

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.665 OF 2012

Shri Maruti Pandurang Olekar ..Petitioner

Vs.

The Chief Officer, Zilla Parishad
having office at Yashwantrao Chavan
Bhavan, Pune and Others ..Respondents

Mr. G. M. Savagave, for the Petitioner.

Ms. Sushma Bhende, AGP, for Respondent Nos.4,5 and 8.

Mrs. Neelam D. Erande i/b Mr. D. R. Talankar, for Respondent
No.7.

CORAM :- S.C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.
DATE :- MARCH 24, 2017.

P. C.:

We have heard both sides. The Petitioner is
challenging an order passed on 22nd November, 2011 by the
Deputy Director of Sports and Youth Services, Maharashtra
State, Pune.

2 By this order, the Petitioner who was selected for

the post of Multipurpose Health Service Worker on the establishment of the Pune Zilla Parishad in the Sports quota/reservation for a sportsman, has been held to be disqualified. That appointment was made on the strength of a certificate. The Petitioner having participated in the 14th Maharashtra State Sub Juniors and Senior Taekwondo Championship held on 1st and 2nd October, 2000 at Beed and securing the third position.

3 The certificate was doubted and that is why the Directorate of Sports and Youth Services was requested to verify and scrutinize the same. That Directorate purports to have obtained the relevant information and on a verification holds that this certificate was not enough for the Petitioner to obtain the appointment. That certificate does not indicate that the Petitioner is qualified as a Sportsman so as to obtain appointment in the Sports quota.

4 An affidavit-in-reply was filed by this Deputy Directorate justifying this order. Thereafter, it has been

pointed out that the present Petitioner was not fulfilling the minimum sports qualification under 5% job reservation scheme. The Petitioner relies upon an affidavit of one Bhaskar R. Karkera, the then Secretary of the Taekwondo Association Maharashtra. However, that affidavit was not enough to prove that the Petitioner qualifies for this appointment.

5 A rejoinder affidavit was filed by the Petitioner in which he raised a specific contention that the impugned order is incorrect. He says that the Petitioner has been relying upon this affidavit of the Secretary General of that Association. The Secretary General can be still approached, if there is any doubt. On the other hand, the Petitioner has obtained clarification from the Association and he relied upon the letters dated 12th February, 2009 and 24th February, 2009. Thus, Mr. Karkera, was the General Secretary. The Association had authorized him to certify the participation of the Petitioner. It is in these circumstances that the certificate issued by the Taekwondo Association could have

been relied upon.

6 The Petitioner's detailed affidavit having been forwarded, the Deputy Director was also called upon to clarify the position. The Deputy Director has filed an additional affidavit and at running page 82, in Paragraph 2 of this affidavit, this deponent states as under:-

“2. I say that by letter dated 26.07.2013 the Respondent No.5 informed the Divisional Deputy Director, Sports and Youth, Mumbai Division that Mr. Bhaskar Karkera, was Secretary of Taekwondo Association of Maharashtra, Pune, when Form-3 was issued and he had signed on the said form as Secretary of the said Association. Hereto annexed and marked as **Exh.1 Colly**. Are copies of letter dated 26.07.2013 and Form-3.”

7 In the light of this clear stand of Respondent No.4 and the letter of 26th July, 2013 issued by Respondent No.5, it is apparent that the Petitioner can claim to be qualified and for being eligible to hold the post in a sports quota.

8 However and in the meanwhile, we have found that despite the Petitioner obtaining these clarifications and the

affidavits filed, still the Pune Zilla Parishad has discontinued the appointment of the Petitioner.

9 In the event any fresh appointment process is initiated, we are of the opinion that the Petitioner should be considered for appointment in the sports quota. We clarify that the certificate cannot now be doubted and of participation in the competition at Beed organized by the Taekwondo Association of Maharashtra. The Petitioner's participation therein and his third rank is confirmed by the certificate. Therefore, the impugned order is quashed and set aside. The Writ Petition succeeds. In the event any fresh recruitment process is initiated to fill up such a post by the Pune Zilla Parishad, the Petitioner shall be considered for appointment on the strength of this certificate and provided all other qualifications and requirements in the notice of recruitment are fulfilled by him. The Writ Petition is disposed off in these terms. No costs.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)