

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

19 WRIT PETITION NO. 10116 OF 2015

Ankush s/o Rambhau Rokade
Age 27 years, Occu: Service,
R/o wadgaon Savta, Tq. Parner,
District Ahmednagar

... Petitioners

VERSUS

1. The State of Maharashtra,
Through its Secretary,
School Education & sports
Department, Mantralaya,
Mumbai 400 032
2. The Director,
Sports and Youth Services,
Maharashtra State, Pune-1
3. The Chief Executive Officer,
Zilla Parishad, Ahmednagar.
4. The Education Officer (Primary)
and the Member Secretary, District
Selection Committee,
Zilla Parishad, Ahmednagar
5. Maharashtra Tug-of-War Association, ... **Respondents**
Omsai, 220, Vatsalyanagar Housing
Society, CIDCO, Nanded 431 603,
Through its Secretary

Mr. Chandrakant K. Shinde, Advocate for the petitioner,
Mrs. S. S.Raut, AGP for the Respondent State.
Mr. S. T. Shelke, Advocate for respondent Nos.3 and 4
Mr. Avinash S. Deshpande, Advocate for respondent No.5,

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 16th November, 2016

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

1. Heard the learned counsel for the parties.
2. Rule. Rule made returnable forthwith. With consent of parties, the petition is taken up for final disposal.
3. Mr. Shinde, the learned counsel for the petitioner submits that the petitioner is entitled for the benefit of reservation provided for Sportsman category as per the Government Resolution dated 30th April, 2005. According to the learned counsel, the petitioner had appeared in the Tug-of-War Tournament conducted by the Maharashtra Tug-of-War Association at the State level and stood first position. The said tournament was held on 14th and 15th January, 2008. Certificate to that effect is issued to the petitioner. The petitioner was selected as Shikshan Sevak in the Zilla Parshad School in the year 2010. Certificate of the petitioner was referred to the Joint Director of Sports who, in turn, referred it to the Respondent No.5- Maharashtra Tug-of-War Association. Respondent No.5 passed an order stating that the petitioner is not a meritorious person. On the basis of that, show cause notice is issued to the petitioner as to why services of the petitioner should not be terminated.

On the basis of the order passed by respondent No.5, the selection of the petitioner is cancelled. The same is illegal. The petitioner, by amending the petition, has challenged the said order also.

4. Mr.Deshpande, the learned counsel for respondent No.5 submits that the respondent Association are governed by the Indian Tug-of War Competition Code, 2013 and the candidate has to take part in at least three tournaments, as per the said Code so as to consider him as meritorious. The petitioner had participated only in one tournament. As per the said Code, the petitioner is not eligible to be considered as meritorious candidate.

5. We have also heard learned AGP for respondent No.2. The learned AGP submits that the respondent No.2 referred the said certificate to Respondent No.5. as it is under the aegis of respondent No.5, the competition was held.

6. We had asked Mr. Deshpande, the learned counsel for respondent no.5 regarding genuineness of the certificate issued to the petitioner, which states that the petitioner had secured first position in the Tug-of War-Competition held by the Maharashtra Tug-of-War

Association at State level. Mr. Deshpande, the learned counsel on instructions states that the said certificate issued is a genuine certificate.

7. We have also heard Mr. Shelke, the learned counsel for the respondent Nos. 3 and 4 who submits that as respondent no.5 has held that petitioner is not meritorious candidates, the order is rightly passed.

8. The Indian Tug-of War Competition Code, 2013 is not applicable to the present case as the tournament wherein the petitioner had participated and had secured first position was held in the year 2008 and the petitioner was appointed in the year 2010 as Shikshan Sevak, whereas the said Code came into force in the year 2013. The Government Resolution dated 30.04.2005 would squarely apply in the present case. The said certificate of the petitioner certainly would be valid as per Government Resolution dated 30th April, 2005 as the post on which the petitioner is selected is a class III post.

9. Considering the above, the order passed by respondent No.5 is not in consonance with Government Resolution dated 30th April, 2015 and the Code on which respondent No.5 relies was not in force on the date

when the competition had taken place. The impugned order terminating services of the petitioner is quashed and set aside.

10. It is held that the certificate of the petitioner of having participated in the Tug-of-War Competition organized by the Maharashtra Tug-of-War Association at State level is valid as per the Government Resolution dated 30th April, 20105.

11. In view of setting aside the order of the Zilla Parishad, cancelling the selection of the petitioner, consequences of the petitioner being reinstated shall follow. The petitioner be given continuity, however, shall not be entitled for the back wages from the date of cancellation of his selection till the reinstatement. Reinstatement shall be done within 15 days.

12. Rule is made absolute accordingly. No order as to costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC