

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATIONS 280 & 389 OF 2015

DISTRICT : PUNE

1) ORIGINAL APPLICATION NO 280 OF 2015

Shri Pandit Hindurao Patil,)
Occ : Nil, R/o: A/P Padali (Khurd),)
Tal-Karvir, Dist-Kolhapur.)
Add for service of Notice :)
Shri A.V Bandiwadekar, advocate,)
Having office at 9, 'Ram Kripa',)
Lt. Dilip Gupte Marg, Mahim,)
Mumbai 400 016.)...**Applicant**

Versus

1. The Director of Sports,)
[M.S], Pune, having office at)
Pune-1.)
2. The Chairman,)
Maharashtra Public Service)
Commission, [M.S], Mumbai,)
Having office at Cooperage)



Telephone Nigam Bldg,)
 M.K Road, Mumbai 400 021.)...**Respondents**

2) ORIGINAL APPLICATION NO 389 OF 2015

Shri Pravin Kisan Lad,)
 Occ : Nil, R/o: Ladwadi, Tal-Radhanagari)
 Dist-Kolhapur.)
 Add for service of Notice :)
 Shri A.V Bandiwadekar, advocate,)
 Having office at 9, 'Ram Kripa',)
 Lt. Dilip Gupte Marg, Mahim,)
 Mumbai 400 016.)...**Applicant**

Versus

1. The Director of Sports,)
 [M.S], Pune, having office at)
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 2. The Chairman,)
 Maharashtra Public Service)
 Commission, [M.S], Mumbai,)
 Having office at Cooperage)
 Telephone Nigam Bldg,)
 M.K Road, Mumbai 400 021.)...**Respondents**

AK

Shri A.V Bandiwadekar, learned advocate for the Applicants.

Ms Neelima Gohad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B. Malik (Member) (J)

DATE : 11.08.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicants and Ms Neelima Gohad, learned Presenting Officer for the Respondents.

2. These Original Applications were heard together and are being disposed of by a common order as the issues to be decided are identical.

3. On thoroughly going through the records and proceedings of the case in O.A no 280/2015, it is seen that the Applicant has appeared in Sales Tax Inspector (Main) Examination-2012 and his name was recommended to the Government for appointment from Sports quota. This is mentioned in para 10 of the

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affidavit in reply filed by the Respondent no. 2 on 3.9.2015. The Applicant had also applied for State Civil Services (Main) Examination-2013. This can be seen from the letter dated 27.12.2013 from the Respondent no. 2 to the Applicant (Exhibit 'H' page 35 of the Paper Book). There is another letter dated 18.1.2014, addressed by the Respondent no. 2 to the Applicant at page 36 of the Paper Book. The Applicant has placed on record a letter dated 13.4.2015 (Exhibit 'A', page 19) which is a letter addressed by the Respondent no. 1 to the Respondent no. 2 with copy to the Applicant. It refers to M.P.S.C's letter dated 10.1.2014. In the letter dated 18.1.2014 also, there is a reference to this letter dated 10.1.2014, which was sent by the Respondent no. 2 to the Respondent no.1 to examine the Applicant's Sports Certificate. These letters indicate that the Applicant has appeared for the Police Sub-Inspector [Main] Examination-2012.

The Applicant has sought the following relief:-

“9(a) By a suitable order, this Hon'ble Tribunal may be pleased to set aside the order dated 3.3.2015 passed by the Respondent no. 1, (Exhibit-A) under which he held the Petitioner to be not eligible through Sports category reservation in view of the Sports Certificates of the Petitioner being held as not in compliance with the various G.Rs mentioned

therein and accordingly the Petitioner be granted all the consequential service benefits, as if the impugned order had not been passed.”

The relief clause does not indicate for which selection the Applicant is seeking relief. However, it can be surmised that the Applicant is seeking appointment to the post of Police Sub-Inspector on the basis of Police Sub-Inspectors (Main) Examination-2012 as the Respondent no. 2 in the letter dated 18.1.2014 (page 36 of the Paper Book) had informed the Applicant that his Sports Certificates were sent for verification by letter dated 10.1.2014 to the Respondent no. 1 for the selection process. Though in the relief clause 9(a) of the Original Application, the Applicant has stated that he is challenging order dated 3.3.2015 of the Respondent no. 1, Exhibit 'A', the letter at Exhibit 'A' from the Respondent no. 1 is actually dated 13.4.2015.

4. The Respondent no. 1 in the impugned communication dated 13.4.2015, examined two Sports Certificates of the Applicant – (a) 1st South & South West Asian International Men, Women and Mini-Mix double Ball Badminton Tournament-2012 held in Thailand from 19 to 22 February, 2012 and (b) 57th Senior National Ball Badminton Championship, 2011 held at Kolhapur from 8-11 May, 2011. The Applicant had scored 1st and 2nd rank respectively in these tournaments. The Respondent

no. 1 examined the validity of these two Certificates and held that the Championship at (a) above was not organized by authorized body and this Certificate is not valid. As regards Certificate at (b), it was held that the Championship was held by the Organization whose office bearers were not recognized by Government of India and as such Certificate was found to be invalid. The Applicant has challenged this decision of the Respondent no. 1 on various grounds which are discussed below.

5. Learned Counsel for the Applicant argued that order dated 13.4.2015 is a cryptic and vague order and does not give any reasons as to why the Applicant's Sports Certificates were held to be invalid. He also argued that Government Circular dated 14.7.2009 has not been considered while taking this decision. However, Hon'ble Bombay High Court while examining this issue has considered that Circular. Learned Presenting Officer argued that the challenge of the Applicant to communication of the Respondent no. 1 dated 13.4.2015, itself is quite vague. In fact, the Respondent no. 1 has given reasons for rejecting the Certificates submitted by the Applicant. We agree that brief reasons for not holding Sports Certificates of the Applicant as valid had been given by the Respondent no. 1. It cannot be said that aforesaid communication is vague or cryptic. Let us now examine the reasons which have been given for holding these Certificates as invalid.

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The Certificate dated 22.2.2012 issued by the Asian Ball Badminton Federation, is at Exhibit 'C' (page 23 of the Paper Book). It is stated that the tournament was organized by the Ball Badminton Federation of Thailand which is affiliated with the Asian Ball Badminton Federation, India (ABBF). The Secretary of the Asian Ball Badminton Association appears to be some A.S Naqvi who has signed the said Certificate. This fact is important, as will be seen subsequently. As per G.R dated 30.4.2005, for Group 'A' posts the following provisions are made:-

“ (अ) गट-अ साठी अर्हता.

स्तर पदांसाठी आंतरराष्ट्रीय स्पर्धांमधील वैयक्तिक अथवा सांघिक क्रीडा स्पर्धांमध्ये भारतातर्फे प्रतिनिधित्व करताना प्रथम, द्वितीय अथवा तृतीय स्थान प्राप्त केलेले असावे अथवा सुवर्ण, रौप्य किंवा कांस्य पदक प्राप्त करणारा खेळाडू.

सदर स्पर्धा या संबंधित खेळांच्या आंतरराष्ट्रीय ऑलिम्पिक समितीशी संलग्न असलेल्या आंतरराष्ट्रीय फेडरेशनने आयोजित केलेल्या असाव्यात अथवा आंतरराष्ट्रीय ऑलिम्पिक समितीने स्वतः आयोजित केलेल्या असाव्यात.

तसेच उपरोक्त स्पर्धांव्यतिरिक्त असलेल्या स्पर्धा या मान्यताप्राप्त खेळांच्या असून आंतरराष्ट्रीय स्तरावरील मान्यताप्राप्त संघटनेने आयोजित केलेल्या असाव्यात. यामध्ये सहभागी होणा-या खेळाडूंची निवड ही राष्ट्रीय संघातून झालेली असावी. वैयक्तिकरित्या किंवा आमंत्रित स्वरूपाच्या स्पर्धांमध्ये भाग घेतलेल्या खेळाडूंचा यासाठी विचार करता येणार नाही.

(ब) गट-ब साठी अर्हता.

सदर पदासाठी त्या-त्या खेळांच्या वैयक्तिक अथवा सांघिक क्रीडा स्पर्धांमध्ये महाराष्ट्रातर्फे प्रतिनिधित्व करताना राष्ट्रीय अंजिक्यपद स्पर्धेत प्रथम, द्वितीय अथवा तृतीय स्थान प्राप्त करणारा किंवा सुवर्ण, रौप्य किंवा कांस्यपदक प्राप्त करणारा खेळाडू.

सदर स्पर्धा या संबंधित खेळांच्या भारतीय ऑलिम्पिक समितीशी संलग्न असलेल्या राष्ट्रीय फेडरेशनने आयोजित केलेल्या असाव्यात अथवा भारतीय ऑलिम्पिक समितीने स्वतः आयोजित केलेल्या असाव्यात.”

For an international tournament, it should have been organized by the International Olympic Association itself or an International Sports Federation affiliated to the International Olympic Association. The tournament organized by Ball Badminton Federation of Thailand does not fulfill this requirement. In fact there is nothing on record to suggest that the Asian Ball Badminton Federation, India is affiliated or International Olympic Association. The Respondent no. 1 has rightly held this Certificate to be invalid. Even the latest G.R dated 1.7.2016, which has been issued in supersession of all earlier G.Rs, does not make any significant changes in this regard which may help the cause of the Applicant.

6. Learned Counsel for the Applicant had argued that G.R dated 14.7.2009 was not considered by the Respondent no. 1. A copy of that G.R is placed on record by the Respondent no. 1. This G.R reads:-

“ शासन निर्णय:-

खेळाडू आरक्षणाबाबतच्या उपरोक्त दिनांक ३०एप्रिल, २००९ च्या शासन निर्णयाच्या परिच्छेद -४ (क) मधील “ राज्य अजिंक्यपद स्पर्धा या सदर खेळांच्या महाराष्ट्रा ऑलिम्पिक असोसिएशनशी संलग्न असलेल्या अधिकृत राज्य संघटनेने आयोजित केलेल्या असाव्यात अथवा महाराष्ट्रा ऑलिम्पिक असोसिएशनने स्वतः केलेल्या असाव्यात ” या तरतूदीनंतर खालील तरतूद समाविष्ट करण्यात यावी:-

“तसेच ज्या खेळाची नोंदणीकृत राज्य संघटना त्यांच्या अधिकृत राष्ट्रीय संघटनेशी संलग्न असेल, तसेच सदर राष्ट्रीय संघटनेला इंडियन ऑलिम्पिक असोसिएशनने संलग्नता दिलेली असल्यास, अशा राज्य संघटनेच्या स्पर्धेतील राज्यस्तरीय विजेत्यांनाही खेळाडू आरक्षणाचा लाभ देण्यात येईल. त्यासाठी संबंधित राज्य संघटनेला महाराष्ट्रा ऑलिम्पिक असोसिएशनची संलग्नता हा निकष अनिवार्य राहणार नाही.”.

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This G.R is evidently not about International Tournaments and will have no bearing regarding validity of Certificate at (a) above. The Applicant has not pointed out provision of any other G.R which will show that the aforesaid Championship was an authorized one and it has to be held that his claim does not have any basis.

7. Coming to the Certificate dated 21.10.2013 for the 57th Senior National Ball Badminton Championship for 2011-12 held in Kolhapur on 8-11 May, 2011, this Certificate (Exhibit – B page 21 of the Paper Book) is also signed by Shri A.S Naqvi as General Secretary of Ball Badminton Federation of India. The Certificate mentions that this Federation is recognized, inter-alia by Department of Youth Affairs & Sports, Government of India, New Delhi and Indian Olympic Association, New Delhi. The Respondents have denied these facts. It is stated on behalf of the Respondent no. 1 that by letter dated 11.7.2011, the Indian Olympic Association has withdrawn recognition to 31 National Sports Federation and this Game of Ball Badminton is no longer recognized by the Indian Olympic Association. However, the State Government has issued G.R dated 30.12.2013, which has the following provision, viz.

“अ) इंडियन ऑलंपिक असोसिएशनने मान्यता काढलेल्या संघटनेने फेब्रुवारी २०११ नंतरच्या आयोजित केलेल्या स्पर्धांमध्ये प्राविण्य मिळविलेल्या ज्या खेळाडुंची प्रमाणपत्रे मान्यता नसल्याच्या कारणास्तव दि. ३१ डिसेंबर २०१३ पर्यंत अवैध ठरविण्यात आली

आहेत त्या खेळाडूंना संघटनांना मान्यता नसल्याची बाब अवगत नसल्यामुळे त्या खेळाडूंच्या बाबतीत ज्या विभागात त्यांची निवड झालेली होती त्या विभागाने जर सदर प्रमाणपत्र दि.२८ फेब्रुवारी २०१४ पर्यंत पुनर्तपासणीसाठी क्रीडा संचालनालयास पाठविली तर त्याची क्रीडा संचालनालयाने त्यांना इंडियन ऑलंपिक असोसिएशनची मान्यता आहे असे गृहित धरून पुनर्तपासणी करून द्यावी. मात्र दि.१ मार्च २००४ पासून खेळाडूंच्या प्रमाणपत्रांची पुनर्तपासणी करण्यात येणार नाही.’’

So the Certificates in these Sports including Ball Badminton after 1.1.2014 selection will not be valid at all. However, for Police Sub-Inspector (Main) Examination-2012, the Certificate could be sent up to 28.2.2014 for reverification. Communication at Page 36 discloses that the Respondent no. 2 has sent this Certificate for Verification on 10.1.2014 as per the provision of aforesaid G.R dated 30.12.2013. The Respondent no. 1 has stated in the affidavit in reply dated 28.10.2015 that there was dispute regarding the Office Bearers of the Ball Badminton Federation of India. One faction with Shri A.S Naqvi (who has signed both the Certificates of the Applicant) was claiming that they were lawful office bearers. This claim was challenged before Hon'ble Andhra Pradesh High Court in Writ Petition no 7558 of 2008. By order dated 31.1.2011, Hon'ble Andhra Pradesh High Court, passed the following order:-

“This writ petition is disposed of directing the 1st respondent to proceed further and complete the enquiry initiated on the basis of the representation

dated 11.10.2007 in pursuance of the notice o. F.15-4/2004-SP.I dated 22.11.2007 and pass appropriate orders as per the guidelines governing the dispute, after hearing all the parties as early as possible, preferably within a period of three months from the date of receipt of a copy of this order. No order as to costs.”

The Government of India was asked to take a decision after hearing both the parties. In order dated 18.4.2012, of the Government of India, it is stated that:-

“A dispute arose between two factions in the management of BBFI, i.e. between Sh. A.S Naqvi of Jaipur and Shi. S Ranga Rao of Pondicherry on the matter regarding bonafide of various office bearers of the federation. The two factions let by Shri S.Ranga Rao and Sh. A.S Naqvi claimed to be the bonafide office bearers. On account of this dispute, the ministry stopped dealing with either faction of the federation since 2004-05 and no financial assistance has been related to the federation since then.” (emphasis supplied).

The Respondent no. 1 claims that Government of India did not recognize any of the factions between the period 2004 to 2012. By order dated 18.4.2012, the faction with Shri Y. Raja Rao as General Secretary and Shri Sh.

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Raja Shekhar as President was recognized as lawful office bearers of the Ball Badminton Federation of India (page 39 of the Paper Book).

8. We find that Ball Badminton Federation of India by letter dated 20.4.2013 (Exhibit R-1, page 86 of the Paper Book) has informed the Respondent no. 1 that 1st South & South West Asian International Men, Women and Minimum Ball Badminton Championship held in Thailand was unauthorized. We have already reached similar conclusion on the basis of relevant G.Rs of Government of Maharashtra. The Respondent no. 1 has decided not to recognize any Certificate issued between 2004 to 2012 by the faction which included Shri A.S Naqvi. It is done, as in the order dated 18.4.2012, Government of India has concluded that after 2004, Shri Naqvi could not have continued to remain as General Secretary of Ball Badminton Federation of India as he did not qualify to continue due to age and tenure considerations. It does appear that Shri Naqvi continued to be General Secretary illegally. It is also observed in the order that:-

“(vi) It has become evident that Shri Naqvi was not inclined towards any reconciliation for the fear of getting eliminated under the age and tenure criteria prescribed by the Ministry for office bearers of a National Sports Federation.” (emphasis supplied).

It is also seen that in February, 2006, the Indian Olympic Association had sought legal opinion from one Shri Lovkesh Sawhney, Advocate, Delhi High Court in the dispute between two factions and the said advocate had advised that the faction headed by Prof. Ranga Rao as genuine. The Ministry had stopped dealing with either faction since 2004-05. From this discussion, it is clear that the decision of the Respondent no. 1 not to recognize either faction for the period from 2004 to 2012 is a correct one. As a result, the decision to hold the Certificate at (b) as invalid cannot be faulted.

9. Learned Counsel for the Applicant had relied on the judgment of Aurangabad Bench of Hon'ble Bombay High Court in Writ Petition no 5556 of 2011 (Exhibit 'K' at page 54 of the Paper Book). In that case, of the Petitioner Suraj Majidsab Shaikh, by judgment dated 12.3.2012, Hon'ble High Court held that:-

“5] Perusal of the communication at Exhibit G would reveal that the Maharashtra State Ball Badminton Association, which has organized the event concerned is affiliated to Ball Badminton Federation of India. Communication dated 20.1.2005 issued by the Indian Olympic Association would in turn, show that Ball Badminton Federation of India is affiliated to Indian Olympic Association. In that view of the matter, we find that

the contention raised by the respondent in the affidavit in reply is without any substance. Since the petitioner has participated in an event organized by the Maharashtra State Ball Badminton Federation which is affiliated to Ball Badminton Federation of India, which in turn, is affiliated to Indian Olympic Association, the petitioner clearly qualifies for appointment as per the Government Resolution dated 14.7.2009.”

Certificate of the Petitioner Shri Shaikh was for Championship held on 2007-08. The order of Government of India dated 18.4.2012 and letter dated 20.4.2013 were issued after the judgment of Hon'ble High Court dated 12.3.2012 in the aforesaid Writ Petition. Considering this aspect, the judgment of Hon'ble High Court will not apply in the changed circumstances, when the Government of India has held that Shri Naqvi was not qualified to continue as office bearer of the Federation due to age and tenure reasons. Also, the fact that Government of India has suspended recognition to either factions for the period from 2004-12 was not placed before Hon'ble High Court for consideration.

10. It is seen that Respondent no. 1 has stated in para 12.1 of the affidavit in reply dated 28.10.2015 that:-

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“12.1 In this regard it is submitted that, by observing a letter dated 24.7.2013 issued by this Respondent no. 1. Copy of the same annexed to O.A and marked as Exh. G. It can be observed that, this Respondent no.1 has offered common remarks for the two certificates submitted by Respondent No. 2 vide their letter dated 29.6.2013 for verification. However, it is pertinent to note that, the present Applicant with malafide intention has prepared a fabricated letter as per his convenience by putting a line in between his two performance he tried to show that, the remarks are offered only for one sports certificate and this intention of the Applicant is very serious and same can be judge through observing Exhibit G enclosed by the Applicant and an original letter dated 24th July, 2013 of this Respondent no. 1. The present Applicant has also changed the date of letter dated 24th July 2013 as per the convenience and mentioned the same as 24th July, 2015. It is further submitted that the present Applicant has also removed an information regarding candidates at serial number 2 to 5 enclosed with his annexed Exhibit-G. However, the reasons behind all these activities he only knows and it is requested to this Hon’ble Tribunal to ask necessary explanation from the Applicant.”



It does appear that a lot of information about various posts for which the Applicant had applied, has been placed on record and it is not very clear as to which selection process he is seeking selection. Date of communication at Exhibit-G also appear to be incorrect. We wish the Applicant has presented facts in more orderly manner. However, we believe that facts have been culled out by us and our order is being issued accordingly. No further discussion is necessary in this regard.

In O.A no 389/2015, the same conclusion will apply as the validity of Certificate issued by Asian Ball Badminton Association was the issue and that Certificate was held to be invalid by the Respondent no. 1.

12. Having regard to the aforesaid facts and circumstances, these Original Applications are dismissed with no order as to costs.

Sd/-
(R.B. Malik)
Member (J)

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 11.08.2016
Dictation taken by : A.K. Nair.