IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.688 OF 2018

DISTRICT : SOLAPUR

Shri Vikrant Deepak Karatkar,)
Aged 27 years, occ. Nil, R/o 59/B, Ekta Nagar,)
New Patscha Peth, Solapur)..Applicant

Versus

1. The Secretary,)
Maharashtra Public Service Commissioner,)
Cooperage Telephone Nigam Building,)
Maharshi Karve Road, Mumbai 400021)

2. The Deputy Director,)
Sports and Youth Services Department,)
Pune Division, Pune)

3. The State of Maharashtra,)
Through Principal Secretary,)
Sports & Youth Services Department,)
Mantralaya, Mumbai.)

4. The State of Maharashtra,)
Through Principal Secretary,)
Home Department, Mantralaya, Mumbai)

5. Director General & Inspector General of Police,)
Old Council Hall, Shahid Bhagatsingh Marg,)
Mumbai 400039)..Respondents

Shri A.V. Bandiwadekar – Advocate for the Applicant
Miss S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM	:	Shri Justice A.H. Joshi, Chairman
		Shri P.N. Dixit, Member (A)
RESERVED ON	:	15th January, 2019
PRONOUNCED ON	:	23rd January, 2019
PER	:	Shri P.N. Dixit, Member (A)

J U D G M E N T

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Miss S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

Brief facts:

2. The Applicant was a candidate for the post of Police Sub Inspector (Main) Examination, 2016 in the Open Sports Category in horizontal reservation. He was successful in the preliminary examination held on 12.3.2017. The PSI (Main) Examination, 2016 was held on 25.6.2017. In the main examination, applicant has secured 94 out of 200 marks. Applicant claims that, he had applied along with relevant documents to Respondent no.2 for sports validity certificate on 24-07-2017 (para 6.9& 6.12 of OA). The Applicant claims that Respondent no.2 issued him sports validity certificate on 13.10.2017.

3. The Applicant appeared for the physical test and secured 75 out of 100 marks. The Respondent no.1 published the result on 12-09-2017 in which the applicant was declared to be qualified, subject to his production of sports validity certificate at the time of interview. He appeared for interview and secured 15 out of 40 marks. He submitted his sports validity certificate dated 13.10.2017 with request to accept the same and consider his candidature through open sports category.

4. On 20.6.2018 Respondent no.1 published final result of the successful candidates which did not contain applicant's name.

5. By order dated 4.7.2018 the Respondent no.1 declined to consider the candidature of the Applicant on the ground that Applicant did not possess the certificate of validity of participation in sport on or before 1.6.2017, which was the last date fixed for submission of the application for PSI (Main) Examination.

6. The Applicant has challenged the impugned order dated 4.7.2018 issued by Respondent no.1 on the ground that scrutiny of Applicant's participation in sports on or before 1.6.2017 (Exhibit A page 22 of OA), for which he cannot be blamed.

7. Grounds for challenging the impugned order as pleaded in O.A. are:

(i) The Respondent no.1 has failed to appreciate Corrigendum dated 10.10.2017 to the GR dated 1.7.2016 where under sports candidate like the Applicant in Shot Put sports have participated at national level sports and obtained first, second or third position.

(ii) After the aforesaid corrigendum dated 10.10.2017 came into force Respondent no.2 issued him sports validity certificate on 13.10.2017 on the basis of his application dated 24.7.2017. Only because of the corrigendum issued on 10.10.2017, the Applicant became eligible to

be considered for the post of PSI through sports quota. Earlier Shot Put was recognized game only for Class III or Class IV post.

(iii) Respondent no.3 issued GR on 16.11.2017 clarifying that the provisions of the aforesaid corrigendum dated 10.10.2017 would apply to the pending selection process to any public post which is gazetted Group B post.

(iv) Respondent no.1 failed to appreciate the purpose behind the corrigendum dated 10.10.2017 r/w GR dated 16.11.2017 issued by Respondent no.3.

8. The Applicant has, therefore, prayed as follows:

(a) To set aside the impugned order dated 4.7.2018 issued by Respondent no.1 stating that he did not have the sports validity certificate of the date on or before 1.6.2017 which was the last date of submission of form for main examination.

(b) In the light of the GRs dated 10.10.2017 and 16.11.2017 the Applicant deemed to have been issued sports validity certificate on or before 1.6.2017 i.e. the cut off date fixed.

(Quoted from page 18-19 of OA)

9. The Respondent no.2 in his reply rebuts the contentions made by the Applicant and states as follows:

"9. .....

The Applicant has applied for the verification of his sports Certificate to the office of present Respondent on 11-10-2017. The Applicant thereafter, on 12-10-2017 submitted the report of concerned sports Association. Accordingly, the present Respondent has issued Verification Certificate to the Applicant on 13-10-2018. It is denied that the Applicant has submitted application for Sports Validity Certificate on 24.07.2017 as contended by him. The Applicant has not enclosed any document to substantiate his claim that he submitted application for Sports Validity Certificate on 24.7.2017.

10. .....

The present Respondent has received application for verification of sport certificate from the Applicant on 11/10/2017.

(i) The Respondent accordingly scrutinized the document and requested the Applicant to submit all necessary documents to verify the sports claim of the Applicant.

(ii) The Applicant thereafter, on 12-10-2017, submitted the report dated 24.7.2017 of concerned sports Association. The copy of the said report/letter dtd. 24.7.2017 showing inward date 12.10.2017 is annexed herewith and marked as Exhibit R-2.

(iii) After scrutinizing the documents and record, the Respondent No.2 has verified sports certificate and held that the sports certificate of the Applicant is valid for group B, C and D post.

11. .....

12. .....

It is submitted that the condition to obtain sports validity certificate is pre-requisite condition for securing job in the Government and Semi Government Institutions under sports quota. As the Applicant has applied on 11-10-2017 and he received the Sports Validity Report on 13-10-2017 i.e. within 20 days from his application. However, as he submitted his application beyond the cut-off date, the Applicant is held to be not valid for the said recruitment process.

13. .....

It is submitted that the provisions of Government Resolution dated 01.07.2016 are binding on the all recruitments commenced after the enforcement date of the said Government Resolution. As the Applicant did not possess Sports Validity Certificate at the time of last date of Application for the post of PSI as published by Respondent No. 1, the claim of the Applicant cannot be considered as valid.

14. .....

The claim of the Applicant is valid for the recruitment process commenced after the date of Validity Report issued by the present Respondent. As the Applicant did not hold and possess the Validity Report prior to the prescribed date by Respondent No 1, the Applicant cannot be considered as valid retrospectively to the recruitment process conducted by the Respondent No 1."

(Quoted from page 65-68 of OA)

10. The Respondent has therefore mentioned that the OA is without any foundation and devoid of merit and the same deserves to be dismissed.

11. Issues for consideration:

(i) Whether the Applicant has submitted his request issuing sports validity certificate in reasonable time?

(ii) Whether the impugned order has been issued without taking into account the GR and the corrigendum thereto enabling the candidates under sports category of Shot Put?

Discussion and findings:

12. The GR issued on 1.7.2016 provides for 5% reservation for sports candidate by way of horizontal reservation (Exhibit D page 26 of OA). On 10.10.2017 corrigendum has been issued (Exhibit G page 49 of OA) which only mentions about the sports person who would be eligible and the categories in which they are eligible. The relevant portion of the same reads as under:

दिनांक: १० ऑक्टोबर, २०१७.

वाचा:

शासन निर्णय, शालेय शिक्षण व क्रीडा विभाग, क्रमांक : राक्रीधो-२००२/प्र.क्र.६८/क्रीयुसे-२, दिनांक ०१ जुलै, २०१६.

शुध्दीपत्रक:

उपरोक्त संदर्भाधिन शासन निर्णयान्वये, राज्यातील प्राविण्यप्राप्त खेळाडूंना शासकीय, निमशासकीय व इतर क्षेत्रात नोकरीसाठी ५% आरक्षणाच्या सर्व समावेशक सूचना देण्यात आल्या आहेत उक्त, दि.०१.०७.२०१६ च्या शासन निर्णयातील परिच्छेद क्र.२ मधील क्रीडाविषयक अर्हता नमूद असणाऱ्या तक्त्यामध्ये अशंत: बदल करुन त्याऐवजी खालील क्रीडा विषयक अर्हता ग्राह्य धरण्यास शासन मान्यता देत आहे:-

गट	क्रीडा विषयक अर्हता (सुधारित परिशिष्ट "अ-१" प्रमाणे)	खेळविषयक पात्रता	
		वैयक्तिक स्पर्धा	सांघिक स्पर्धा
अ	i) अधिकृत आंतरराष्ट्रीय स्पर्धा (वरिष्ठ गट) ii) पॅरा ऑलिम्पिंक आंतरराष्ट्रीय स्पर्धा iii) जागतिक आंतरविद्यापीठ क्रीडा स्पर्धा iv) आंतरराष्ट्रीय शालेय महासंघा-द्वारा आयोजित जागतिक शालेय क्रीडा स्पर्धा v) ग्रॅन्डमास्टर किताब	महाराष्ट्राच्या खेळाडूने भारताचे प्रतिनिधित्व करताना प्रथम, द्वितीय अथवा तृतीय स्थान /सुवर्ण, रौप्य किंवा कास्य पदक मिळविणे आवश्यक/ ग्रॅन्डमास्टर किताब अथवा ऑलिम्पिक क्रीडा स्पर्धेत सहभाग	महाराष्ट्राच्या खेळाडूचा समावेश असलेल्या भारतीय संघाने प्रथम, द्वितीय अथवा तृतीय स्थान /सुवर्ण, रौप्य किंवा कास्य पदक मिळविणे आवश्यक
ब	i) अधिकृत आंतरराष्ट्रीय स्पर्धा (कनिष्ठ गट) ii) राष्ट्रीय क्रीडा स्पर्धा (वरिष्ठ गट) iii) राष्ट्रीय क्रीडा स्पर्धा (कनिष्ठ गट)	महाराष्ट्राच्या खेळाडूने भारताचे प्रतिनिधित्व करताना /महाराष्ट्राचे /विद्यापीठाचे प्रतिनिधित्व करताना प्रथम, द्वितीय अथवा तृतीय स्थान/ सुवर्ण,	महाराष्ट्राच्या खेळाडूचा समावेश असलेल्या भारतीय संघाने /महाराष्ट्राच्या/ विद्यापीठाचे संघाने प्रथम, द्वितीय अथवा तृतीय स्थान/ सुवर्ण, रौप्य किंवा कास्य पदक मिळविणे आवश्यक/

	iv) पॅरा ऑलिम्पिक राष्ट्रीय क्रीडा स्पर्धा v) राष्ट्रीय शालेय क्रीडा स्पर्धा vi) राष्ट्रीय ग्रामीण व महिला क्रीडा स्पर्धा vii) अखिल भारतीय आंतर विद्यापीठ क्रीडा स्पर्धा viii) आंतरराष्ट्रीय मास्टर स्पर्धा	रौप्य किंवा कास्य पदक मिळविणे आवश्यक/ अथवा) आंतरराष्ट्रीय मास्टर किताब मिळविणे आवश्यक	ऑलिम्पिक क्रीडा स्पर्धेत सहभाग.
क	(i) राज्य स्तरावरील वरिष्ठ क्रीडा स्पर्धा (ii) राज्यस्तर कनिष्ठ गटातील क्रीडा स्पर्धा (iii) राज्यस्तर शालेय क्रीडा स्पर्धा (iv) ग्रामीण व महिला क्रीडा स्पर्धा (v) राज्यस्तर आंतरविद्यापीठ क्रीडा स्पर्धा (अश्वमेध) (vi) राज्यस्तर आदिवासी क्रीडा स्पर्धा (vii) राज्यस्तर पॅरा ऑलिम्पिक क्रीडा स्पर्धा (viii) राज्यस्तर अपंग क्रीडा स्पर्धा	राष्ट्रीय स्तरावरील स्पर्धेमध्ये महाराष्ट्राचे/राज्य स्तरावर संबंधित विभाग/जिल्हयाचे प्रतिनिधित्व करून प्रथम, द्वितीय अथवा तृतीय स्थान/ सुवर्ण, रौप्य किंवा कास्य पदक मिळविणे आवश्यक	राष्ट्रीय स्तरावरील स्पर्धेमध्ये महाराष्ट्राचे/राज्य स्तरावर संबंधित विभाग/जिल्हयाचे प्रतिनिधित्व करून संघाने प्रथम, द्वितीय अथवा तृतीय स्थान/ सुवर्ण, रौप्य किंवा कास्य पदक मिळविणे आवश्यक
ड)	(i) राष्ट्रीय क्रीडा स्पर्धा वरिष्ठ गट	वरिष्ठ गट स्पर्धेत सहभाग	वरिष्ठ गट स्पर्धेत सहभाग
	(ii) पॅरा ऑलिम्पिक राष्ट्रीय क्रीडा स्पर्धा	वरिष्ठ गट स्पर्धेत सहभाग	वरिष्ठ गट स्पर्धेत सहभाग

२. संदर्भाधिन शासन निर्णयासोबतचे "परिशिष्ट अ" रद्द करण्यात येत असून त्या ऐवजी खालील "सुधारित परिशिष्ट अ-१" ग्राह्य धरण्यात यावे :-

सुधारित परिशिष्ट अ-१

गट- अ साठी पात्र क्रीडा स्पर्धा	गट-ब साठी पात्र क्रीडा स्पर्धा
१	२
१.अधिकृत आंतरराष्ट्रीय क्रीडा स्पर्धा :- I) ऑलिम्पिक क्रीडा स्पर्धा. II) एशियन्स गेम्स. III) जागतिक क्रीडा स्पर्धा. IV) एशियन चॅम्पियशीप. V) कॉमनवेल्थ गेम्स.	गट अ पदाकरीता विहीत केलेली खेळ विषयक अर्हता धारण करणारा खेळाडू अथवा १. अधिकृत आंतरराष्ट्रीय कनिष्ठ गटातील :- I) ज्युनियर वर्ल्ड चॅम्पियशीप II) युथ कॉमनवेल्थ गेम्स

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VI) कॉमनवेल्थ चॅम्पियनशीप. VII) युथ ऑलिम्पिक. VIII) ग्रॅडमास्टर (बुध्दिबळ)	III) कनिष्ठ गटातील एशियन चॅम्पियनशीप IV) कनिष्ठ गटातील कॉमनवेल्थ चॅम्पियनशीप v) आंतरराष्ट्रीय मास्टर स्पर्धा (बुध्दिबळ)
२. पॅरॉलिम्पिंक आंतरराष्ट्रीय स्पर्धा :- I) पॅरॉलिम्पिक गेम्स. II) पॅरा एशियन गेम्स. III) वर्ल्ड पॅरॉलिम्पिक गेम्स.	२) राष्ट्रीय क्रीडा स्पर्धा वरिष्ठ गट :- I) राष्ट्रीय क्रीडा स्पर्धा. II) अधिकृत राष्ट्रीय अजिंक्यपद स्पर्धा (वरिष्ठ गट)
	३) राष्ट्रीय क्रीडा स्पर्धा कनिष्ठ गट:- I) राष्ट्रीय ज्युनियर गट अजिंक्यपद स्पर्धा
३) जागतिक आंतरविद्यापीठ क्रीडा स्पर्धा:- I) जागतिक आंतरविद्यापीठ क्रीडा बोर्डाने आयोजित केलेले खेळ.	४) पॅरा ऑलिम्पिक राष्ट्रीय स्पर्धा :- I) पॅरा ऑलिम्पिक राष्ट्रीय अजिंक्य पद स्पर्धा
४) आंतरराष्ट्रीय शालेय महासंघाद्वारा आयोजित जागतिक शालेय क्रीडा स्पर्धा :- आंतरराष्ट्रीय शालेय महासंघाद्वारे आयोजित केलेले खेळ .	५) राष्ट्रीय शालेय क्रीडा स्पर्धा .
५) ग्रॅन्ड मास्टर किताब	६) राष्ट्रीय ग्रामीण व महिला क्रीडा स्पर्धा
(टिप- उपरोक्त नमूद अ.क्र.१,३,व ४ या क्रीडा स्पर्धांना ऑलिम्पिक क्रीडा स्पर्धा, एशियन गेम्स, कॉमनवेल्थ गेम्स या स्पर्धाचा समावेश असलेले खेळ व बुध्दीबळ तसेच कबड्डी व खो-खो हे देशी खेळच ५% आरक्षणासाठी पात्र राहतील)	७) अखिल भारतीय आंतरविद्यापीठ क्रीडा स्पर्धा
	८) आंतरराष्ट्रीय मास्टर स्पर्धा
	(टिप : अ.क्र.१,२,३,५,६ व ७ या स्पर्धांमधील ऑलिम्पिक क्रीडा स्पर्धा, एशियन गेम्स, कॉमनवेल्थ गेम्स मध्ये समावेश असलेले खेळ व बुध्दीबळ तसेच कबड्डी व खो-खो हे देशी खेळच ५ % खेळाडू आरक्षणासाठी पात्र राहतील.)

गट -क साठी पात्र क्रीडा स्पर्धा	गट-ड साठी पात्र क्रीडा स्पर्धा
३	४
गट -अ व गट -ब या पदाकरीता विहीत केलेली खेळ विषयक अर्हता धारण करणारा खेळाडू अथवा	अ/ ब / क या पदाकरीता विहित केलेली खेळ विषयक अर्हता धारण करणारा खेळाडू अथवा
१) राज्य स्तर वरिष्ठ क्रीडा स्पर्धा I) राज्यस्तर वरिष्ठ गटातील अजिंक्यपद स्पर्धा	१. वरिष्ठ गटातील राष्ट्रीय क्रीडा स्पर्धातील सहभाग
२) राज्यस्तर कनिष्ठ गटातील अजिंक्यपद स्पर्धा	२.पॅराऑलिम्पिक राष्ट्रीय क्रीडा स्पर्धा वरिष्ठ गटातील सहभाग .

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३) राज्यस्तर शालेय क्रीडा स्पर्धा	(टिप – अ.क्र.१ मधील सर्व क्रीडा स्पर्धा मधील खेळ हे ऑलिम्पिक क्रीडा स्पर्धा, एशियन गेम्स आणि कॉमनवेल्थ गेम्स मध्ये समावेश असलेले खेळ व बुध्दिबळ तसेच कब्बडी व खो-खो हे नमूद देशी खेळच ५ % खेळाडू आरक्षणासाठी पात्र असतील.)
४) राज्यस्तर ग्रामिण व महिला क्रीडा स्पर्धा	
५) राज्यस्तर आंतरविद्यापीठ स्पर्धा (अश्वमेध)	
६) राज्यस्तर आदिवासी क्रीडा स्पर्धा	
७) राज्यस्तर पॅराऑलिम्पिक क्रीडा स्पर्धा	
८) राज्यस्तर अपंग क्रीडा स्पर्धा	
(टिप – अ.क्र.१ ते ५ मधील सर्व क्रीडा स्पर्धा मधील खेळ हे ऑलिम्पिक क्रीडा स्पर्धा, एशियन गेम्स आणि कॉमनवेल्थ गेम्स मध्ये समावेश असलेले खेळ व बुध्दिबळ तसेच कब्बडी व खो-खो हे देशी खेळच ५ % खेळाडू आरक्षणासाठी असतील.)	

३. हे आदेश शासन शुध्दीपत्रक निर्णयाच्या दिनांकानंतर होणाऱ्या भरतीस लागु राहतील.

(Quoted from page 49-52 of OA)

13. This was followed by the GR issued on 16.11.2017 which clarified as under:

> "२. संदर्भाधीन शासन शुध्दीपत्रक दि.१० ऑक्टोंबर, २०१७ मधील परिच्छेद क्रमांक ०३ व शासन शुध्दीपत्रक दि.१५ नोव्हेंबर, २०१७ मधील परिच्छेद क्रमांक ०२ मध्ये नमूद "हे आदेश शासन शुध्दीपत्रक निर्णयाच्या दिनांकानंतर होणाऱ्या भरतीस लागु राहतील" या तरतुदीचा अर्थ "दि.१० ऑक्टोबर, २०१७ पूर्वी निवड प्राधिकरणाने नियुक्तीसाठी अंतिम यादी जाहीर न केलेल्या, ५ टक्के खेळाडू आरक्षण लागू असणाऱ्या पदांवरील नियुक्तीकरीता लागू राहतील." "
>
> (Quoted from page 57 of OA)

14. Examination of the record indicates that the Applicant was issued a communication by Nasik District Athletic Association a certificate on 24.7.2017 as under:

> *"This is to certify that Mr. Vikrant Deepak Karatkar was studying at Bhonsala Military School for the Academic Year 2010-2011 and he has participated at National Inter Zonal Junior Athletics Championships held at Guntur from 3rd to 5th September, 2010.*

This certificate is issued to him vide his request email received on July 24, 2017 for the purpose of verification under sports recruitment."

(Quoted from page 71 of OA)

15. The Applicant has applied to the Deputy Director, Sports (Respondent no.2) for issue of Sports Validity Certificate on 11.10.2017 and enclosed necessary documents in support of the same (Exhibit R-1 page 70). Thereafter the Deputy Director, Sports has issued him the necessary sports validity certificate on 13.10.2017 (Exhibit H page 54-56 of OA).

16. The record furnished by the Applicant as well as the Respondents makes it clear that on 24.7.2017 the Applicant had in his possession a communication from Nasik District Athletic Association. There is no document to show that he had applied to the Respondent no.2 for issue of sports validity certificate on 24.7.2017 as per his claim. No document supporting his claim has been furnished.

17. Evidence on record reveals that the applicant has applied for issue of sports validity certificate on 11.10.2017 and the same is confirmed from the inward stamp which also shows that it was received on 11.10.2017. Thereafter he has been issued the sports validity certificate on 13.10.2017 within two days of the application. It appears that the Applicant became aware about the GR followed by the corrigendum and has decided to apply for the sports validity certificate on 11.10.2017. His contention that the game of Shot Put was included for category B Officers on 10.10.2017 also does not confirm from the reading of the GR quoted above (Exhibit G page 49). His contention that the Respondent no.2 has not appreciated the corrigendum issued on 16.11.2017 which mentions that, "दि.१० ऑक्टोबर, २०१७ पूर्वी निवड प्राधिकरणाने नियुक्तीसाठी अंतिम यादी जाहीर न केलेल्या, ५ टक्के खेळाडू

आरक्षण लागू असणाऱ्या पदांवरील नियुक्तीकरीता लागू राहतील." also does not appear to be correct.

18. The cutoff date for submitting the application form was 1.7.2016. The Applicant obviously did not possess the certificate issued prior to 1.7.2016. In fact he applied for issue scrutiny much later viz. on 11.10.2017.

19. The contention of the Applicant that the game "Shot Put" has been for the first time added in the GR issued on 10.10.2017 also is not demonstrated by applicant by providing evidence in support of his plea.

20. The claim made by the Applicant that Respondent no.2 has not taken into account necessary GR does not appear to be factually correct. The certificate of validity has been issued to applicant within two days of his application.

21. No illegality can be found in the action taken by the Respondent no.2 as the contentions made by the Applicant are not proved rather those are contrary to record.

22. The Original Application is, therefore, devoid of any merit and is dismissed.

23. Parties are directed to bear own costs.

Sd/-	Sd/-
(P.N. Dixit)	**(A.H. Joshi, J.)**
Member (A)	**Chairman**
23.1.2019	**23.1.2019**

Dictation taken by: S.G. Jawalkar.
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