

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 16th September, 2015.

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W.P.(C) No.8481/2015 & CM No.18200/2015 (for stay)

MANOJ KUMAR RANA

..... Petitioner

Through: Mr. R.K. Kapoor and Ms. Astha
Nigam, Advs.

Versus

SPORTS AUTHORITY OF INDIA

..... Respondent

Through: Mr. Anil Grover and Ms. Divya Jain,
Advs.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J.

1. The petition was filed impugning, (i) the order dated 14th August, 2015 of the respondent Sports Authority of India (SAI); and, (ii) the exclusion of the petitioner from ongoing camp organised from 29th July, 2015 to 20th September, 2015 for preparation of the International Competition scheduled in 2015 for Senior Men and Women National Gymnastics Coaching Camp at Indira Gandhi Sports Complex, New Delhi. Mandamus is also sought directing the respondent SAI to include the name of the petitioner as a coach in the ongoing camp.

2. Though the petition was filed without enclosing the impugned order dated 14th August, 2015 but when the same came up before this Court on 3rd September, 2015, notice thereof was issued. Counter affidavit has been filed by the respondent SAI along with the copy of the letter, and not order, dated 14th August, 2015 of the respondent SAI and to which the counsel for the petitioner for the sake of expediency did not choose to file a rejoinder. On the contention of the counsel for the petitioner that the term for which the camp was being held was to expire on 20th September, 2015, the counsels have been heard finally on the petition at this stage itself.

3. The counsel for the petitioner has argued:

- (i) that the petitioner is a highly acclaimed coach in the sport of gymnastics and is the only coach invited by **World Federation International De Gymnastique** to Level-3;
- (ii) that the respondent SAI also, while issuing administrative sanctions dated 27th May, 2015, 1st July, 2015 and 10th July, 2015 for various camps, included the name of the petitioner as a coach therein and the petitioner participated as a coach in the said camps;
- (iii) however, the respondent SAI while issuing the administrative sanction dated 29th July, 2015 for the subject camp excluded the name

of the petitioner therefrom, without any reason whatsoever and on the basis of an incident of September, 2014 and which had not come in the way of the petitioner being selected as a coach vide administrative sanctions dated 27th May, 2015, 1st July, 2015 and 10th July, 2015 supra;

(iv) that the exclusion of the petitioner as a coach for the main sporting event of World Championship in the sports of Gymnastics is arbitrary and illogical and for extraneous reasons.

4. Per contra, the counsel for the respondent SAI has contended:

(a) that the respondent SAI is not directly concerned with the holding of camps for preparation for the sports and which function is of the respective sports federations; the respondent SAI only funds the said camps and / or provides certain facilities / amenities therein;

(b) that the task of selecting of the participants and coaches to the sporting events and camps therefor is thus also of the respective sports federations;

(c) however on account of the Gymnastics Federation being derecognised, with an intent to not deprive the sports person from participation in the sporting events in the said sport and to provide for

their preparation, the respondent SAI has been holding the camps and selecting the candidates and the coaches for participation therein;

(d) that an inquiry against the petitioner of a charge of sexual harassment is underway and for which reason it was not deemed expedient to select the petitioner;

(e) that the petitioner is employed with the Services Sports Control Board, Armed Forces Headquarters, New Delhi and the respondent SAI had vide impugned letter dated 14th August, 2015 enquired about the status of the complaint of sexual harassment against the petitioner and informed that as an interim measure, the petitioner has been expelled from ongoing camp till final report of the inquiry into the charge of sexual harassment against the petitioner is received.

5. I have enquired from the counsel for the petitioner as to what is the right of the petitioner to be selected as a coach for the subject camp and which right can be said to have been infringed. Without the petitioner establishing a right and which the petitioner has not established in the entire petition, merely because the petitioner has not been selected as a coach for the subject camp would not call for interference by this Court in writ jurisdiction in the said selection by the respondent SAI. It has further been

enquired from the counsel for the petitioner as to what are the rules and regulations governing the holding of the said camps and selection of participants and coaches therein.

6. No answer has been forthcoming.

7. Upon the same query being made to the counsel for the respondent SAI, she states that since this is not the function of SAI and is the function of respective sport federation, SAI does not have any rules and regulations in this regard and has excluded the petitioner only for the reason of having been charged for sexual harassment and enquiry therefor being underway.

8. Though I am of the opinion that the rules and regulations of the Gymnastic Federation, and which as per the Sports Code, 2011 framed by the Govt. of India are required to be approved by the Govt. of India, must be providing for the manner of selection of the participants and the coaches for a sporting event and / or for a camp and also the grounds for exclusion but the petitioner having not based his case on the same and owing to the urgency expressed, there is no need for this Court to enquire further into the same.

9. In the absence of the petitioner having not been able to establish any right for inclusion of his name in the subject sporting camp as a coach, the

only question which remains for consideration is whether the reason for which the respondent SAI has excluded the name of the petitioner can be said to be a valid reason.

10. The counsel for the petitioner has contended that the respondent SAI itself having included the name of the petitioner in the three previous camps and there being no complaint against the petitioner with respect thereto, there is no basis for excluding the name of the petitioner this time around.

11. I am unable to accept the aforesaid as an absolute proposition. If the petitioner was not to be included in the earlier camps and was erroneously included, the same would not entitle the petitioner or take away the right of the respondent SAI to exclude the name of the petitioner from the future sporting events. Also, the good conduct, if any and / or the factum of there being no complaint against the petitioner during the previous said three camps cannot wash away the allegations of the past against the petitioner.

12. The counsel for the petitioner has then contended that the charge against the petitioner of sexual harassment had got settled on the same day.

13. The respondent SAI along with its counter affidavit has filed before this Court the report dated 18th June, 2015 of the Sexual Harassment Committee on complaint filed with it by the female gymnastic coach against

the petitioner and against a camper under training of the petitioner. A perusal of the said report does not show that the matter was resolved. Though in one of the paragraphs of the narrative, it is recorded that “the matter was resolved within the gymnastic camp and Sh. Rana proceeded on leave from 13th to 16th September, 2014” but it is obvious from the report that the Sexual Harassment Committee thereafter also had been proceeding with and inquiring into the complaint *inter alia* against the petitioner. The said Committee, in the said report had sought the status report from the Gymnastic Federation of India and from the Police of the First Information Report (FIR) of the said incident registered against the petitioner.

14. Faced therewith, the counsel for the petitioner contends that the proceedings of the Sexual Harassment Committee cannot be permitted to go on endlessly, marring the career of the petitioner.

15. However, that was not the intent with which the petitioner has approached the Court. If the petitioner was aggrieved from the constitution of the Sexual Harassment Committee or the proceedings before it, the petitioner ought to have taken recourse thereagainst. However, it appears that the petitioner was satisfied with the matter lingering as long as there was no impact thereof on him. In this petition also, the challenge is only to the

exclusion from the camp and not to the proceedings in the case of sexual harassment against the petitioner.

16. In view of the aforesaid, once the petitioner is found to be under cloud with a charge of sexual harassment and of which inquiry under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 as well as the investigation of the FIR is pending, no error can be found with the decision of the respondent SAI of excluding the name of the petitioner from the coaching camp. Rather it is found that the Sexual Harassment Act prescribes such exclusion.

17. The counsel for the petitioner has also stated that since the letter dated 14th August, 2015 uses the language of ‘expelling the petitioner from the camp’, the petitioner should not have been so expelled without hearing.

18. However, it is evident from the administrative sanction dated 29th July, 2015 which is impugned that the petitioner was not included as a coach and was not ‘expelled’ from the camp. All that the respondent SAI sought to convey to the employer of the petitioner in the letter dated 14th August, 2015 was that awaiting the information, the petitioner was being not permitted to participate in the camp.

19. There is thus no merit in the petition, dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 16, 2015

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