

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.10280 OF 2015

Vinod Khandoji Bhandare
Age: 24 Yrs., occu. Nil
R/o 1205, Kalyan Nagar,
Taroda (Bk.), Nanded,
Tq. and District Nanded.

- PETITIONER

VERSUS

1) The State of Maharashtra
Through Secretary,
Education & Sports Deptt.
Mantralaya, Muambai.

2) The Director,
Sports & Youth Services,
Maharashtra State,
Pune-1.

3) The Superintendent of Police,
Dhule, Tq. And Dist.Dhule.

- RESPONDENTS

Mr. Amol S. Sawant, Advocate for Petitioner;
Mr. SR Yadav, AGP for Respondents.

**CORAM : S.S.SHINDE &
P.R.BORA, JJ.**

DATE OF RESERVING JUDGMENT : 10th December, 2015

DATE OF PRONOUNCING JUDGMENT: 21st DECEMBER, 2015

JUDGMENT (PER:-P.R.BORA, J.)

1) Rule. Rule made returnable forthwith. With the consent of learned Counsel for the parties, the petition is taken up for final disposal at admission stage.

2) Order dated 13.11.2014 whereby Respondent No.3 has cancelled the appointment of the petitioner on the post of Police Constable on the ground that he does not satisfy the norms to be selected from category of sportsman, is questioned in this petition.

3) It is not in dispute that after duly undergoing the selection process, the petitioner was selected to be appointed as Police Constable from OBC (sports) category and accordingly he was appointed and also resumed his duties with Respondent No.3. Thereafter the Sports Certificate submitted by the petitioner was forwarded for its verification to Deputy Director, Sports and Youth Services, MS, Pune on 7th July, 2014 by Respondent No.3. Vide letter dated 22.7.2014, Assistant Director of Sports and Youth Services, MS, Pune sought certain particulars and compliances from the petitioner. As contended by the petitioner, as the required information was submitted by him within stipulated period.

4) The petitioner had submitted the Certificate of Merit issued by Maharashtra Karate Association,

certifying that the petitioner had participated in 34th Maharashtra Karate Championship, 2013 held at New Indoor Hall, Nanded on 9th and 10th February, 2013 and was placed 1st in Kumitee Team. However, on verification of the said certificate, the Joint Director of Sports and Youth Welfare, MS, Pune, vide letter dated 16th October, 2014, addressed to Respondent No.3, informed that the petitioner was not satisfying the eligibility to be selected from the category of 'sportsman' for Group-C post. After receiving the aforesaid communication, Respondent No.3 cancelled the appointment of the petitioner with immediate effect, vide communication dated 13.11.2014, which is impugned in the present petition.

5) Shri Amol Sawant, learned Counsel appearing for the petitioner, submitted that the reason stated by the Joint Director of Sports, for disqualifying the petitioner to be selected from the sports category, is erroneous. The learned Counsel submitted that as per the Government Resolution dated 30th April, 2005, the qualifying criterion for the candidates to be selected for the post of Police

Constable from the category of 'sportsman' is to have secured 1st, 2nd or 3rd number in order of merit or to have achieved gold, silver or bronze medal in any State tournament organized by any registered State organization affiliated to Maharashtra Olympic Association or by Maharashtra Olympic Association itself. The learned Counsel submitted that the 34th Maharashtra State Karate Championship, 2013 tournaments were organized by Maharashtra Karate Association, which is affiliated to Maharashtra Olympic Association. The learned Counsel further submitted that the petitioner had submitted all the relevant documents to the office of Director of Sports & Youth Services, MS Pune through Respondent No.3, evidencing that 34th Maharashtra State Karate Championship tournaments were conducted by Maharashtra Karate Association, which is affiliated to Maharashtra Olympic Association. The learned Counsel further submitted that all such documents are placed on record in the present petition also.

6) Learned Counsel invited our attention to the affidavit of Shri Jogy Abraham to the effect that the petitioner had participated in the Maharashtra State

Karate Championship, 2013 in Team Kumitee and has secured 1st rank in order of merit in the said tournament. The petitioner has also placed on record, a copy of letter dated 18.5.2013 received to the Commissioner, Directorate of Sports and Youth Services, MS, Pune from the General Secretary of Maharashtra Olympic Association, providing information as regards to the sports organizations in the State affiliated to Maharashtra Olympic Association along with the names of their Presidents and Secretaries. The learned Counsel pointed out that in the list so forwarded by the Maharashtra Olympic Association to the office of Director of Sports, name of Maharashtra Karate Association appears at Serial No.36. The learned Counsel further pointed out that the names of Vispy Kapadia and Abraham Jogy were informed to be the President and Secretary respectively of the Maharashtra Karate Association with registered address of the said Association. Learned Counsel further pointed that the certificate submitted by the petitioner is under the signatures of said Vispy Kapadia and Jogy Abraham, Chairman and General Secretary respectively of the Maharashtra Karate Association.

7) The learned Counsel further submitted that as per the Government Resolution dated 30th April, 2005, there was no such requirement that the concerned Sports Association holding the tournaments shall be affiliated to or approved by the Indian Olympic Association. The learned Counsel submitted that the only requirement was that the said Association shall be affiliated to Maharashtra Olympic Association. According to the learned Counsel, the selection of the petitioner from the category of sportsman has thus been cancelled for wrong reasons and he, therefore, prayed for setting aside the impugned order of cancelling the selection of the petitioner and to award him all consequential benefits.

8) Devidas Shivram Gavali, Police Inspector working in the office of Respondent No. 3 has filed an affidavit in reply on behalf of respondent No. 3. In the reply, so filed on behalf of respondent No.3, it seems to be the only contention raised on behalf of the said respondent that, the selection of the petitioner from the category of OBC(Sportsman) was subject to the verification of the certificate

submitted by him and since the said certificate has not been validated by the Director of Sports, M.S., Pune, the selection of the petitioner has been cancelled.

9) Shri Rajkumar Dattatraya Mahadwad, Deputy Director of Sports and Youth Services, Aurangabad Division, Aurangabad has filed an affidavit in reply on behalf of respondent Nos. 1 & 2. In the said reply it is contended that as per the Government Resolution dated 30-04-2005, the competition in which the person claiming reservation from the Sportsman category is claiming to have participated and secured the merit must have been organized by State Association of respective sports discipline and the said State Association must be affiliated to Maharashtra Olympic Association during the period of competition concerned. It is further contended that, Maharashtra Karate Association is not affiliated to Maharashtra Olympic Association and as such the merit secured in the aforesaid competition is not liable to be considered in view of Government Resolution dated 30th April, 2005. It is further contended that Indian Olympic Association has de-recognised the National

Sports Federation which include All India Karate DO Federation, vide their letter dated 11-07-2011 and as the 34th Maharashtra Karate Championship 2013 was conducted, after 12-02-2011 without having recognition of Indian Olympic Association, the merit secured in the said Tournaments cannot be taken into account in view of the specific condition mentioned in the Government Resolution dated 30th April 2005. The respondents have, therefore, prayed for dismissal of the petition.

10) we have carefully considered the submission advanced by the learned counsel appearing for the respective parties. We have also perused, the documents filed on record by the petitioner as well as by the respondents. The Government Resolution dated 30th April 2005 is the material document for resolving the controversy arose in the present matter. On perusal of the said Government Resolution and more particularly clause 4-c thereof, which prescribes the qualification for the candidates claiming reservation from the sportsman category falling in Group C & D, it is revealed that, such candidates are supposed to have secured merit as

prescribed in the said clause in the competitions/tournaments organized by any registered State organization affiliated to Maharashtra Olympic Association or by Maharashtra Olympic Association itself. In the aforesaid Government Resolution which has also been relied upon by the respondents for rejecting the claim of the petitioner, it is nowhere prescribed or stipulated that, the concerned State organization should also be affiliated to or recognized by Indian Olympic Association.

11) The petitioner has submitted the certificate of merit, certifying that he has secured first position in Kumitee team in the 34th Maharashtra State Karate Championship, 2013 conducted by Maharashtra Karate Association. In the impugned communication dated 16th October 2014, it is mentioned that, the Maharashtra Karate Association was not approved by the Indian Olympic Association in the year 2013, during which the 34th Maharashtra State Karate Championship tournaments were held. However, the respondents have not placed on record any document showing any such condition therein, requiring the approval or affiliation of the concerned State

Association with the Indian Olympic Association. As mentioned earlier, in the Government Resolution dated 30th April 2005, the only condition prescribed is that the concerned State Association shall be affiliated to Maharashtra Olympic Association.

12) In the affidavit in reply filed on behalf of respondent Nos. 1 & 2, a confusing stand has been taken about the affiliation of Maharashtra Karate Association with the Maharashtra Olympic Association. In para No. 9 of the affidavit in reply it has been admitted that, Maharashtra Karate Association is recognized by Maharashtra Olympic Association. However, it is further stated that, Maharashtra State Karate Association is however, not recognized by the Maharashtra Olympic Association. The learned Counsel for the respondents, however, could not satisfy us on the aspect that Maharashtra Karate Association and Maharashtra State Karate Association are two different organizations. In the same paragraph No. 9 of the affidavit in reply in later part a contrary statement is made that, Maharashtra Karate Association is not affiliated to Maharashtra Olympic Association.

13) The averment, as aforesaid, in the affidavit in reply, however, cannot be accepted in view of the documents placed on record by the petitioner. The petitioner has placed on record the certificate dated 12-01-2013 under the signature of Secretary General of Maharashtra Olympic Association, certifying that, Maharashtra Karate Association headed by Mr. Vispy Kapadiya as Chairman and Mr. Jogy Abraham as General Secretary, is recognized unit of Maharashtra Olympic Association. The petitioner has also placed on record, a copy of letter dated 30th June, 2014 issued by Secretary General of Maharashtra Olympic Association to the Deputy Director of Sports and Youth Services, M.S., Pune thereby informing the Sports Department as about the associations affiliated to Maharashtra Olympic Association, wherein the name of Maharashtra Karate Association appears at serial No. 36. Nothing has been brought on record by the respondents so as to disbelieve the evidence produced by the petitioner.

14) Considering the documents filed by the petitioner and in absence of any contrary evidence it has to be held that at the relevant time i.e. in the

year 2013 and more particularly, during the period in which the 34th Maharashtra State Karate Championship, 2013 competitions were held, the Maharashtra Karate Association was affiliated to Maharashtra Olympic Association. Secondly, as we have discussed herein before, the Government Resolution dated 30th April, 2005 does not prescribe any such condition that such a State organization should be approved or affiliated to Indian Olympic Association.

15) In the above circumstances, the act of invalidating the sports certificate submitted by the petitioner appears apparently unsustainable. Having regard to the documents filed on record, we are satisfied that the petitioner fulfills the criterion as prescribed under the Government Resolution dated 30th April, 2005 and thus is entitled to be selected from the category of sports person, if he otherwise fulfills the other requirements. We are, therefore, inclined to allow the petition. Hence following order, -

ORDER

i) The communication dated 16th October, 2014 issued by the Deputy Director, Sports and Youth

Services, Maharashtra State, Pune addressed to the Superintendent of Police, Dhule, is quashed and set aside. Consequently, the order dated 13.11.2014 passed by the Superintendent of Police, Dhule, is also quashed and set aside;

ii) Respondent No.3 is directed to reinstate the petitioner on the post of Police Constable to which he has been selected from the category of sports person, if he otherwise fulfills all other conditions.

iii) Rule is made absolute in above terms with no order as to costs.

sd/-
(P.R.BORA)
JUDGE

sd/-
(S.S.SHINDE)
JUDGE

bdv/

fldr 16.12.2015