

DDR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7720 OF 2017

The State of Maharashtra through
the Superintendent of Police & others

...Petitioners
(Org. Respondents)

vs.

Shri Prakash Prabhakar Agiwale

...Respondent
(Org. Applicant)

.....

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

Mr. Bhushan A. Bandiwadekar, Advocate for the respondent.

.....

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

DATE : 12th DECEMBER, 2017

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

By this petition filed under Article 226 and 227 of the Constitution of India, the petitioners-State of Maharashtra challenge the order dated 10th November, 2014, passed in O.A.No.375 of 2012 and the order dated 26th June, 2015 passed

in M.A.No.120 of 2015 by the Maharashtra Administrative Tribunal ('the Tribunal' for short).

2. The respondent approached the Tribunal by filing O.A. challenging the action on the part of the petitioners in refusing to appoint him as a Police Constable in December, 2011 from the category of O.B.C. Sports (Kabaddi).

3. It is the respondent's case that he ought to have been inducted into the police force in the category of O.B.C. Sports (Kabaddi) on the strength of having participated in West Zone Inter University Kabaddi (Men) Tournament for the year 2010-2011 held by Maharshi Dayanand Saraswati University, Ajmer. The respondent relied upon a certificate to show that he participated in that event and secured third place. It is a matter of record that even the petitioners do not dispute that the respondent participated in the said Tournament and secured third place.

4. The recruitment process for filling up the vacancies

for the post of Police Constable were scheduled in November, 2011 – January, 2012. The respondent took part in the recruitment process and having cleared the test, he was placed at Serial No. 22 of the merit list. The respondent was considered from the Sports Category. The respondent also cleared the stages of caste verification and character verification inquiry. Sometime in February, 2012 the respondent was orally informed that he cannot be held eligible for Sports Category. No written order was passed and therefore, O.A. was filed. The Tribunal for the reasons recorded allowed the O.A.

5. Learned AGP appearing on behalf of the petitioners contended that the Government Resolution dated 30th April, 2005 provided that the concerned candidate who have secured first, second or third place or bag gold, silver or bronze medal is eligible for consideration in the Sports Category. Learned AGP submitted that the said Government Resolution of 30th April, 2005 is not applicable to those who participated in the Inter University Competitions. In his submission, the Tribunal was in

error in allowing O.A. by holding that the Government Resolution dated 30/4/2005 would be applicable to Inter University Competitions also.

6. Learned Counsel for the respondent on the other hand supported the order passed by the Tribunal. He invited our attention to the Government Resolution dated 30/4/2005 and also the affidavit filed on behalf of the petitioner No.3.

7. Having heard the learned Counsel for the parties and upon going through the order passed by the Tribunal, in our opinion, the order passed by the Tribunal does not warrant any interference. It is not in dispute that the respondent participated in the West Zone Inter University Kabaddi (Men) Tournament for the year 2010-2011 held by Maharshi Dayanand Saraswati University, Ajmer and secured 3rd place. It has been noted by the Tribunal that in the affidavit filed on behalf of the petitioner No.3 before the Tribunal, it is clarified that vide Government Resolution dated 20/9/2013, the petitioner No.1 did extend the benefit even to those who participated in the Tournaments like

the one herein relevant. In the said affidavit it is further mentioned that as the respondent did not win gold, silver or bronze medal or as he did not secure first, second or third place, he was not entitled to the said benefit. Learned AGP does not dispute this position.

8. In our opinion, the Tribunal was justified in its approach in proceeding on the footing that the petitioner No.3 has ignored the fact that respondent did in fact secure third place in the said competition. It is also pertinent to mention that the Tribunal in para 10 of the order has recorded that the petitioners belatedly admitted that a candidate participating in an Inter University Tournament in a sporting event duly listed for the purpose of being considered for appointment from Sports category would be qualified and eligible, subject to fulfilling other eligibility criteria.

9. We also find from the order passed by the Tribunal that similar issue arose in O.A.No. 58 of 2008 before Aurangabad Bench of the Tribunal which order came to be

challenged by the State in Writ Petition Nos.479/2010, 662/2010, 3919/2010 and 4010/2010. This Court by the order dated 12th July, 2010, dismissed the Writ Petitions. The ratio therein was followed by the Tribunal in several matters. All the decisions were based on the principle that participation in Inter University events in a Sport duly recognized by the Rules and Government Resolutions like Khokho, Kabaddi, etc. would entitle a candidate to be considered and if found fit to be appointed also as a Police Constable. It is not in dispute that not only the respondent participated in the competition but has secured a third place. In this light of the matter, we do not find any error in the decision of the Tribunal in directing the petitioners to consider the case of the respondent in the light of the observations made by the Tribunal and appoint him if otherwise found fit.

10. We also do not find any reason to interfere with the order dated 26th June, 2015 in M.A.No.120 of 2015. The order passed by the Tribunal being a well reasoned order and in our

opinion, no case is made out by the petitioners to warrant any interference under Article 226 and 227 of the Constitution of India. Hence the Writ Petition is dismissed with no order as to costs.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)