

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 237 OF 2018**

**Dist : Beed**

Rahul s/o Pandurang Bhalerao, )  
Age. 28 years, Occu. Nil, )  
R/o At Wangi, Post Shivani, )  
Tq. & Dist. Beed. ) **...APPLICANT**

**V E R S U S**

1. The Secretary, )  
School Education & Sports )  
Department, Mantralaya, Mumbai. )

2. The Deputy Director of Sports )  
and Youth Services, )  
Aurangabad Division, )  
Divisional Sports Complex, )  
Garkheda, Aurangabad. )

3. The Member / Secretary, )  
Maharashtra Public Service )  
Commission, 7 & 8<sup>th</sup> Floor, )  
Cooprage, Telephone Exchange, )  
Maharshi Karve Road, )  
Mumbai – 400 021. ) **...RESPONDENTS**

-----  
APPEARANCE :- Shri V.B. Wagh, learned Advocate for  
the applicant.

: Shri S.K. Shirse, learned Presenting  
Officer for the respondents.

-----  
**CORAM : JUSTICE A.H. JOSHI, CHAIRMAN  
AND  
ATUL RAJ CHADHA, MEMBER (A)**

**RESERVED ON : 02.04.2019**  
**PRONOUNCED ON : 22.04.2019**  
-----

**J U D G E M E N T**

**(Per : Justice A.H. Joshi, Chairman)**

1. Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. Present Original Application has been filed by the Applicant for the following reliefs:-

*“B) To hold and declare that the applicants certificate issued by the Throw Ball Federation in 23<sup>rd</sup> Senior Throw Ball Championship organized by the Karnataka State Throwball Association is valid in view of the G.R. dated 30<sup>th</sup> April, 2005 and to consider the candidature of the applicant from open sports category as per the advertisement No. 54 of 2016 issued by the Respondent No. 3.*

*C) To quash and set aside the impugned letter dated 29.09.2017 issued by the respondent No. 2 declaring the applicants sport certificate (Throw Ball) is not consonance of the Government Resolution dated 1<sup>st</sup> July, 2016 of its schedule ‘A’ and further to direct the respondent no. 3 to consider the candidatures of the applicant from open (sports category) and to allow the applicant in the process of selection as per the advertisement No. 54/2016 issued by the respondent no. 3.”*

(quoted from pages 13 & 14 of paper book of O.A.)

3. Present Original Application is opposed by the respondents on various grounds. However, the State has opposed it by raising a question of a very locus standi and right of the applicant. The ground of objections raised by the respondent are as follows:-

*“ii) Pursuant to the said advertisement the applicant had applied for the said examination. Considering the various claims made by the applicant in his online application form for the said examination, he was allowed to appear for the*

*Preliminary Examination subject to verification of the necessary documents. At the time of applying for the Police Sub Inspector (Preliminary) Examination – 2016, the applicant had claimed for belonging to the Open (Sports) Category in his online Application. A copy of the online application of the applicant for the examination in issue is attached by the applicant to the original application as **Annexure A-2**.*

*iii) The preliminary examination for the said post was conducted on 12<sup>th</sup> March, 2017. The result of the said examination was declared on 18<sup>th</sup> May, 2017. The applicant qualified in the preliminary examination from the Open (Sports) category.*

*iv) The Notification regarding main examination was published for the said post on 18<sup>th</sup> May, 2017 on the official website of the Commission. The Main Examination was held on 25<sup>th</sup> June, 2017. The result of the main examination was declared on 12<sup>th</sup> September, 2017. As per the selection procedure, the applicant was allowed to appear for the Police Sub Inspector (Main) Examination – 2016 from the Open (Sports) Category as he had qualified the Preliminary examination from the Open (Sports) Category. The list of the candidates who qualified in the main examination and were called or physical test followed by interview was published on the official website of the Commission. A copy of the notification for main examination dated 18.5.2017 is annexed herewith and marked as **Exhibit R-1**.*

*v) Since the applicant had qualified the Police Sub Inspector (Main) Written Examination – 2016, he was called for the Physical Test and Interview at Aurangabad venue on 10<sup>th</sup> October, 2017 by the Commission. The applicant was absent for the Physical Test and Interview on the scheduled date. A copy of the call-letter for the Physical Test and Interview is attached with the present original application and marked as **Annex. A-3**.*

*4. I further say and submit that, the applicant submitted representation to the Commission regarding extension for his date of Physical Test and Interview on Medical grounds. He was accordingly given extension period and was called on 15<sup>th</sup> November, 2017 at Mumbai venue for the Physical Test and Interview. However, the applicant remained absent for the Physical test and Interview on 15<sup>th</sup> November, 2017. The applicant's submission in para 4 of the O.A. that he remained present for Physical Test on the scheduled date i.e. on 10<sup>th</sup> October, 2017, but could not submit the verification of the sports certificate and hence couldn't participate in the selection process is factually incorrect.*

*As the applicant remained absent for the Physical test and Interview on 10<sup>th</sup> October, 2017 as well as on 15<sup>th</sup>*

*November, 2017; his candidature was not accordingly considered at the time of preparing the final result as he is not eligible to claim for the said post. Copies of the Reports and musters regarding the date on which the applicant was called for Physical Test and Interview are attached herewith and marked as **Exhibit R-3 collectively.***

(quoted from page 71 & 72 of paper book of O.A.)

4. As is evident from para 3 & 4, which are quoted hereinabove, the applicant is responsible for failure to participate in the process of interview. It shall thus be clear that the applicant's inability to have his sports certificate validated never came in the way of the applicant for participation in the process of selection for the post of Police Sub Inspector. Therefore, applicant's claim for prayer clause (C) does not stand to any legal right or due to denial due to reason whatsoever.

5. Applicant has not disputed the plea of Respondent nos 1 & 3 about prayer. Hence said prayer has to fail.

6. Insofar as applicant's claim for challenging the invalidation of sports certificate is concerned, applicant has challenged that decision on the grounds as averred in ground nos. V, VI, VII, VIII, which are as under :-

*“V) At the outset the applicant did not participated after the decision was taken of withdrawing the recognition of Association after 11<sup>th</sup> Feb. 2016 which was further extended till 31.12.2013 and later on the recognition 31 National Association recognition was withdrawn. The applicant's Association was recognized till 31.12.2013 and the same cannot be retrospectively withdrawn unless specifically provided therein.*

*VI) As per the Clause No. (b) of the G.R. dated 30.12.2013, it gives clarification that the games available in G.R. dated 30<sup>th</sup> April, 2005 cannot be withdrawn and same is held eligible. Therefore, the claim of the applicant needs consideration.*

*VII) At the outset the respondent no. 1 and 2 have held the same sports certificate issued by the Same Association organized through Karnataka State Throw Ball Association has been held valid and to that effect issued the letter dated 31.1.2017 to one Mr. Pramod Devidas Mhaske and therefore, equal treatment should be given to the applicant.*

*VIII) The act of the respondents authorities is nothing but hostile discrimination.”*

*(quoted from pages 11 & 12 of paper book of O.A.)*

7. These averments have had to be dealt with by the res. no. 2.

In the affidavit in reply of res. no. 2, he has not dealt with to deny or throw light on grounds of challenge raised by the applicant.

8. Failure of Respondent no. 2, to answer and to deny the crucial averments contained in ground nos. V to VIII as mentioned above amounts to admission thereof.

9. In the result, the applicant's claim and contention that his validation of sports certificate was wrongly rejected is duly established.

10. In the result, the present Original Application partly succeeds insofar as it relates to part of prayer clause (B) is concerned.

11. Hence, the Original Application is allowed in terms of prayer clause (B) to the extent of quashing & setting aside of impugned invalidation of sports certificate dated 29.9.2017 (Exh. A.5 paper book page 31 of O.A.) and the case is remanded to the Respondent no. 2, the Deputy Director of Sports & Youth Services, Aurangabad Division, Aurangabad – for fresh hearing and decision in accordance with law within a period of three months from the date of passing of this order.

12. Applicant is directed to appear before the Res. no. 2 for fresh hearing 7.5.2019 along with certified copy of this order.

13. All the claims & contentions of the applicant as regards validation of the sports certificate as raised and claimed by the applicant in the present Original Application and not raised in the Original Application are kept open.

14. In the circumstances, parties are directed to bear their own costs.

**(ATUL RAJ CHADHA)**  
**MEMBER (A)**

**(A.H. JOSHI)**  
**CHAIRMAN**

**Place : Aurangabad**  
**Date : 22.04.2019**