

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 164 OF 2015

Sukanya D/o Dilip Vaidya,
Age : 22 years, Occu.: Education,
R/o. Sugav Kd., Post-Kumbephal,
Waghoba Nagar, Devthan Road,
Tal, Akole, Dist. - Ahmednagar.

... PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through it's Secretary,
The Education and Sports Department,
Mantralaya.
- 2) The Secretary,
The Revenue Department,
Mantralaya.
- 3) The Assistant Director,
The Sports and Youth Services,
Maharashtra, Pune.
- 4) The Collector, Ahmednagar,
Dist. Ahmednagar.
- 5) The Deputy Collector, Ahmednagar,
Dist. Ahmednagar.
- 6) The Sub-Divisional Officer,
Sangamner, Tal. Sangamner,
Dist. Ahmednagar.

... RESPONDENTS

(Notice to be served through the
Government Pleader, High Court of
Bombay, Bench at Aurangabad).

Mr. Shermale K. N., Advocate for Petitioner
Mr.G.K.Thigale, A.G.P. for Respondent/State Authorities.

CORAM : **S. V. GANGAPURWALA and
N. W. SAMBRE, JJ.**

DATE : 29th January, 2015.

ORAL JUDGMENT: (Per S. V. Gangapurwala, J.)

1 Rule. Rule made returnable forthwith. With the consent of the learned counsel appearing for the parties, the petition is taken up for final hearing.

2 Mr.Shermale, learned counsel submits that the Petitioner is selected for the post of Talathi from the sports category. The Petitioner possess two certificates in Rope-Mallakhamb. The Petitioner stood as runners-up. The said certificates are issued by the Association of Indian Universities. The learned counsel submits that when the certificates were sent for verification, the case of the Petitioner was negated on the ground that tournaments were held prior to the Government Resolution dated 20th September, 2013. The learned counsel submits that the Maharashtra Administrative Tribunal so also the authorities have wrongly interpreted the said Government Resolution. The Government Resolution will have effect from the date of the

promulgation of the said Government Resolution. It will also apply to the tournaments, which were held earlier to the said Government Resolution. The case of the Petitioner cannot be negated only on the ground that the Petitioner had participated in the tournaments conducted prior to the said Government Resolution.

3 Mr.Thigale, learned AGP supports the judgment delivered by the Tribunal and the decision of the authority. According to the learned AGP, as the Government Resolution has been issued on 20th September, 2013, the certificates produced by the Petitioner were not eligible to be considered.

4 We have considered the submissions canvassed by the learned counsel for respective parties. Vide said Government Resolution, 5% reservation is given to the sports category for participation and securing prominence in the sports. Clause (2) of the said Government Resolution is relied by the Tribunal and authority while negating the case of the Petitioner. Clause (2) of Government Resolution dated 20th September, 2013, reads as under:

“२. उपरोक्त तरतूद खेळाडू आरक्षणाअंतर्गत निर्गमित झालेल्या व होणाऱ्या सर्व शासन निर्णयांना लागू राहिल. तसेच ही तरतूद शासन निर्णयाच्या दिनांकापासून लागू होईल.”

5 Perusal of the said clause, it is manifest that the said clause would intent to mean that 5% reservation would be provided from the date of said Government Resolution. It cannot be interpreted to mean that if the Petitioner had participated in the tournament prior to the promulgation of the said Government Resolution and has secured eminence in the same, the said certificates cannot be considered. If the said Government Resolution is interpreted in the manner interpreted by the authority and the Maharashtra Administrative Tribunal, then that would be defeating the very purport of giving reservation of 5% to the sportsmen, who have excelled in sports nor it would subserve the object and the intent of the said Government Resolution.

6 In light of the above, we pass the following order:

- I. The decision of the authority dated 27th October, 2014, so also the order of the Tribunal, are quashed and set aside.
- II. The authorities shall consider the certificates produced by the Petitioner and shall not reject the said certificates and the case of the Petitioner for consideration from the sports category only on the ground that the said

certificates are in respect of participation in the tournaments prior to the Government Resolution dated 20th September, 2013.

III. Rule accordingly made absolute in above terms. No costs.

ndm

[N. W. SAMBRE, J.]

[S. V. GANGAPURWALA, J.]