

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5344 OF 2011

Varnda d/o Santosh Maliwal, Aged 17
Years, Occupation Education, since
Minor, through natural Guardian
Santosh S/o Ashok Maliwal, Aged 43
Years, Occupation Business, Resident
of Sanman Garden, Gowardhan Ghat
Road, Vajirabad, Nanded, Taluka and
District Nanded

PETITIONER

V E R S U S

1] The State of Maharashtra,
through its Secretary, Sports and
Youth Services Department,
Mantralaya, Mumbai

RESPONDENTS

2] Assistant Director, Sports and
Youth Services, Maharashtra State,
Pune

3] District Sports Officer, Shri.
Guru Govindsingji Stadium, Nanded

4] Maharashtra State Fencing
Association, through its Secretary
namely; Ashok Kondaji Dudhare, Aged
50 Years, Occupation Business,
Resident of Pokar Place, Pokar
Colony, Dindori Road, Nashik – 05

5] Maharashtra State Fencing
Association, through its District
Secretary namely; Sunil Dosalwar,

Aged 48 Years, Occupation Business,
Resident of ND-32, 11/4,
Priyadarshani Colony, Near
Icchapurti Hanuman Mandir, New
Nanded, CIDCO - 2, Nanded

6] Maharashtra State Board of
Secondary and Higher Secondary
Education, Pune, through its
Secretary

7] Maharashtra State Board of
Secondary and Higher Secondary
Education, Latur Division, Latur,
through its Divisional Secretary,
Latur

W I T H

WRIT PETITION NO. 5356 OF 2011

Rucha d/o Kondiba Baradkar, Aged 18
Years, Occupation Education,
Resident of Barad, Taluka Mudkhed,
District Nanded

PETITIONER

V E R S U S

1] The State of Maharashtra,
through its Secretary, Sports and
Youth Services Department,
Mantralaya, Mumbai

RESPONDENTS

2] Assistant Director, Sports and
Youth Services, Maharashtra State,
Pune

3] District Sports Officer, Shri.
Guru Govindsingji Stadium, Nanded

4] Maharashtra State Fencing Association, through its Secretary namely; Ashok Kondaji Dudhare, Aged 50 Years, Occupation Business, Resident of Pokar Place, Pokar Colony, Dindori Road, Nashik – 05

5] Maharashtra State Fencing Association, through its District Secretary namely; Sunil Dosalwar, Aged 48 Years, Occupation Business, Resident of ND-32, 11/4, Priyadarshani Colony, Near Icchapurti Hanuman Mandir, New Nanded, CIDCO – 2, Nanded

6] Maharashtra State Board of Secondary and Higher Secondary Education, Pune, through its Secretary

7] Maharashtra State Board of Secondary and Higher Secondary Education, Latur Division, Latur, through its Divisional Secretary, Latur

Mr. A.N. Nagargoje, Advocate for the petitioners

Mrs. D.S. Jape-Ansingkar, A.G.P. for Respondent Nos. 1 to 3 – State

Mr. K.S. Kolapkar, Advocate for Respondent No.4

Mr. B.G. Gadegaonkar, Advocate for Respondent No.5

Mrs. Asha Rasal, Advocate for Respondent No.7

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.**

DATE : 5th March, 2018

ORAL JUDGMENT [PER: T.V. NALAWADE, J.] :

Both the Writ Petitions are filed under Article 226 of the Constitution of India for issuance of directions to the respondents to give additional 25 marks to the petitioners in S.S.C. Examination held in March, 2010 and issuance of fresh mark-sheets and Certificates of S.S.C. Examination by adding 25 marks.

2. Both the sides are heard.

3. It is the case of petitioners that they had participated in Junior Maharashtra State level Fencing Championship, held from 14th to 16th October, 2009, and in view of Government Resolution dated 4th June, 2007, they were entitled to get additional 25 marks in the result of 10th standard examination, which was conducted in the year 2010. It is the contention of the petitioners that the Institution respondent No.4-

Maharashtra State Fencing Association, has the approval of the State Government and it is associated with the apex body and they had participated in the event which was held from 14th to 16th October, 2009 at Nagpur. It is contended that the necessary proposal was also forwarded to respondent Nos.2 and 3, the Sports Authority of the State Government and the School had also forwarded the proposal. It is contended that in spite of sending of the proposals, respondent Nos.6 and 7 did not give additional 25 marks in the result.

4. Reply-affidavit is filed by respondent No.7- Maharashtra State Board of Secondary and Higher Secondary Education, Latur Division, Latur, and it is contended that vide circulation dated 2nd January, 2010, it was made clear that for getting the benefit of the scheme of the Government, it was necessary to see that the proposals are submitted prior to end of February, 2010. It is contended that the proposal of the present petitioners was not received by the respondents as per the scheme prepared by the

Government, and so, there was no question of giving benefit of the said scheme to the petitioners.

5. Most of the students get the benefit of such scheme for getting admissions to 12th standard classes and then to vocational courses. The mark list was made final in the month of June, 2010, and it can be said that, for education purpose, such additional marks are of no use to the petitioners now. Learned counsel for the petitioners submits that the increased marks may help the petitioners to get employment. At present, in Government departments, the tests are taken for recruitment, and so, there is no substance in the contentions that the additional marks may help the petitioners for getting employment. Present proceeding came to be filed on 3rd May, 2011, when the results had become final in the month of June, 2010. Thus, only on the ground of laches, the proceeding can be dismissed.

6. The submissions made and the copy of Government Resolution show that the procedure is given for getting benefit of said scheme. The proposal needs

to be submitted as per the said procedure and then is scrutiny is required to be done first by the District Sports Officer and then by the Director. They are expected to ascertain, as to whether the conditions given in the circular dated 8th February, 2008 are fulfilled. There are many conditions with regard to the institution, which has arranged such competition. This Court is avoiding to go into the details of those conditions which are more than 22. Those conditions also show that list of the students, who have applied for getting the benefit of the scheme is required to be submitted to the District Sports Officer before end of February of that academic year. Only after complying with those conditions, the Sports Department was to process the matter and then make the recommendation to the Board of Examinations. In the present matter, that did not happen, as per the submissions made in the present proceedings. Whether it was a fault of School or the present petitioners, cannot be ascertained at this stage. The xerox-copy of undertaking dated 15th February, 2010 submitted by the students is produced on record. There is certificate

of the School dated 15th February, 2010, but there is no record to show that the proposal was forwarded within prescribed time to District Sports Officer.

7. Learned counsel for the petitioners placed reliance on the observations in the Judgment rendered by this Court in **Writ Petition No.5267 of 2010 [Sarjerao S/o Rambhau Tekale V. The State of Maharashtra and others]**. The facts of this reported case were totally different. The proposal was submitted in time, but the benefit was not given by giving some reasons. Thus, the observations made in the said case can be of no use to the present petitioners. Due to these circumstances, this Court holds that no relief can be granted to the petitioners.

8. In the result, both the Writ Petitions stand dismissed.

(K.L. WADANE, J.)

(T.V. NALAWADE, J.)

