

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 464 OF 2023

DISTRICT:- AURANGABAD

Muzaffar S/o. Mustafa Shah
Age : 29 years, Occ: Student,
R/o. Plot No. 23, Near Shahnoor
Majid, Sahara City, Sillod, Tq. Sillod,
Dist. Aurangabad – 431112

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Sports and Youth
Services, Mantralaya, Mumbai-32.
2. The Joint Commissioner of State Tax,
HQ-4, H. wing, 3rd Floor Special CST Office,
GST Bhavan, Mazgaon, Maharashtra State,
Mumbai-400010.
3. The Maharashtra Public Service Commission,
Trishul Gold Field, Plot No.34,
In front of Sarovar Vihar, Sector II,
CBD Belapur, Navi Mumbai-400614.
4. The Commissioner,
Sports and Youth Services,
Balewadi Sports Complex,
Maharashtra State, Pune.
5. The Deputy Director,
Sports and Youth Services,
Aurangabad Division,
Divisional Sport Complex,
Sutgirni Chowk, Aurangabad-431005.
6. Maharashtra Karate Association,
Through its General Secretary,
R/o: Israni Tower-B, 106,
Sector-15, CBD Belapur,
Navi Mumbai-400614.

...RESPONDENTS

APPEARANCE : Shri Amol B. Chalak, counsel for
the applicant.
: Shri V. G. Pingle, Presenting Officer for
the respondent authorities.

**CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN
AND
: SHRI VINAY KARGAONKAR, MEMBER (A)**

RESERVED ON : 11.07.2024

PRONOUNCED ON : 10.09.2024

ORDER

[Per : Justice Shri P.R. Bora, Vice Chairman]

Heard Shri Amol B. Chalak, learned Counsel for the applicant and Shri V.G.Pingle, learned Presenting Officer for the respondent authorities.

2. The applicant has preferred the present Original Application seeking quashment of the communication dated 5.6.2023 issued by respondent No.2 whereby selection of the applicant for the post of State Tax Inspector (Non-Gazzeted) Group B has been cancelled. The letter dated 17.4.2023 issued by respondent No.4 to respondent No.2 intimating invalidation of the Sports Validity/Verification certificate has also been questioned by the applicant.

3. The applicant had applied for the post of State Tax Inspector (Non-Gazzeted) Group B in pursuance of the advertisement issued by respondent No.3 on 2.6.2022 for various posts of Maharashtra Sub-ordinate Services, (Non-Gazzeted)-Group B including the State Tax Inspector. After being qualified in the preliminary examination the applicant appeared for the main examination and passed the same. The applicant secured 236 marks out of 400.

4. The applicant had applied for the said post claiming reservation meant for the Sports persons. 12 posts were reserved for Sports persons. The applicant claims to be having secured meritorious position in "Karate". The applicant claims that in the Karate Championship Competition held in the year 2010 at Aurangabad organized by All India National Karate-Do Federation, he secured 2nd position in individual Kumite Competition and was awarded certificate in that regard. It is the case of the applicant that while applying for the said post meant for the Sports Category persons the applicant had submitted all necessary documents with the authorities concerned. It is the contention of the applicant that the Sports Certificate issued in favour of the applicant was validated / certified by respondent No.5 on 13.1.2020. On the basis of the

said document the applicant got selected from the Sports Category.

5. Before giving the applicant final letter of appointment the certificate dated 13.1.2020 issued by respondent No. 5 was sent for re-verification to the Commissioner of Sports & Youth Services, Pune. The Commissioner of Sports by its communication dated 17.4.2023 cancelled the validity certificate dated 13.1.2020 issued by respondent no.5 in favour of the applicant. Resultantly, the applicant was declared as ineligible to claim the benefit applicable for the sports persons'. It is the case of the applicant that respondent no.4 has duly verified the sports certificate issued in favour of the applicant and had accordingly certified the validity of the sports certificate which was issued by respondent no.5.

6. From the contents of the letter dated 17.4.2023, it appears that, the Commissioner of Sports, Pune declined to accept the validity certificate submitted by respondent no. 5 on the ground that the All India National Karate-Do Federation, which held the said 24th National Karate Championship in the year 2010 was at the relevant time not affiliated or recognized by Indian Olympic Association. The aforesaid is the only reason

assigned by the Commissioner of Sports, Pune for not accepting the validity certificate issued in favour of the applicant by respondent no. 5 and has cancelled the said report of validity.

7. Learned counsel appearing for the applicant submitted that the validity certificate issued by respondent no. 5 on 13.1.2020 has been cancelled by respondent no. 4 for wrong reasons and on wrong information. Learned counsel invited our attention to the documents annexed along with the O.A. as Annexure A-15 (page nos. 176 to 179 of the paper book). The document at page 176 reveals that Indian Olympic Association has recognized All India Karate-Do Federation vide its communication dated 14.12.2001. Document at page-177 reveals that the Indian Olympic Association has given recognition to All India Karate-Do Federation even in the year 2002 vide its communication dated 4.4.2002. The applicant has also placed on record the copy of the letter dated 30.12.2006 under the signature of the President of Indian Olympic Association, whereby recommendation has been given by the said Organization up to the year 2006. Another document, which is at page-179 demonstrates that recognition to All India Karate-Do Federation was extended vide the said letter dated 2.1.2008.

8. Learned counsel then invited our attention to the judgment delivered by the Division Bench of the Hon'ble Bombay High Court in Writ Petition No.10280/2015. Learned counsel pointed out that the issue of recognition to All India Karate-Do Federation by Indian Olympic Association was one of the question for consideration in the said matter before the Hon'ble High Court and the Hon'ble High Court has unambiguously held that in the period which is mentioned in the said Writ Petition, i.e. up to the year 2011 the recognition was existing in favour of All India Karate-Do Federation. Learned counsel submitted that the document on record thus clearly demonstrates that in the year 2010 the All India Karate-Do Federation was duly recognized by the Indian Olympic Association. Learned counsel submitted that the norms and the related guidelines for verification of the sports certificate are provided in the G.Rs. dated 1.7.2016 and 30.6.2022. Learned counsel submitted that insofar as the certificate issued in favour of the applicant is concerned the same has been issued strictly in accordance with the norms laid down in the aforesaid two GRs. Learned counsel in the circumstances has prayed for setting aside the impugned communication and also sought further direction for considering the candidature of the

applicant for his appointment on the post of State Tax Inspector from the Sports Category.

9. Learned counsel for the applicant has relied upon the decision rendered by this Tribunal in O.A. St. No.185/2015 decided on 17.02.2017. According to the learned counsel, the facts involved in the present matter are identical to the facts, which existed in the said O.A.St.No.185/2015.

10. The respondent Nos. 4 & 5 have filed their joint affidavit in reply and have thereby resisted the contentions raised in the O.A. and the prayers made therein.

11. Respondent No. 2 has raised the defense that since the Commissioner of Sports and Youth Services, M.S. Pune vide its letter dated 17.4.2023 has informed to his office about cancellation of the verification certificate issued in favour of the applicant, no benefit of the Sports reservation can be extended in favour of the applicant.

12. In the affidavit in reply jointly filed by the respondent no.4 and 5, it is contended that the All India Karate-Do Federation is National Federation of Karate game, however, said Federation is not affiliated member of the Indian Olympic Association but is a recognized body of the Karate Sports till

2011, and therefore, the tournaments organized by the All India Karate-Do Federation in 2010 are not held valid for sports reservation. It is further contended that, vide communication dated 4.11.2020 respondent no.5 has rejected the validity of the said certificate. It is the contention of the respondents that against the said rejection revision and appeal is provided. In the said rejection letter also the said provision is expressly incorporated. It is the contention of respondent Nos. 4 & 5 that without following remedy of appeal the applicant could not have approached this Tribunal by filing the present Original Application. According to the said respondent the O.A. filed by the applicant is liable to be rejected on this sole ground.

13. Learned Presenting Officer appearing for the respondents reiterated the contentions raised in the affidavit in reply filed on behalf of the said respondents and submitted that the O.A. on the said grounds is liable to be rejected. Learned P.O. submitted that decision whereby respondent No. 5 declined to validate the certificate was duly communicated to the applicant by Speed Post. Learned P.O. submitted that the respondents have placed on record copy of the outward register which demonstrates that communication was sent by post on 10.11.2020 and the postal slip envisages the dispatch of the

said letter by respondent No.5 addressed to the applicant. Learned P.O. submitted that the applicant has not even disclosed in his O.A. about the said communication and suppressed the material fact. On the aforesaid grounds the respondents have prayed for rejecting the Original Application.

14. When the present matter was heard for some time on 04-01-2024, it was noticed by us that the only issue which requires to be considered is whether the All India Karate-Do Federation at the relevant time was affiliated to Indian Olympics Association or not. It was then argued by the learned Counsel appearing for the applicant that, affiliation and recognition are synonymous words and the respondents did not make any difference in recognition and affiliation. However, since we were keen to have authentic information, we had directed learned Counsel for the parties to produce documents or any other material to substantiate their respective contentions. Accordingly, on 08-01-2024 applicant filed his short affidavit and also placed on record copies of the judgments delivered by the Hon'ble Bombay High Court and the copy of the letter dated 10-10-2023 written by the Commissioner of Sports and Youth Services i.e. respondent no.4 to the Principal Secretary, School Education and Sports Department. Learned Counsel reading

out the said letter submitted that, the Commissioner of Sports and Youth Services has amply clarified in the said letter that, affiliation and recognition are not two different aspects and the authenticity of the Sports competitions, cannot be questioned on the basis that the said organization was not affiliated to Indian Olympics Association and it was only a recognized Association.

15. Learned Counsel submitted that the applicant has complied with all the norms and the certificate produced on record by him is valid in all respects. He, therefore, prayed for setting aside the impugned communications dated 05-06-2023 issued by respondent no.2 as well as impugned reference letter issued by respondent no.4 to respondent no.2 dated 17-04-2023. The applicant has also prayed for declaring the sports certificate dated 13-01-2020 as valid certificate. Applicant has lastly prayed for issuance of appointment order in his favour for the post of State Tax Inspector (Non-gazetted) Group-B in pursuance of his selection and recommendation dated 20-12-2022 by MPSC. Learned P.O., however remained stuck to the stand taken by the respondents that the sports certificate of the applicant stands invalidated and as such the applicant cannot

claim appointment against the sports quota on the basis of the said certificate.

16. As we have noted hereinabove, the respondents have, and more particularly, respondent no.4 has invalidated sports certificate of the applicant on the ground that the All India Karate Do Federation was not affiliated to Indian Olympics Association and as such the merit certificate received to the applicant of the said competitions cannot be validated for giving eligibility to the applicant for his appointment against the sports quota. The letter dated 05-06-2023 whereby the applicant was communicated that, he cannot be considered for his appointment against the sports quota is based upon the letter dated 17-04-2023 whereby respondent no.4 communicated respondent no.2 that the sports certificate of the applicant has been invalidated in its re-verification and has been cancelled. In the letter dated 17-04-2023, it is stated that as per the G.R. dated 01-07-2016, it is mandatory that in so far as the State championship sports competitions are concerned, the same must have been organized by the State organization of the concerned game and the said State organization must be affiliated to the Maharashtra Olympics Association. It is further contended that, the Maharashtra Karate Association is not

affiliated to the Maharashtra Olympic Association. It is further contended that the State level sports Associations, if are affiliated to their national associations, the said national associations must be holding the affiliation of the Indian Olympics Association. It is further contended that though the Maharashtra Karate Association is affiliated to National Karate Federation, the said National Karate Federation since is not affiliated to Indian Olympic Association, Certificate of the applicant is invalidated in re-verification.

17. Though an objection has been raised by the respondents that the applicant was under an obligation to prefer an appeal against the order dated 04-11-2020 and for want of preferring such appeal, O.A. deserves to be dismissed. In view of the clarification given by the respondent no.4 in his letter dated 10-10-2023, it does not appear to us that merely on the said ground the O.A. has to be dismissed.

18. The wording used in the letter dated 17-04-2023 is too complex, however, the following facts reveal from the said letter:

[i] That, the competitions in which the applicant claims to have earned the second position were organized by Maharashtra Karate Association.

[ii] That, the Maharashtra Karate Association is not affiliated to Maharashtra Olympic Association.

[iii] That, though the Maharashtra Karate Association is affiliated to National Karate Federation, said Karate Federation is not affiliated to Indian Olympic Association.

19. On perusal of the aforesaid letter, it apparently reveals that the respondent no.4 has invalidated the sports certificate of the applicant without any application of mind and for wrong reasons. It is undisputed that, merit certificate which is placed on record by the applicant and on the basis of which the applicant has claimed the appointment against sports quota pertains to his participation in 24th National Karate Championship held at Aurangabad from 03-06-2010 to 09-06-2010. Perusal of the aforesaid certificate explicitly reveals that, sports competitions/tournaments in which the applicant participated and secured merit were not the State level tournaments but were the National level tournaments. Secondly, the tournaments were not organized by the Maharashtra Karate Association but organized by All India Karate-Do Federation. In the circumstances, the issue whether the Maharashtra Karate Association was affiliated to

Maharashtra Olympics Association was totally irrelevant. Respondent nos.4 and 5 themselves have admitted in their affidavit in reply that, 24th National Karate Championship, 2010 was organized by All India Karate-Do Federation and further that it is a National Sports Federation of Karate Game.

20. Now, it has to be seen to what extent it matters if All India Karate-Do Federation was not affiliated to Indian Olympics Association and was having only recognition by the Indian Olympics Association. Respondents are not disputing the fact that All India Karate-Do Federation was recognized by the Indian Olympics Association. Respondent no.4 himself in his letter dated 10-10-2023 written to the Principal Secretary, School Education and Sports Department has stated that, whether any Association is affiliated to Indian Olympics Association or is recognized by the Indian Olympics Association, does not much matter for deciding the validity of the sports competition organized by the said federation. We deem it appropriate to reproduce hereinbelow the relevant portion in the said letter which reads thus:

“संलग्नता व मान्यता या दोन वेगवेगळ्या बाबी नसून, भारतीय ऑलिम्पिक महासंघ व महाराष्ट्र ऑलिम्पिक असोसिएशन यांच्याद्वारे ज्या संघटनांना संलग्नता दिली जाते, त्यांना मतदानाचा अधिकार दिल्या जातो व ज्या संघटनांना मान्यता दिल्या जाते, त्यांना मतदानाचा अधिकार दिल्या जात नाही.

संलग्नता व मान्यता असलेल्या दोन्ही संघटनांची राज्य व राष्ट्रीय स्पर्धा होते, त्यामध्ये खेळाडू खेळतात व प्राविण्य संपादन करतात, केवळ भारतीय ऑलिम्पिक महासंघाची किंवा महाराष्ट्र ऑलिम्पिक असोसिएशन यांची संलग्नता नाही व मान्यता आहे या आधारे त्या स्पर्धेची अधिकृतता अंतिम होत नाही.”

21. We reiterate that, All India Karate-Do Federation was at the relevant time was recognized by the Indian Olympic Association. As is revealing from the certificate, All India Karate-Do Federation was the member of the Asian Karate-Do Federation and World Karate Federation. It further reveals that World Karate Federation was recognized by International Olympics Committee (IOC). From the facts as aforesaid, it is evident that applying the norms as are communicated in the letter dated 10-10-2023, certificate produced by the applicant has to be held valid. Respondent no.4 has invalidated the said certificate in re-verification for wrong reasons and without application of mind. Said invalidation order deserves to be quashed and set aside.

22. After having considered the facts on record, there remains no doubt that the certificate which is produced by the applicant and on the basis of which he has claimed the seat reserved for sports persons is valid in all respects and on the basis of it, the applicant is eligible and entitled to claim the seat

reserved for the sports persons. O.A., therefore, deserves to be allowed with the following order:

ORDER

[i] Communication dated 05-06-2023 issued by respondent no.2 and the communication dated 17-04-2023 issued by respondent no.4 both are quashed and set aside.

[ii] Sports certificate dated 13-01-2020 furnished by the applicant is hereby held valid.

[iii] Respondent no.2 shall issue appointment order in favour of the applicant for the post of State Tax Inspector (Non-gazetted) Group-B as per recommendation by the Maharashtra Public Service Commission i.e. respondent no.3 vide its letter dated 20-12-2022, within six (6) weeks from the date of this order.

[iv] O.A. stands allowed in the aforesaid terms, however, without any order as to costs.

(VINAY KARGAONKAR)
MEMBER (A)

(P.R.BORA)
VICE CHAIRMAN

Place : Aurangabad

Date : 10.09.2024