

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.12 OF 2016

DISTRICT : THANE

Mrs. Sushila Dilip Mestry,)
Age 26 years, occ. Nil,)
R/at Jeevan Sagar Apt., R. No.101, Lokmanya Nagar,)
Pada No.2, Yashodhan Nagar, Thane (W))..Applicant

Versus

1. The State of Maharashtra,)
Through the Secretary, Home Department,)
Mantralaya, Mumbai)
2. The Commissioner of Police for Greater Bombay,)
Crawford Market, Mumbai)
3. The Director of Sports,)
Pune GPO, Pune 411011)..Respondents

Shri K.R. Jagdale – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for the Respondents

CORAM : Shri B.P. Patil, Member (J)

Shri P.N. Dixit, Member (A)

RESERVED ON : 28th November, 2018

PRONOUNCED ON : 29th November, 2018

PER : Shri P.N. Dixit, Member (A)

J U D G M E N T

1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

Admitted facts:

2. The applicant appeared for the recruitment for Police Constable in response to the advertisement given by respondent no.2 in May, 2014. She preferred to be considered as OBC Sports Category Person. As she had qualified in the physical test, on 16.8.2014 she was called to produce the necessary qualifying sports certificates for verification. However, respondent no.2 rejected her candidature by the impugned letter issued on 3.1.2015 Exhibit 'G' at page 20 of OA, which mentions as under:

“क्रिडा प्रमाणपत्राची पडताळणी केली असता राज्यस्तरीय क्रिडा स्पर्धेतील प्राविण्यप्राप्त प्रमाणपत्र सादर केलेले नाही यास्तव, श्रीमती सुशिला दिलीप मेख्री हे उमेदवार गट क/ड या पदाकरिता विहित केलेली खेळाविषयक अर्हता पूर्ण करित नाहीत.”

(Quoted from page 20 of OA)

3. As the certificate produced by the applicant was rejected by the respondent no.2, she moved the District Sports Officer for obtaining duplicate certificate of her participation in qualifying tournament and procured the same on 23/4/2015. She submitted the same to Respondent no 2 on 2/5/2015 i.e. after nine months.

4. The applicant has challenged the impugned order on the following grounds:

“7.3 That as per the Government letter dated 13.10.2010 the Respondent No.1 directed the Respondent No.3 to verify the second sports certificate of the candidates who have been declared ineligible due to invalidity of the first sports certificate only to avail the benefit of the 5% sports reservation and not to frustrate the basic principle of the 5% sports reservation by the respondent no.1. Hence on the basis of this Government direction the respondent no.3 ought to have verified the applicant’s second State Level Hockey certificate securing first rank and submitted the report to the respondent no.2 for further process of appointment.”

(Quoted from page 8 of OA)

5. The applicant contended that even though she submitted qualifying certificate very late still the same deserves to be considered for the appointment.

6. In this connection the Ld. Advocate for the applicant has relied on the judgment of the Hon’ble Supreme Court in Dolly Chhanda Vs. Chairman, JEE & Ors. Civil Appeal No.6506 of 2004 decided on 5.10.2004. The relevant paras 9 and 10 of the said judgment read as under;

“9. The appellant undoubtedly belonged to reserved MI category. She comes from a very humble background; her father was only a Naik in the armed forces. He may not have noticed the mistake which had been committed by the Zilla Sainik Board while issuing the first certificate dated 29.6.2003. But it does not mean that the appellant should be denied her due when she produced a correct certificate at the stage of second counseling. Those who secured rank lower than the appellant have already been admitted. The view taken by the authorities in denying admission to the appellant is wholly unjust and illegal.

10. *The appellant had qualified in the JEE-2003 but the said academic year is already over. But for this situation the fault lies with the respondents, who adopted a highly technical and rigid attitude and not with the appellant. We are, therefore, of the opinion that the appellant should be given admission in MBBS course in any of the State medical colleges in the current academic year.”*

7. The Ld. PO has rebutted the arguments made by the Ld. Advocate for the applicant. The respondents in their affidavit have mentioned that the applicant did not possess the necessary certificate at the time of verification. The applicant obtained the necessary certificate subsequently through the intervention of Executive Magistrate, Sawantwadi declaring loss of qualifying certificate. The certificate dated 23.4.2015 was issued by the District Sports Officer, Osmanabad. The applicant apparently has obtained the said certificate from Sports Officer prior to filing her affidavit dated 2.5.2015 and after obtaining the Police certificate of loss dated 23.4.2015. The respondent has further mentioned, “that the applicant has obtained the sports certificate on 23.4.2015 which is much later than the prescribed cutoff date for submitting the documents viz. 25.5.2014”. The merit list of Police Constable Recruitment, 2014 was declared on 31.7.2014. The merit list was closed on 30.6.2015. Hence, the submission made by the applicant deserves to be rejected.

8. The Ld. PO has pointed out that the facts in the judgment relied upon by the Ld. Advocate for the applicant are not relevant as in the said case the candidate has produced necessary documents immediately during second counseling and there was not much delay.

9. The issue for consideration is whether the applicant was diligent in having the necessary sports certificate at the time of verification for recruitment and whether she has made efforts to produce the same in

time? Whether the delay in submission is on account of respondents or due to negligence of the applicant?

Findings:

10. It is clear after perusing the necessary record that though the recruitment process was well advertised and the date of verification was well known to the applicant, the applicant made no efforts to obtain/produce the relevant documents/certificate which would have entitled her for the consideration. The applicant submitted her application on 23.5.2014 and at the time of primary verification of documents the applicant did not possess the necessary qualifying documents. The applicant moved thereafter the Sports Authority to obtain necessary duplicate qualifying certificate. The applicant has procured the necessary certificate on 23.4.2015 and submitted the same on 2.5.2015. If the applicant had been vigilant about the documents to be produced in time she would have been certainly considered by the respondent. She cannot blame the respondent for her own fault by submitting the documents very late. Available record does not indicate that the respondents have faulted in any way or delayed the supply of validation certificate. The delay is because of the negligence of the applicant.

11. The OA is, therefore, without any merits and there is nothing illegal in the impugned order issued by the respondents in rejecting her candidature. The O.A. is, therefore, dismissed without any costs.

Sd/-
(P.N. Dixit)
Member (A)
29.11.2018

Sd/-
(B.P. Patil)
Member (J)
29.11.2018

Dictation taken by: S.G. Jawalkar.

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