

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

WRIT PETITION NO.8603 OF 2014

Sagar Haribhau Bhadke,
Age: 24 Yrs., occu. Nil,
R/o Sengaon, Tq. Sengaon,
District Hingoli.

- PETITIONER

VERSUS

- 1) The State of Maharashtra
Through Secretary,
Education & Sports Dept.,
Mantralaya, Mumbai.
- 2) The Director,
Sports & Youth Services,
Maharashtra State,
Pune-1.
- 3) The Secretary,
Irrigation Department,
Mantralaya, Mumbai.
- 4) Regional Selection Board
@ Executive Engineer & Circle
Officer, Vigilance Squad,
Amravati Circle, Irrigation
Department, Shivaji Nagar,
Panchavati Chowk, Amravati,
Tq. And Dist. Amravati.
- 5) Maharashtra Olympic Association
Through its Secretary,
Balasaheb Landge,
Secretariate at Annasaheb Magar
Stadium, Nehru Nagar,
Pimpri, Pune-18.

- RESPONDENTS

Mr. Amol S.Sawant, Advocate for Petitioner;
Mr. DR Kale, AGP for Resp. Nos.1 to 3.

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

DATE OF RESERVING JUDGMENT : 18th February,2016.

DATE OF PRONOUNCING JUDGMENT: 3rd March,2016.

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

1) Heard. 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) The petitioner has filed the present petition seeking quashment of the communication dated 4th June, 2014 issued by the Deputy Director, Sports and Youth Services, M.S.,Pune addressed to the Secretary, Regional Selection Board @ Executive Engineer and Circle Officer, Amravati Circle, Irrigation Department, Amravati, whereby the petitioner is disentitled for to be selected from the sports category for appointment on the post of Tracer in pursuance of the advertisement No.1/2013.

FACTUAL MATRIX

3) In the month of August 2013 an advertisement was published by Respondent No.3 to fill up the posts in Irrigation Department at Amravati. In the said advertisement one post of Tracer was reserved for the

sportsman belonging to Other Backward Class category. In pursuance of the said advertisement, the petitioner submitted his application from sports category along with all relevant documents. The petitioner was selected in the selection process carried out by Respondent No.3. However, before issuing the order of appointment, the documents were to be verified and accordingly the sports certificate submitted by the petitioner was forwarded to the Director of Sports and Youth Services, Pune for its verification. Accordingly, after verification of the said certificate, the impugned communication dated 4th June, 2013 came to be issued by the Deputy Director, Sports and Youth Services, Pune, wherein he has stated that Maharashtra Karate Association, which had conducted 34th Maharashtra State Karate Championship Tournament, at which the petitioner is claiming to have secured first rank in Kumite Team, is not affiliated to Maharashtra Olympic Association and is not recognized by the Indian Olympic Association and as such, the certificate of merit awarded by said Association would not qualify the petitioner for to be selected from the category of 'sport person'. Obviously, therefore, the petitioner

has not been given the appointment.

CONTENTIONS RAISED BY THE RESPONDENTS

4) Shri Chandrakant Ramdas Kamble, Deputy Director, sports and Youth Services, Aurangabad Region, Aurangabad, has filed affidavit in reply on behalf of Respondent Nos. 1 and 2; whereas one Rahul Kumar Vishnuji Bagde, Sub Divisional Officer in the office of Superintending Engineer, Vigilance Unit, Amravati Region, Irrigation Department, Amravati, has filed affidavit in reply on behalf of Respondent Nos. 3 and 4. In their affidavit in reply, Respondent Nos. 1 and 2 have 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.

5) In the affidavit in reply filed on behalf of Respondent Nos.3 and 4, it is their contention that since in the process of verification, the Director of Sports and Youth Services, Ms, Pune has invalidated the sports certificate submitted by the petitioner, he has not been given appointment in the quota reserved for OBC sports person.

6) In the affidavit submitted on behalf of Respondent No.4, it is nowhere contended that the post to which the petitioner has been selected has

been filled in by giving appointment to some other candidate. There is, therefore, reason to believe that the said post is still lying vacant.

7) Shri Amol Sawant, the learned counsel appearing for the petitioner, submitted that in the similar set of facts this court has allowed Writ Petition No.10280/2015 on 21st December, 2015. The petitioner has placed on record a copy of the said judgment. The learned counsel submitted that the similar objections, as are raised by the respondents in the present petition, were raised in the aforesaid writ petition. The learned counsel, therefore, submitted that in view of the judgment passed in the aforesaid writ petition, the present petition also deserves to be allowed.

8) On perusal of the judgment passed by this Court in Writ Petition No.10280/2015, it is apparently revealed that the facts involved in the present case are identical to the facts which were involved in the said petition. Undisputedly, the present petitioner has also submitted the certificate of merit pertaining to the same tournament, which was

submitted by the petitioner in Writ Petition No.10280/2015. From the material on record, it is noticed that the present petitioner and the petitioner in WP No.10280/2015, were the members of the same Kumite Team, who participated and secured first place in the 34th Maharashtra State Karate Championship Tournament, 2013 at Nanded and both were awarded the similar certificates. The certificate awarded in favour of the petitioner in WP No. 10280/2015 was invalidated by the authorities of Sports and Youth Services Department of the State of Maharashtra on the ground that Maharashtra Karate Association, which had held the said tournament was not affiliated to Maharashtra Olympic Association and was not recognized by Indian Olympic Association. Similar objection is raised as regards to the certificate submitted by the present petitioner. In the earlier petition, the objection so raised has been turned down by this court by giving elaborate reasons therefor and the act of invalidating the said sports certificate submitted by the petitioner therein, has been held unsustainable by this court. It is further observed by this Court that the petitioner therein fulfills the criterion as

prescribed under 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. Since the present petitioner stands at par with the petitioner in Writ Petition No.10280/2015, we are inclined to allow the present petition in terms of the order passed by us in Writ Petition No.10280/2015. Hence following order, -

ORDER

i) The communication dated 4th June, 2014 issued by the Deputy Director, Sports and Youth Services, M.S., Pune addressed to the Secretary, Regional Selection Board @ Executive Engineer and Circle Officer, Amravati Circle, Irrigation Department, Amravati, is quashed and set aside.

ii) Respondent No.3 shall consider the candidature of the petitioner for appointment on the post of Tracer from the OBC sports person category to which he has been selected, if he otherwise fulfills all other requirements and take appropriate

decision as expeditiously as possible and preferably within a period of four weeks from the date of this order.

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 25.2.16