

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****PUBLIC INTEREST LITIGATION NO. 90 OF 2014**

Sports and Physical Education
Development Association (SPEDA) .. Petitioner
versus
The Hon'ble Chief Minister of
Maharashtra & Ors. .. Respondents

Dr. Gunratan Sadavarte with Mr. Deepak Waghambare for Petitioner.
Mr. A. B. Vagyani – GP with Mr. M. M. Pabale – AGP for State.

**CORAM: DR. MANJULA CHELLUR, C. J. AND
M. S. SONAK, J.**

DATE : 21 NOVEMBER 2016

P.C.:

1] The PIL is filed by an Association known as “Sports and Physical Education Development Association” mainly consisting of professors, lecturers as members of the Association. According to the petitioner, the respondent authorities owe an obligation to respond to the averments in the PIL in granting the reliefs sought in the PIL in terms of the Directive Principles of State Policy under the Constitution of India. They contend that in order to secure a proper social order in the society, sports have to be encouraged and proper regulations must be made for promoting sports as such so that the sports personnel's welfare is taken care of. Following were the prayers sought in the PIL:

- “a) That records and proceedings be called for from the concerned Respondents offices and departments for perusal of this Honourable Court;
- b) That the Rule may kindly be issued.

c) That this Honourable Court be pleased to kindly issue Writ of Mandamus or any other appropriate Writ, Direction with respect to the grievances raised by the Petitioners on account of:

i. Exhibit -D (for non-following Regulation -2010 of UGC by Respondent No.10), Exhibit -E i.e. (mandatory provision of UGC not being followed by Respondent No. 10),

ii. Respondent No. 1 without following the procedure for recruitment for the Class – I and Class – II posts from sports category which is mandatory on account of Judgement delivered by Hon'ble Supreme Court in the case of State of Karnataka v/s. Umadevi (2006) 4 SCC 1, thereafter also the Respondent No. 11, 12 are appointed on Class – I and Respondent No. 13 are appointed on Class – II posts, for reference Exhibit -A;

iii. Respondent No. 1, 2 and 3 are discriminating on account of eligibility, the Resolution of Respondent No. 2 dated 30.4.2005 is violative of principles of Respondent No. 1 & 2 by non-considering All India Inter-University Sports Certificate for Class – I, II & III employment requirement whereas Union services are consideration of All India University Sports Certificate;

d) that this Honourable Court may be pleased to quash and set aside the appointment of Respondents No. 11 and 12 who are appointed on Class – I and Respondent No. 13 who is appointed on Class - II posts, on account of non-following employment procedure and non-considering the judgment delivered by Hon'ble Supreme Court in Karnataka v/s. Umadevi (2006) 4 SCC 1,

e) That this Honourable Court may kindly be direct the Respondent No. 10 to appreciate and to establish the posts of Director of Physical Education and Sports same as per the U.G.C. Regulation, 2010 of dated 30.6.2010 U.G.C. Regulation No. F.3-1/2009 of clause;

i. 4.6.1. - appointment of University of University Director for Physical Education and Sports;

ii. 4.6.2 i.e. - appointment of University

Deputy Director of Physical Education and Sports /
College Director of Physical Education and Sports;

iii. 4.6.3 appointment of University Assistant Director
of Physical Education / College Director of Physical
Education and Sports, which is at Exhibit – D to the
Petition with respect to the above stated establishment of
post, said establishment of post is mandatory in the
Institute, Respondent No. 10 i.e. Mumbai University
department and affiliated colleges, as per the information
received from the Respondent No. 5 i.e. U.G.C. under
the R.T.I. Act dated 29.11.2010 at Point No. 9 which is at
Exhibit – E in spite of that the Respondent No. 10 is not
fulfilling U.G.C. Regulations;

f) That the Respondents No. 10 may be directed to
follow the said Regulation which is in terms of prayer
clause (e) above on account of which the
representations with respect to the same may be
directed to be decided as expeditiously as possible for
establishing the post in the 612 colleges of Respondents
No. 10;

g) That this Hon'ble Court may kindly issue any other
equitable reliefs as this Hon'ble Court may deem fit and
proper;

h) That this Hon'ble Court be pleased to direct the
Respondent No. 2, 3 and 4 to stop the discrimination of
the players by way of non-considering for employment of
players who have played All India Inter-University Sports
under the Respondent No. 6 i.e. Association of Indian
Universities and State Union services are considering
the said players who have played All India Inter-
University Sports and hence, the State Respondent No.
2, 3 and 4 may kindly be directed to consider the talent
of the players who have played for the All India Inter-
University Sports as like Union service department.

H-(a) That this Hon'ble Court may kindly be pleased to
quash and set aside the Government GR dated
09/12/2010, which is contrary to the violative of in the
matter of AIR 2000 SC 1806 State of Karnataka V/s.

Umadevi para 30, 31, 32, 33, 34. In the matter of AIR 1973 SC 1461 Keshavanda Bharti V/s. State of Kerala. In the matter of AIR 1999 SCW 4661 in the Case of Indira Sawahney V/s. Union of India. Para No. 65, 66. In the Matter of AIR 1987 SC 579 Dr. D. C. WADHWA & Ors. V/s. State of Bihar & Ors. In the Matter of Government Resolution dated 09/12/2010. In the Matter of Recruitment Rules for appointment of Deputy Superintendent of Police, Nayab Tahasildar, District Sports Officer. In the Matter of Maharashtra Public Service Commission Rules of Procedure.

H-(b) That this Hon'ble Court may kindly be pleased to quash and set aside the appointment of private Respondent No. 11 to 23 and any other players if appointment in this manner. Which is contrary to the Fundamental Rights of Indian Constitution and in violation of recruitment rules and procedure prescribed. Also the procedure for appointing the said private Respondent and there appointment is bad in law so the process of their appointment and appointment may kindly be quashed and set aside.

- i) Cost of the Petition;
- j) and for such other and further reliefs in the nature and circumstances of the case may require.”

2] Though the PIL stamp refers to 2012, in all probability, the PIL was numbered in 2014. At the relevant point of time there was no separate reservation (quota) for sports personnel in public employment when the petitioner came before this court. As on today, as per the stand of the State Government, a policy decision was taken to include sports category as a reservation in the year 2005 and later it was tried to be implemented in 2010 after constituting a High Power Committee headed by the Chief Secretary, etc. On the recommendation of the High Power Committee, a final decision had to be taken by the Hon'ble Chief Minister and accordingly way back in 2013, a decision was taken to keep certain percentage of posts in

public employment for personnel coming from sports category. Therefore, one of the grievances expressed in the PIL is complied with.

3] Then coming to the deficiency of a Director for sports in every college, the University Grants Commission (UGC) had to take a final call in this matter. The petitioner's counsel fairly submits that after filing the PIL, the Mumbai University has issued a circular to all the colleges making it compulsory to have one Director meant for sports to be appointed in every college. With this, the second grievance of the petitioner is also complied with. However, the petitioner is at liberty to approach the court in future if any particular college has not complied with the directions of the University concerned.

4] Then coming to recognition to be given to certain sports which are popular in the rural areas of State of Maharashtra like Lagori, Langdi and Vitti-Dandu as State Sports, a representation is given at Exhibit 'I' at page 134. We are of the opinion that so far as the third grievance, it is entirely the prerogative of the State Government i.e. department concerned to take a final call since it is a policy matter and we decline to intervene in the same. However, we direct the respondents to address the representation made as stated above and dispose of the same by giving a thought that the above mentioned rural sports can also be recognized as the sports of the State.

5] With these observations, the PIL is disposed of.

CHIEF JUSTICE

(M. S. SONAK, J.)