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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1872 OF 2017

Abrar Rahim Qureshi

...Petitioner

vs.

State of Maharashtra & Others

...Respondents

.....

Mr. Vicky A. Nagrani, Advocate for the petitioner.

Mr. O.M. Kulkarni, AGP for the State.

.....

**CORAM : SMT. V.K. TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

DATE : 12th DECEMBER, 2017

ORDER (PER : M.S. KARNIK, J.) :-

The petitioner's challenge in this petition is to an order dated 24/6/2015 passed by the Maharashtra Administrative Tribunal ("the Tribunal" for short) in O.A.No.50 of 2013 thereby dismissing the O.A. Before the Tribunal the petitioner had impugned the order dated 1/6/2012 whereby his

appointment as a Police Constable from Sports Category (Hockey) came to be cancelled. In support of the petitioner's contentions in the O.A., reliance was placed on Government Resolution dated 30th April, 2005. The said Government Resolution provides that for getting the benefit of appointment in the sports category the incumbent has to participate in the sports event covered by the Government Resolution and has to secure first, second or third place in the competition or to bag gold, silver or bronze medal. As there was a failure on the petitioner's part to stand in any of the first, second or third place and failure to bag gold, silver or bronze medal, the Tribunal dismissed the original application.

2. During the course of hearing of this petition, the petitioner relied upon a Government Resolution dated 14th July, 2009 providing for reservation in Government/Semi-Government services in respect of higher merit holder sports persons. The Government Resolution dated 14th July, 2009 contain some additional provisions than what was provided by

the Government Resolution dated 30th April, 2005. The said Government Resolution dated 14th July, 2009 provides for winner sports person at the State level competition of such State Association be given benefit of reservation. The petitioner, however, could not bring this Government Resolution dated 14th July, 2009 to the notice of the Tribunal when the O.A. was heard. The petitioner relied upon the certificate awarded to him by “Gondia District Hockey Association” which organized “Maharashtra State Inter District Hockey Tournament- 2010” under the auspices of “Vidarbha Hockey Association” where he is shown as winner. It is submission of the learned Counsel for the petitioner that he is squarely covered by the Government Resolution dated 14th July, 2009.

3. Learned AGP opposed the petition and contended that no reliance can be placed on the Government Resolution dated 14th July, 2009 as the same was not before the Tribunal. In his submission, no error can be found in view taken by the Tribunal as the petitioner had failed to bag gold, silver or bronze

medal or secure first, second or third place which was requirement of the Government Resolution dated 30th April, 2005.

4. We do not find any fault with the view taken by the Tribunal as the Tribunal decided the controversy in the light of the Government Resolution dated 30th April, 2005 on which reliance was placed by the petitioner in support of his contentions. However, in the interest of justice and with a view to give the petitioner a fair opportunity to make out his case afresh, we are inclined to remand the matter back to the Tribunal for reconsideration of the petitioner's case in the light of the Government Resolution dated 14th July, 2009. Needless to mention, we have not examined the issue whether the petitioner's case is covered by the Government Resolution dated 14th July, 2009 or not. In the interest of justice, it is necessary that the petitioner's case needs to be examined in the light of the Government Resolution dated 14th July, 2009 by the Tribunal. Hence the following order.

ORDER

1. The order dated 24/6/2015 passed by the Tribunal is quashed and set aside.
2. O.A.No.50 of 2013 be remitted back to the Tribunal for deciding the same afresh on its own merits and in the light of the observations made by us.
3. We may not be understood to have expressed any opinion on the merits of the matter.
4. All issues on merits are kept open.
5. The Tribunal to make endeavor to dispose of O.A.No.50 of 2013 as expeditiously as possible and preferably within a period of 12 weeks from today.
6. No order as to costs.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)