aforesaid revised calendar of examinations, it was clearly indicated that the CS(P) Examination, 2020 would be held on 04.10.2020, thus a clear lead time of 4 months was given to the candidates so that they do not suffer from lack of time for preparation due to any disruption/dislocation that they might have faced due to the COVID-19 outbreak.
8. Following the rescheduling of the examination, candidates were allowed the option to change their choice for centers in two phases (1st phase: 07-13 July, 2020; 2nd phase: 20-24 July, 2020). A total of 67717 candidates availed this option. They were informed through public notice dated 1st July, 2020. A copy of public notice dated 01.07.2020 is annexed herewith and marked as **Annexure R-4.**
9. In respect of the Civil Services (Prel.) Examination, 2020, the total number of candidates is 10,57,958. The examination is scheduled to be held on 04.10.2020 at 72 Centres (2569



Sub-Centres) across the country. The Centre-wise details of the examination is annexed herewith and marked as **Annexure R-5.**

10. Most importantly, it is submitted that the Commission has already completed most of the preparatory actions for holding the examination as listed below:

- i. All the logistic arrangements regarding deployment of Supervisors, Invigilators, Observers, Inspecting Officers, Zonal Officers etc. have been completed.
- ii. Pre-Examination non-sensitive material i.e. OMRs, Scannable Attendance List (SALs), Stationeries, etc have already been dispatched to all the Venues.
- iii. The Pre-Examination sensitive material has also been dispatched.
- iv. Briefing meetings of Coordinating Supervisors (through Video Conferencing) in all the 72 centres have been held on 09.09.2020, 11.09.2020 and 16.09.2020. Briefing meeting of Delhi Venue Supervisors has also been conducted on



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24.09.2020 to sensitize them about the procedure on conduct of examination.

- v. E-Admit cards for the CS(P) Exam, 2020 have already been uploaded on the Commission's website on 01.09.2020. As on date 28.09.2020 at 05 PM, 687648 candidates have already downloaded the e-Admit card. The Commission has also formulated the "Guidelines for Coordinating Supervisors/ Venue Supervisors/ Invigilators and other Exam Functionaries for conduct of UPSC Examinations in wake of COVID19 Pandemic" and same has been shared with all concerned Examination functionaries. A copy of guidelines for coordinating for conduct of UPSC examination is annexed herewith and marked as **Annexure R-6.**
- vi. The candidates have been informed of the COVID -19 Protocol to be followed while appearing at the Examination through e-admit card.
- vii. In view of prevalent situation due to COVID-19 Pandemic, D.O. letter dated 27.08.2020 from Chairman, UPSC to Cabinet Secretary was issued requesting for issuance of instructions to Chief Secretaries of the States for suitable arrangements regarding operationalization of transport



system to optimum level; restriction-free movement of candidates on the basis of e-Admit card issued by the Commission; and adequate deployment of Police force to ensure security for the sensitive examination material and its storage & transportation and also maintaining effective law and order including social distancing norms at the Venues. A copy of letter dated 27.08.2020 is annexed herewith and marked as **Annexure R-7.**

- viii. Cabinet Secretary vide D.O. letter dated 01.09.2020 has addressed all the Chief Secretaries, inter-alia, that special provision may be made to avoid any inconvenience to the candidates as well as Examination Functionaries. A copy of letter dated 01.09.2020 addressed to Chief Secretaries by the Cabinet Secretary is annexed herewith and marked as **Annexure R-8.**

- ix. Further, vide D.O. letter dated 26.08.2020 Secretary, UPSC requested all the Chief Secretaries for logistic arrangements including unhindered movement of candidates and exam functionaries based on e-Admit Cards/ID Cards, operationalization of public transport system to optimum level, deployment of Police personnel to maintain law and order and social distancing norm. A specimen of letter dated



26.08.2020 Secretary, UPSC is annexed herewith and marked as **Annexure R-9.**

- x. Vide D.O. letter dated 09.09.2020 Secretary, UPSC requested the Chief Secretaries for running the public transport system for 3-4 October, 2020. A list of districts (having more than 100 candidates), from where the candidates will be reaching the Centre, was also furnished to Chief Secretaries. A specimen of letter dated 09.09.2020 Secretary, UPSC is annexed herewith and marked as **Annexure R-10.**
- xi. By D.O. letter dated 09.09.2020, Chairman & Chief Executive Officer, Railway Board was apprised that 10.58 lakh candidates are appearing for the Examination who would be moving from their place of stay to their assigned Venues to take the Examination. A list of Districts from where they will be reaching the Centre(s), moving out from their places of stay, was also provided to Chairman & CEO, Railway Board with the request to issue suitable directions to the concerned authorities to arrange for trains on the sectors. A copy of letter dated 09.09.2020 addressed to Chief Executive Officer, Railway board is annexed herewith and marked as **Annexure R-11.**



- xii. The Coordinating Supervisors at each of the 72 centre have also been requested vide letter dated 25.09.2020 to ensure smooth movement of candidates from micro containment zone(s) based on the e-Admit Cards without violating any Central/State Government guidelines in this regard.
- xiii. The Commission deutes its Officers to each of the Centres before the examination to ensure that all the protocols have been followed by the Coordinating Supervisors/Venue Supervisors in making arrangement for the examination.
- xiv. All the Examination functionaries and the candidates have been impressed upon to follow the social distancing norms. Coordinating/Venue Supervisors have been asked to make arrangement for adequate masks/sanitizers so that proper protocol is maintained in this regard.
- xv. It is pertinent to mention that the Commission has incurred an expenditure of ~~₹~~50.39 cores (approximately), which includes committed liabilities of around 16.09 crore, in order to facilitate the logistical preparation for the conduct of examination and the postponement of examination would cause a huge loss to the public exchequer.



xvi. As a part of the arrangement process, the Commission has already addressed the Bharat Electronics Ltd. for installing jammers in each of the Venues of this examination (total 2659) as the frisking of candidates for any communication device has been done away with following COVID-19 Protocols. A copy of the communication dated 18.09.2020 to the Bharat Electronics Ltd. is annexed herewith and marked as **Annexure-R 12**.

11. Thus, it is evident that due care has been taken by the Commission not only to facilitate the candidates to take the examination but also to take the examination in a secured environment in a best possible manner. Incidentally, it is revealed from the following statistics that substantial numbers of candidates do not appear in the examination:-

Year of CSE	No. of applied candidates	No. of appeared candidates	No. of absentee candidates	% of absentee candidates
2015	939735	463391	476344	50.68
2016	1128262	459659	668603	59.25
2017	947728	456625	491103	51.81
2018	1041775	493972	547803	52.58
2019	1135261	568282	566979	49.94



However, even before 7 days of the conduct of the examination, around 65% of the candidates have already downloaded their e-admit card by 05.00 PM on 28/09/2020 thereby demonstrating their intention to appear for the examination.

12. Apart from the above mentioned steps it is pertinent to mention that the Commission has already successfully conducted the National Defence Academy & Naval Academy (NDA & NA) Examination (I) & (II), 2020 on 06.09.2020 at 41 Centres across the country in 1266 Venues for 530538 candidates. It is relevant to point that the candidates appearing at NDA & NA (I) and (II) Examination, 2020 are 12th appearing/pass out who are even below the age of 18 years, while the candidates appearing at CSP are having minimum prescribed age of 21 years and minimum educational qualification as graduation. Hence, more responsible behavior and care is expected from such Civil Service Preliminary aspirants to maintain and follow the protocol prescribed by the Government amid the COVID-19 pandemic while appearing at any examination including the Civil Services (Preliminary) Examination. Moreover, other examinations like CLAT on 28.09.2020, NEET examination on 13.09.2020, JEE (Main) examination in the first week of September have already been held,



some of which cater to many more applicants than the Civil Services Preliminary Examination.

13. Lastly, it is submitted that right to equality would imply that a candidate who wishes to appear in CSP Exam 2020 must be allowed to appear similar to previous years' examinations.

Further, in accordance with the right to health the candidates and their escorts (if any) have to take due precautions as detailed in instructions of Ministry of Health and Family Welfare and Commission's instruction and thereby eliminate the risks themselves.