

respondent stands chance of selection, admit him to the training subject to fulfillment of all other eligible conditions, if necessary by creating of supernumerary posts subject to outcome of OA.

The facts in brief are thus :

2. The respondent participated in 4th National Level Rural Tournament at Siliguri (West Bengal) conducted by Sports Authority of India. The petitioners have provided 5% horizontal reservation in various groups and cadres of sportsmen who have achieved success at State or National or International levels. On 30/07/2016 respondent furnished for scrutiny his sports certificate pertaining to participation in 2011 and 2012 National Tournament. On 23/02/2017 petitioner No.2 published an advertisement for filling up of post of Police Constables. The last date for filling application for appointment in furtherance to the advertisement was 17/03/2017 which was extended upto 20/03/2017. The respondent received sports verification certificate from petitioner No.5 on 06/06/2017. On 13/06/2017, respondent's candidature was rejected by petitioner No.2 on the ground that certificate of

validity of respondent's sports certificate was not furnished along with the application. Hence OA was filed.

3. The Tribunal was of the opinion that the conduct of the petitioner in insisting the candidates to possess the validity certificate before the date of application is utmost arbitrary, unfair and violative of fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India.

4. Assailing the order of the Tribunal, learned AGP invited our attention to the advertisement which stipulated that the certificate duly validated had to be submitted on or before the cut-off date which is 20/03/2017. Admittedly, the certificate was validated on 20/05/2017 and therefore the decision of the petitioners rejecting the candidature of the respondent is in accordance with the terms and conditions contained in the advertisement. In his submission the Tribunal at the interim stage ought not to have issued any directions of this nature. Learned AGP relied upon the decision of the Apex Court in the

case of

I) Bedanga Talukdar Vs. Saifudaullah Khan and ors. in Civil Appeal No. 8343-8344 of 2011 dated 28/09/2011.

II) in the case of Ashok Kumar and anr vs. State of Bihar & ors. in Civil Appeal No. 9092 of 2012 dated 21/10/2016.

5. Learned AGP contends that the petitioner having applied pursuant to the advertisement cannot contend the clause mentioned in the advertisement is unfair only because he has received the certificate of validation belatedly.

6. Learned Counsel for respondent on the other hand invited our attention to the G.R. dated 01/07/2016 regarding the guidelines in respect of recruitment towards 5% reservation in the sports category. In his submission, the object of issuance of G.R. is to ensure that sports persons get employment in government service. He invited our attention to sub-clause (iii) of clause 5 of the said G.R which provides that after the certificate is received for scrutiny from the sports person, the

Divisional Deputy Director Sports has to validate the same within a period of 20 working days from the date of receipt. Learned Counsel for respondent submits that he applied for scrutiny of his sports certificate on 30/07/2016. The validation was received by him on 06/06/2017 and the same is beyond his control. In the meantime, advertisement was issued on 23/02/2017 and therefore the respondent enclosed the certificate which he had. The respondent participated in the written test and further procedure. At the stage of scrutiny, the petitioners realised about the validity certificate not produced on or before the last date stipulated in the advertisement i.e. 20/03/2017.

7. Learned Counsel for the respondent relied upon the decision of the Apex Court in the case of **Dolly Chhanda vs. Chairman Jee and other (2005) 9 Supreme Court Cases 779** in support of his contention that it was not his fault that he got validation certificate after the last date stipulated in the advertisement and he cannot be made to suffer for no fault of

his. In fact it is the Authority issuing validation certificate which is at fault and the delay is attributable to the petitioners.

8. Heard learned Counsel. The advertisement dated 23/02/2017 clearly stipulated for the post of Police Constables. Sub-clause (v) of clause 18 of the advertisement pertaining reservation in the sports category provides that those applying in the sports category have to ensure that certificate is duly validated and only then the on-line application has to be made. The last date for making on-line application was 20/03/2017. Admittedly, the respondent received sports verification from petitioner No.5 on 06/06/2017.

9. The contention of the respondent is that though he applied for the sports verification certificate well in time on 30/07/2016, but it is the petitioner No.5 who issued the certificate only on 06/06/2017. It is true that even in the affidavit filed by Principal Secretary School Education and Sports Department, it is stated that there is delay on the part of

concerned office of Deputy Director Latur in processing the application and that disciplinary action has been initiated against the concerned officers for delay and not taking any action in the matter.

10. In our opinion however the effect of delay in issuance of validity certificate to the respondent and the consequence thereof on the respondent's candidature for the purpose of selection is a matter which has to be decided finally. Suffice it to mention that the advertisement pursuant to which the respondent applied stipulates that sports verification certificate has to be submitted when the application is made on-line on or before the cut-off date. Admittedly, respondent has received the sports verification certificate after the cut-off date. It is also pertinent to mention that while making application, against column "serial number of sports verification certificate" the respondent has mentioned the serial number as "000477". This is not the serial number of the validation certificate but it is the number on the certificate which the respondent received

from the Ministry of Youth Affairs and Sports. Having mentioned the serial number of the said certificate against the column of “serial number of sports verification certificate” which was not the serial number of the sports validity certificate, on-line application of the respondent was accepted and considered as against the sports quota.

11. In our opinion, the order passed by the Tribunal virtually amounts to allowing OA finally at the interim stage. We are therefore inclined to set aside the order passed by the Tribunal. Hence, the following order.

ORDER

- i) Writ Petition is allowed in terms of prayer clause (a).
- ii) The Tribunal is requested to dispose of OA as expeditiously as possible and preferably within a period of 8 weeks from today.
- iii) It is made clear that all further steps taken by the petitioners will be subject to outcome of OA.
- iv) We further make it clear that the observations made by us

are only limited to considering issue of interim relief. Needless to mention that the Tribunal is free to decide the OA on its own merits without being influenced by any of the observations made by us in this order.

v) No order as to costs.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)