

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION 344 OF 2015**

**DISTRICT : THANE**

Shri Sangram Ramesh Shivdas, )  
Occ : Nil, R/o: Shreeji Vila, )  
Opp. Nitin Company, Thane. )  
Add for service of notice : )  
Shri A.G Bandiwadekar, )  
Advocate, having office at 9, "Ram Kripa" )  
Lt. Dilip Gupte Marg, Mahim, )  
Mumbai 400 016. )...**Applicant**

**Versus**

1. The Chairman, )  
Maharashtra Public Service )  
Commission, [M.S], Mumbai. )  
Having office at Cooperage, )  
Telephone Nigam Bldg, M.K Road, )  
Mumbai - 21. )

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2. The State of Maharashtra, )  
Through Principal Secretary, )  
[General Administration Dept], )  
Having office at Mantralaya, )  
Mumbai 400 032. )
3. Smt Priyanka D. Lokhande, )  
Appointed as Naib Tahsildar, )  
Copy served through State of )  
Maharashtra, G.A.D, Mantralaya, )  
Mumbai 400 032. )
4. The State of Maharashtra, )  
Through the Principal Secretary, )  
Revenue & Forest Department )  
[Forest], Mantralaya, )  
Mumbai 400 032. )...**Respondents**

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

Shri K.B. Bhise, learned Presenting Officer for the Respondents no 1, 2 & 4.

None for Respondent no. 3.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

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

**DATE : 12.07.2016**

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**PER : Shri Rajiv Agarwal (Vice-Chairman)**

**ORDER**


1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant, Shri K.B. Bhise, learned Presenting Officer for the Respondents no 1, 2 & 4. None for Respondent no. 3.

2. This Original Application has been filed by the Applicant challenging the communication dated 29.4.2015 issued by the Respondent no. 1, deleting the name of the Applicant from the list of candidates recommended for the post of Naib Tahsildar.

3. Learned Counsel for the Applicant argued that the Applicant had appeared in the State Services Main Examination-2014. His name figures in the list of candidates, who had qualified for selection as prepared by the Respondent no. 1, viz, the Maharashtra Public Service Commission (M.P.S.C) from SC-Sports category as per the revised list published by M.P.S.C. The Applicant's name was first in SC-Sports category with 271 marks. The Respondent no. 3 had secured 245 marks in S.C Sports category. Learned Counsel for the Applicant argued that the Applicant's Sports Certificate in the 10<sup>th</sup> Senior National Soft Tennis Championship,




2012 was not held valid by the Director of Sports as the said game was not recognized by the Indian Olympic Association. This was informed by letter from the Director of Sports, Maharashtra State, Pune dated 18.4.2015 (Exhibit 'C', page 22 of the Paper Book). Learned Counsel for the Applicant stated that by letter dated 30.4.2015, the Applicant submitted his certificate of 2009 in the National Level Championship in the same game to the Director of Sports for verification. Learned Counsel for the Applicant argued that the State Government in School Education and Sports Department by letter dated 13.10.2010 informed the Director of Sports, Maharashtra State, Pune that a candidate claiming benefit of Sports category reservation, can submit a second Sports Certificate for verification, if his first Certificate is found to be invalid (Exhibit 'P', page 74 of the Paper Book). Learned Counsel for the Applicant stated that the Director of Sports, Maharashtra State, Pune by letter dated 13.5.2015 (Exhibit 'F', page 28 of the Paper Book) informed the Respondent no. 1 that the Applicant's second Sports Certificate was valid. The Applicant had requested the Respondent no. 1 by letter dated 30.4.2015 (Exhibit 'E' on page 25 of the Paper Book) that he had submitted his second Sports Certificate for verification to the Director of Sports, and his name may not be deleted from the list of recommended candidates, till the decision of the Director of Sports is received. However, the Applicant's name was




deleted from the list of recommended candidates dated 29.4.2015, which is totally illegal. Learned Counsel for the Applicant argued that the Respondent no. 1 has been allowing candidates to submit Second Sports Certificate, if the first Certificate is found invalid. It was done in the Maharashtra Engineering (Civil) Group 'A' case, but this was not allowed by the Respondent no. 1 which is highly discriminatory.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents no 1, 2 & 4 that the Applicant's Sport Certificate was required to be verified from the Director of Sports, Report from Director of Sports validating second Sports Certificate of the Applicant was not received till the declaration of result on 29.4.2015. The Applicant's name was, therefore, not recommended. It was based on the report from the Director of Sports, which was received on 18.4.2015, and which found Sports Certificate of the Applicant to be invalid. The Respondent no. 1 declared the final results on 29.4.2015 and the Applicant was not recommended. Learned Presenting Officer argued that after declaration of the result, the Applicant submitted his second Sports Certificate for verification to Director of Sports on 30.4.2015 and also informed the Respondent no. 1 accordingly on the same date. Learned Presenting Officer stated that the candidates from Sports category themselves were required to submit their Sports



Certificate for verification to the Director of Sports. The result of State Services (Main) Examination, 2014 (Written) was declared on 9.12.2014. Those candidates, who were called for interview were informed to get their document ready. This included verification of the Sports Certificate from Director of Sports. The documents were required to be submitted at the time of interview. M.P.S.C did not forward the Certificate for verification to the Director of Sports and it was the responsibility of the candidate himself to get his Sports Certificate verified. The Applicant was given ample opportunity to get his Sport Certificate verified, but he could not do so before the declaration of results on 29.4.2015. Learned Presenting Officer argued that the Applicant has no case and this Original Application deserves to be dismissed.

5. From para 14 of the affidavit in reply dated 11.8.2015 filed by the Respondent no. 2 it is clear that in the State Civil Services (Main) Examination, 2014, the candidates who were called for interview, on the basis of Written Examination, were required to produce all the documents at the time of interview. Sports persons were required to get their Sports Certificate verified from the Director of Sports, Maharashtra State, Pune and produce the Verification Certificate at the time of interview. In the said affidavit in reply, in para 14 it is stated that:-



“The Commission never forwarded the Certificates of the candidates in connection with the State Service (Main) Examination-2014 to the Directorate of Sports and Youth Services, Pune.”

The report of the Director of Sports dated 18.4.2015 is at Exhibit 'C' and it has the following reference: “संदर्भ : १) आपले पत्र दि.१२ मार्च, २०१५.” From this, it appears that M.P.S.C had made some correspondence with the Director of Sports regarding the Sports Certificate of the Applicant. As the Applicant has chosen not to make the Director of Sports a party, the full facts in this regard are difficult to ascertain. It appears that the Applicant has himself sent his Sports Certificate for Verification to Director of Sports and the Respondent no. 1 had only asked the Director to expedite his report. This is stated in para 9 of the affidavit in reply of the Respondent no. 1. It reads:-

“Meantime, the Commission sent reminders and also followed up the matter telephonically with the Directorate of Sports and Youth Services, Pune for expediting the reports.”


From these events, it appears that the Director of Sports probably took a long time in submitting report dated 18.4.2015, rejecting the Sports Certificate of the Applicant. The Applicant has not stated in his Original Application as to when he received the copy of

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communication dated 18.4.2015 from the Director of Sports, though there is no doubt that a copy was marked to him, as per the endorsement on the communication itself. In para 6.8 of the Original Application, the Applicant has claimed that he applied to the Director of Sports on 27.4.2015, as per Exhibit 'D'. However, at Exhibit 'D' the letter from the Applicant to the Director of Sports is dated 30.4.2015. It appears that the M.P.S.C send recommendations for appointment to the post of Naib-Tahsildar after deleting the name of the Applicant, on 29.4.2015. The Applicant's request to M.P.S.C is dated 30.4.2015.

6. In para 6.9 of the Original Application the Applicant has stated that:-

"6.9. The Petitioner states that in the circumstances stated above, the Petitioner immediately made an application to the Respondent no. 1 on 30.4.2015 (Exhibit-E), thereby requesting him not to delete his name from the list of recommended candidates dated 5.4.2015 through the Sports quota till the Petitioner receives a final decision from the Director of Sports about the aforesaid Sports Certificate of 2009. Thus the Petitioner believed that such reasonable request from him would be accepted by the Respondent no. 1."





In the affidavit in reply dated 11.8.2015, in para 16, the Respondent no. 1 has stated that when the Applicant gave representation dated 30.4.2015 to M.P.S.C, the recommendation was already sent to the Government on 29.4.2015. The Applicant has stated that as per letter dated 13.10.2010, a candidate can submit a second Sports Certificate for verification, if the first Certificate is found to be invalid. The Applicant's claim appear to be that M.P.S.C should have waited till his second Sports Certificate was verified by the Director of Sports. His first Certificate was invalidated by Director of Sports on 18.4.2015 and the list of recommended candidates was sent by the Respondent no. 1 to the Government on 29.4.2015. There is nothing on record to suggest that M.P.S.C deliberately disregarded the request of the Applicant in this regard. The Respondent no. 1 has appended letter dated 22.12.2014 to the affidavit in reply dated 11.8.2015. It is necessary to reproduce extracts from this letter:-

“आपली क्रीडा विषयक प्रमाणपत्रे विषयांकित गट-अ व गट-ब पदाकरीता ग्राह्य ठरतात काय? या बाबतची तपासणी करण्याकरीता साक्षांकित सत्यप्रत संदर्भासाठी स्वतःकडे ठेवून मूळ प्रमाणपत्र परस्पर संचालक, क्रीडा व युवक सेवा संचालनालय, महाराष्ट्र राज्य, पुणे-४११ ००९ यांचेकडे आयोगाच्या सदर पत्राचा संदर्भ देऊन कृपया तात्काळ सादर करावी व त्यासंदर्भातील खालील अनुषंगिक अत्यावश्यक कागदपत्रांची देखील क्रीडा संचालनालयाकडे कृपया तातडीने पूर्तता करावी.”



From this communication, it is clear that the responsibility for obtaining validity for Sports Certificate was with the candidates themselves. The Applicant has not furnished any details regarding the date on which he submitted original Sports Certificate to the Director of Sports. However from letter dated 13.5.2015 from the Director of Sports, it appears that he submitted the same on 31.12.2014. Though date is mentioned as 31.12.2015, it must be 31.12.2014. Till March 12, 2015, no report was received by the Respondent no. 1 from the Director of Sports, so apparently some communication was sent by the Respondent no. 1. Finally on 18.4.2015, the Director of Sports submitted his report, a copy of which was endorsed to the Applicant. However, the Applicant has not indicated the date on which he received this communication. Another significant fact is reference to G.R dated 3.10.2013 in the letter to the Applicant (and other Sports category candidates) dated 22.12.2014. This G.R places the responsibility on candidates to submit the documents to the Director of Sports for verification of their Sports Certificates. It appears that Indian Olympic Association had <sup>de-</sup>recognized some Sports in 2012 and the Government has issued instructions that Certificates in such Sports issued before 2012 included in G.R dated 30.4.2005, will be considered valid. The Applicant should not have submitted Sports Certificate in such Sports, i.e. soft ~~ball~~ tennis for the tournament held after the date of derecognition of that Sport by the I.O.C.

If despite this, the Applicant chose to submit the Certificate of 2012, while he had Certificate of 2009, in his possession, he cannot blame anyone but himself. The issue here is not regarding the second Certificate as per Government letter dated 13.10.2010. The issue is that despite Applicant having valid Certificate, he did not take adequate care to submit the same to the Director of Sports for verification. He submitted second ~~Certificate~~ and valid certificate for verification only on 30.4.2015, while the list was already finalized on 29.4.2015 and the Respondent no. 3 was selected. 24

7. The Applicant had relied on the following judgments, viz:-

(i) O.A no 881/2011, dated 22.12.2014. In this judgment, this Tribunal has directed that the Applicant be given employment in the next available vacancy, as his name was excluded from the list of selected candidates unfairly. In the present case, the Applicant cannot be said to be excluded unfairly. He was put to notice in December, 2014 itself to submit correct Sports Certificate for verification, which he did not do. The case is clearly distinguishable.

(ii) Writ Petition no 9051 of 2013 etc decided on 28.4.2016. This judgment is in the context of extension of benefits of Time Bound Promotion Scheme on the

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basis of ad hoc service before the date of regularization of such service. It is held that:-

“However, for this purpose the State Government is required to lay a proper foundation by means of proper pleadings to demonstrate and establish that the extension of benefits to so many of its employees placed in situation identical to the respondent employees, herein was indeed some mistake or illegality.”

In the present case, no case or mistake or illegality is made out, as the decision of M.P.S.C appears to be correct. This case is clearly distinguishable.

8. We have not found that the decision of the M.P.S.C in recommending candidates on 29.4.2015 suffers from any infirmity. The Respondent no. 3 was included in the list on the basis of her valid Sports Certificate, while the Certificate submitted by the Applicant was rejected by Director of Sports on 18.4.2015. The Applicant had sufficient notice by letter dated 22.12.2014 from the Respondent no. 1 to submit correct Certificate for verification. In the circumstances, it is not a case of not allowing the Applicant to submit his second Sport Certificate for Verification. In fact, the fault, if any, lies with the Applicant himself for not enclosing

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correct Certificate. The Applicant has failed to make out any case to grant him relief.

9. This Original Application is accordingly dismissed with no order as to costs.

Sd/-

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

Sd/-

**(Rajiv Agarwal )**  
**Vice-Chairman**

**Place : Mumbai**

**Date : 12.07.2016**

**Dictation taken by : A.K. Nair.**