

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.1054 OF 2014

DISTRICT : THANE

Shri Ravindra Nana Patil.)
Age : 20 years, Occu.: Nil, Room No.36,)
Building No.1, Bhadwad Police Line,)
Taluka : Bhiwandi, District : Thane.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Home Department,)
Mantralaya, Mumbai - 400 032.)
2. The Commandant.)
State Reserve Police Force, Group)
No.11, Navi Mumbai, Camp)
Balegaon, District : Thane.)
3. The Chief Police Recruitment Officer.)
State Reserve Police Force, Group 11,)
Dy. Commissioner of Police,)
Transport, Navi Mumbai.)...**Respondents**

Ms. Ranjana Todankar, Advocate for Applicant.

Shri K.B. Bhise, Presenting Officer for Respondents.



CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)

DATE : 28.01.2016

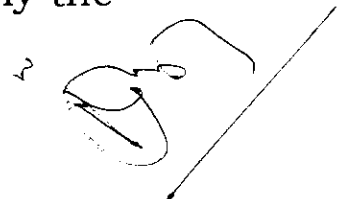
PER : R.B. MALIK (MEMBER-JUDICIAL)

JUDGMENT

1. The Applicant having failed to secure the job of Police Constable (PC) from Sports quota despite having reached the final stage is up before us in this Original Application (OA) under Section 19 of the Administrative Tribunals Act, 1985 (Act hereinafter).

2. We have perused the record and proceedings in the light of the submissions made by Ms. Ranjana Todankar, the learned Advocate for the Applicant and Shri K.B. Bhise, the learned Presenting Officer for the Respondents.

3. The 1st Respondent is the State of Maharashtra through Secretary, Home. The 2nd Respondent is the Commandant, State Reserve Police Force and the 3rd Respondent is the Chief Police Recruitment Officer. The facts really are not much in dispute. As we shall be presently pointing out, the resolution of the issue would depend upon whether the selection authorities, namely the



Respondents 2 & 3 have properly grasped the provisions of the G.R. of the Department of Education and Sports dated 30th April, 2005, a copy of which is at Page 32 of the Paper Book, which shall be hereinafter called as "2005 G.R.". It is clearly established from the record that the Applicant applied to the said post through Sports category. On Pages 13 & 14 of the Paper Book, we find that there are Certificates showing that the Applicant was a participant in "Maharashtra Karate Association and First State Level Karate Championship of 2011". He competed for the said post in responding to the advertisement for the process of selection initiated by an advertisement of 30.4.2014. One post from Sports category was for Scheduled Caste and two for Open category and the Applicant applied through that particular Open category. He was held qualified to take Physical Tests (Ground Test) and then also the written test. From a document at Exh. 'E', Page 20, it would appear that the Applicant who was at Serial No.897 scored 88 marks out of 100 in the Physical Test (मैदानी) and 41 marks in the written test out of 100, thus totaling 129. Rajenda P. Gawhar and Sunil K. Ahire scored 66 and 41 and 70 and 31 respectively (Page 20 itself) and they made it to the final selection list (Page 23). Their score was admittedly lesser than that of the Applicant's.



4. Now, the sum and substance of the case of the Respondents is that the Applicant while going through the initial stages convinced the Scrutiny Officers that the Kick Boxing and Boxing were the same Sports and he had also shown the Karate Certificates. But according to the Respondents, Kick Boxing and Boxing were found not to be the same and even as in the 2005 G.R, the Karate and Boxing were included as recognized Sports Kick Boxing was not, and therefore, the Applicant was held ineligible although his score was more and in that connection, there was a reference to writing supposedly executed by the Applicant himself dated 17.6.2014 in Marathi which read as follows :

“दि. १७.०६.२०१४

प्रति,
मा. समादेशक
रा.रा.पो.बल गट क.११
नवी मुंबई जि.ठाणे.

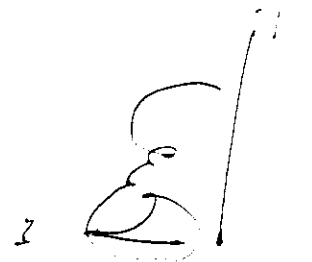
विषय:- अपीलाबाबत

महोदय,

मी रविंद्र नाना पाटील विनंती पूर्वक अर्ज करतो की, मला पोलिस भती २०१४ साठी आवेदन पत्र प्राप्त झाले होते खेळाडू म्हणून मी अर्ज केला होता परंतु माझे कीक बॉक्सींग चे प्रमाणपत्र नियमात बसत नसल्यामुळे मला अपात्र ठरविले होते याबाबत मा. समादेशक यांच्याशी चर्चा केल्या नंतर माझे समाधान झालेले आहे.

समक्ष

सही

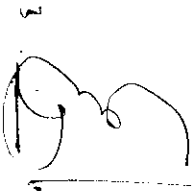


समादेशक
रा.रा.पो.बल गट क.११, नवी मुंबई
कॅम्प - बाळेगांव, ता.जि. ठाणे-

सही
रविंद्र नाना पाटील”

5. Now, turning to the 2005 G.R, it becomes clear that it was necessitated because those who had Extra-Ordinary Caliber and felicity in Sports were at times lagging in their educational performance, and therefore, 5% of seats were to be reserved for them. In this particular OA, we are only concerned with Group 'C' and Group 'D' categories. Broadly so speaking, though the candidates competing from this category should have competed in the Sports activities of the nature therein mentioned and should have secured 1st, 2nd and 3rd place or Gold, Silver or Bronze medals. In so far as the procedure is concerned, to the extent relevant hereto, it is provided in the said G.R. that in so far as the qualification and eligibility of the candidate from Sports category was concerned, that would be ultimately determined by the Director, Sports and Youth Service, Maharashtra State, Pune (Condition 4, Page 35 in Marathi). Condition 4 reads as follows :

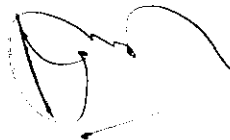
“(४) कोणत्याही खेळाच्या स्पर्धेच्या अधिकृततेबाबत अथवा दर्जाबाबत राशंकला निर्माण झाल्यास संचालक, क्रीडा व युवक सेवा यांच्या अहवालाच्याआधारे शालेय शिक्षण व क्रीडा विभाग व सामान्य प्रशासन विभागा यांच्या संमतीने देण्यात आलेला निर्णय हा अंतिम असेल.”



6. It is very clear from the above condition that in the event, there was some doubt or dispute as therein mentioned, the decision of the GAD based on the Pune authority referred above would be final. A combined reading of Conditions 13 to 19 at Page 36 would make it clear that those candidates who were recommended by the MPSC or selection authority on the reserved posts for Sports would have to submit the Certificates and they would have to be forwarded to the Director at Pune. The said Director would scrutinize the same on the basis of the original testimonials and if need be by getting confidential reports or by discreet enquiry. In case, the said Pune authority had still some doubt, it would send a report back to the original forwarding authority with original documents. The Director of Sports and Youth Services would complete this task within one month and in the event, it was not completed within one month, the appointing authority may appoint the candidate provisionally. This is the gist of the procedure and Condition Nos. 13 to 17 in Marathi may now be reproduced.

“(१३) महाराष्ट्र लोकसेवा आयोग अथवा इतर सक्षम प्राधिकार्यांकडून खेळाडूंच्या आरक्षित पदावर नेमणुकीकरिता ज्या खेळाडूंची शिफारस होईल त्यांची प्रमाणपत्रे व त्यांनी आरक्षित पदाकरिता केलेला अर्ज संबंधित विभागांनी/कार्यालयांनी संचालक, क्रीडा व युवक सेवा, महाराष्ट्र राज्य, पुणे यांचेकडे तपासणीसाठी पाठवावा.

v-



- (१४) संचालक, क्रीडा व युवक सेवा, महाराष्ट्र राज्य, पुणे यांनी प्रमाणपत्र या शासन निर्णयातील मार्गदर्शक सूचनांनुसार आहे किंवा नाही ते तपासावे. तसेच सदर प्रमाणपत्राच्या पृष्ठयर्थ संबंधित उमेदवाराचे प्रमाणपत्र मिळण्याकरिता जी माहिती सादर केली असेल ती माहिती मूळ कागदपत्रांवरून तसेच आवश्यकता वाटल्यास प्रमाणपत्र प्रमाणित करून संबंधित कार्यालयांना परत पाठवावे.
- (१५) जर एखाद्या प्रमाणपत्राबाबत संचालक, क्रीडा व युवक सेवा, महाराष्ट्र राज्य, पुणे यांना शंका असल्यास त्यांनी याबाबतचा सविस्तर तपशील असल्या अहवालात नमूद करून मूळ कागदपत्र मूळ विभागाकडे परत करावेत.
- (१६) संचालक, क्रीडा व युवक सेवा, महाराष्ट्र राज्य, पुणे यांनी प्रमाणपत्र तपासणीचा अहवाल एक महिन्यात संबंधित कार्यालयांना पाठवावा.
- (१७) खेळाडूंचा अहवाल एक महिन्यात प्राप्त झाला नाही तर संबंधित कार्यालयांनी प्रमाणपत्र पडताळणीच्या अधिनतेने संबंधित उमेदवारास तात्पुरती नेमणूक द्यावी.”

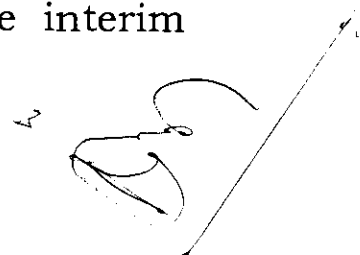
7. Now, if the above was the state of affairs, in so far as the procedure is concerned, it is not possible for us to comprehend as to how and why the authority concerned having found the Applicant scoring more marks than those selected should have taken recourse to whatever they did including the so called letter having been secured from the Applicant himself. Once we have set out hereinabove the procedure prescribed by the 2005 G.R, that was quite plainly and simply to be followed. For principles, Ms. Todankar, the learned Advocate for the Applicant referred us to **Dolly Chhanda Vs. Chairman, Jee and others, (2005) 9 SCC 779** wherein the Hon'ble Supreme Court has laid down that the proof in support of the claims for reserved seats is something for which rigidity should not



be adopted, but some laxity to further the purpose and object must be adopted.

8. In view of the fact that the authorities in our view erred on the basics of the mater, it is not necessary for us to examine the issue of whether the so called writing of the Applicant should be referred to the writing expert. It is not necessary for us to enter into a detailed academic discussion based on the provisions of Section 45 of the Indian Evidence Act and the limitations, if any thereunder. We leave it at that making it clear that in future, if need arises, the Applicant will be entitled to raise this issue again.

9. By an interim order of 18.12.2014, the Hon'ble Chairman was pleased to put the Respondents to notice that the selection and appointment would be subject to outcome of this OA. To that extent, the Applicant is safe and secure. We are of the opinion that presiding over this judicial forum and exercising the jurisdiction of judicial review of administrative action, the most appropriate course would be to remit back to the authority below with a direction to comply with the provisions of the 2005 G.R. in letter and spirit and complete this task within three months from today and till further orders, the interim

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orders of the Hon'ble Chairman shall continue. We make it clear that we have not determined any fact at issue and the Director of Sports and Youth Service, Pune shall act in accordance with the Rules, etc. as he would do in any such case, but he must act diligently and promptly.

10. The Respondents are directed to reconsider the case of the Applicant in the light of the above discussion and strictly comply with 2005 G.R. including referring the matter to the Director, Sports and Youth Service, Maharashtra State, Pune and then decide on whether the Applicant is entitled to be appointed as Police Constable through Sports category and if he is found eligible and entitled, to appoint him to the said post. The compliance shall be made within three months from today. The Original Application is allowed to this extent with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
28.01.2016

Sd-

(Rajiv Agarwal)
Vice-Chairman
28.01.2016

Mumbai

Date : 28.01.2016

Dictation taken by :

S.K. Wamanse.

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