

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE MS. JUSTICE J. UMADEVI

Writ Petition Nos.34729 and 34736 of 2016

Common Order: *(per V.Ramasubramanian, J.)*

The petitioners in both these writ petitions sought admission to the Under Graduate Medical Courses for the Academic Year 2016-2017, under the quota reserved for eminent sports persons. But since the verification of their certificates could not be completed before the deadline for admission, the petitioners were denied admission, forcing them to come up with the present writ petitions.

2. Heard Mr. P. Nagendra Reddy, learned counsel for the petitioners in both the writ petitions, learned Government Pleader for Tourism (Telangana) appearing for the 3rd respondent, Mr. P. Prabhakara Rao, learned counsel appearing for the 1st respondent-University and Mr. D. Pochaiah, learned counsel appearing for the Sports Authority of Telangana. Fencing Association of India was impleaded as party subsequently, and notice sent to them by speed post on 26-10-2016 appears to have been served on 31-10-2016, as per ONLINE Tracking System of India Posts. But the 4th respondent has not chosen to appear.

3. The petitioners in both the writ petitions claimed to have participated at the National Level in the game of Fencing and they claimed that they should be given Priority No.27. But the University did not accord Priority No.27 to the petitioners on the ground that the

certificates produced by them could not be verified with the Fencing Association of India, who is the 4th respondent herein.

4. The Sports Authority of Telangana has filed a counter affidavit claiming that the certificates produced by the petitioners on 17-09-2016 were forwarded by the 1st respondent-University to this Sports Authority on 19-09-2016. The Sports Authority in turn claims to have sent letters to the Fencing Association of India on 22-09-2016, 23-09-2016 and 28-09-2016. According to the Sports Authority of Telangana, no communication was received from the Fencing Association of India up to 03-10-2016, the date on which the third and final tentative priority list was prepared. Therefore, the Sports Authority claims that they were not at fault.

5. Obviously, the 1st respondent-University is not at fault. They held certificate verification on 17-09-2016 and sent a letter to the Sports Authority of Telangana on 19-09-2016. The Sports Authority of Telangana is also not at fault since they sent letters to the Fencing Association of India on three different dates namely 22-09-2016, 23-09-2016 and 28-09-2016. The stand of the 4th respondent (Fencing Association of India) is not known as they have not chosen to appear before us.

6. But the petitioners have produced a copy of the letter allegedly sent by the Fencing Association of India on 01-10-2016 to the Sports Authority. This letter contains the names of the writ petitioners herein at Serial Nos.3 and 4, indicating therein that the petitioners represented the State Government at the National Championship meet.

7. Assuming that the 4th respondent-Fencing Association actually sent a letter dated 01-10-2016, the same could not have been delivered to the Sports Authority of Telangana on 03-10-2016. This is in view of the fact that 2nd October happened to be a Public Holiday and the communication had been sent from Punjab and receivable at Hyderabad. Therefore, even if the petitioners are correct in their stand that the Fencing Association sent a response on 01-10-2016, it could not have reached the Sports Authority of Telangana by 03-10-2016 on which date the final priority list was closed.

8. Therefore, neither the 1st respondent-University nor the 2nd respondent-Sports Authority could be found fault with. If at all the fault can be pointed out only to the Fencing Association of India.

9. Since the Fencing Association of India has not come up before us to explain as to why they took time from 23-09-2016 to 01-10-2016, we are not in a position to know whether they were justified or not. In the absence of any explanation from the 4th respondent-Fencing Association, we have to take it that the blame has to be at their door steps.

10. Under identical circumstances, when a few candidates could not get proper priority for admission to Under Graduate Medical Courses in the previous Academic Year, this Court passed an order dated 25-01-2016 in W.P.No.32681 of 2015 awarding a compensation of Rs.5,00,000/- against the Sports Authority of Andhra Pradesh. It appears that the said order was modified by the

Supreme Court directing the Government to grant even admission to these writ petitioners.

11. But today the academic year has almost been completed to the extent of more than 50%. Hence, it is not possible to grant admission to the petitioners. The only possibility is to award compensation.

12. On the quantum of compensation, we cannot omit to take note of certain disturbing facts mentioned in the counter affidavit of the Sports Authority of Telangana. Paragraph 4 of the counter affidavit of the 2nd respondent Sports Authority of Telangana is worth extracting. Hence, it is extracted as follows:

“.....It is evidently accepted by the petitioner that the delay is only with the Fencing Association of India. The petitioner might have been informed by the Fencing Association of India that they have issued a letter on 01-10-2016, but the respondent No.2 did not receive the letter before issuing of Third and Final tentative priority list till 03-10-2016. The 2nd respondent has already corresponded with the Telangana Fencing Association and Fencing Association of India about the confirmation of the participation lists at the State Level and National Level and both associations are intentionally not responded for providing the details to Sports Authority of Telangana State. For the irregularities committed by the General Secretary, Telangana Fencing Association (Sri Dhankishna Bandari) in the year 2015, in selection of Fencing teams to participate at National level, the SATS has requested the President, Fencing Association of India and President, Indian Olympic Association vide Lr. No.SATS/T&S/NG/2015, dt.31-03-2015 to place him under blacklist to avoid involvement for future association activities.

Further in the letters addressed to the Fencing Association of India and Indian Olympic Association it was mentioned that, the General Secretary, Telangana Fencing Association is

- Acting unilaterally and committing irregularities in terms of selections of the Fencing teams without informing to anybody including District players;
- There was no Press coverage and without information to Sports Authority of Telangana State, causing damage to the Sports fraternity of Telangana State in general and Fencing in particular.

- The General Secretary, Telangana Fencing Association has been in the habit of approaching SATS at eleventh hour for nomination of observers for Championships and Selections.
- He has not been submitting the participation lists, Selection list of the State Championships to SATS for record which is habitual.....”

12. As a matter of fact we had an occasion to point out in one writ petition that the entire Sports quota, is more abused than used. The matter is now pending adjudication before the Hon’ble Supreme Court.

13. Therefore, we are of the view that at the most the Fencing Association of India, the 4th respondent, could be directed to compensate the petitioners and that too only to the extent of Rs.1,00,000/-. Therefore, the writ petitions are allowed directing the 4th respondent-Fencing Association of India to pay Rs.1,00,000/- to each of the writ petitioners, within a period of four (4) weeks from the date of receipt of a copy of this order, for their lethargy in not communicating the genuineness of the certificates produced by the petitioners to the Sports Authority of Telangana at the appropriate time, resulting in the petitioners being deprived of being accorded the correct priority for being considered under the quota for Sports persons.

As a sequel thereto, miscellaneous petitions if any pending shall stand closed.

V.RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 20-02-2017

Ksn