IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.4409 OF 2019

Sandip s/o Phulchand Tandale — Petitioner

Versus

The State of Maharashtra
& others — Respondents

WITH
WRIT PETITION NO. 4410 OF 2019

Siddharth s/o Maroti Shinde
& others — Petitioners

Versus

The State of Maharashtra
& others — Respondents

WITH
WRIT PETITION NO. 4502 OF 2019

Amol s/o Dnyanoba Bichale
& others — Petitioners

Versus

The State of Maharashtra
& others — Respondents

Mr. S.S. Jadhavar, advocate for petitioners.
Mrs. R.P. Gour, AGP for respondents.

CORAM : PRASANNA B. VARALE AND
NITIN W. SAMBRE, JJ.
DATE : 22nd April, 2019.

P.C. :

Since all these petitions involve common issue, as prayed by learned counsel for petitioners, all the petitions are being heard and disposed of together by this common order.

2. According to petitioners, vide Government Resolution dated April 30, 2005, respondent-State Government has provided 5% reservation in public employment for the sports persons. Schedule-A to the said Government Resolution prescribes the sports events from which the sports persons can claim employment. According to petitioners, they have participated in various sports events of Throw Ball conducted by the State at National level way back since 2012 and as such, are entitled to draw the benefits out of the Government Resolution dated April 30, 2005. According to petitioners, the Government has now changed the policy and has brought into effect Resolution dated July 1, 2016, thereby removing the sport Throw Ball from the sports events recognised under the Government Resolution dated April 30, 2005, and as such, petitioners are deprived of their lawful claim of reservation in public employment. As such this petition.

3. The submission of Mr. Jadhavar, learned counsel for petitioners is on the date when petitioners played a particular sport, the policy of grant of public employment, against 5% reservation quota for sports persons was governed by the Resolution dated April 30, 2005. New policy dated July 1, 2016 will have prospective effect and as such, it cannot be made applicable to petitioners claim for grant of public employment against sports quota. The sum and substance of the submission is, such a person who has secured qualification for claiming

employment against the quota which is reserved for the sports persons in public employment, played after July 1, 2016, in the event mentioned therein, can only be covered by the Resolution dated July 1, 2016, whereas the case of the petitioners needs to be considered as per the Government Resolution dated April 30, 2005. According to Mr. Jadhavar, unless expressly provided, the Government Resolution dated July 1, 2016 cannot be given retrospective effect to mean the claim for grant of public employment moved by petitioners needs to be dealt with as per Government Resolution dated April 30, 2005 and not as per Government Resolution dated July 1, 2016.

4. Per contra, learned AGP would support the decision of the State Government and submits that the Government Resolution dated July 1, 2016, is issued by the State Government in supercession of all the earlier Government Resolutions. She would submit that there cannot be different categories of sport based on the policy existing prior to July 1, 2016 and post July 1, 2016. She sought dismissal of the petitions.

5. After considering the rival submissions and after appreciating the requirements under both the Government Resolutions, what is required to be noticed is, the policy as was existing on April 30, 2005, has recognized the game in sports events viz. Indian Olympic Association approved games, Maharashtra Olympic Association approved games and the games which were recommended by the Maharashtra Olympic Association. Same policy prescribes in Schedule B the nature of sports events i.e. international and national and vesting of

authority in issuing certificate of participation.

6. So far as the latest policy of Government being Government Resolution dated July 1, 2016 is concerned, the same has not specified the games but has specified the competitions at national, international, rural and state level etc. In the new policy of 2016, individual games are not prescribed and what has been considered is the various sports event such as national, international, rural, state level events. The individual sport game like Throw Ball, Basket Ball etc. are not specifically included in the schedule. As such, the policy appears to be framed keeping in mind to offer the opportunity in public employment to the participants in the sports event who compete in the quota reserved for them. The earlier Government Resolution i.e. April 30, 2005, in categorical terms was restricted to certain sports and not the events only as are specified therein.

7. The policy as reflected in the Government Resolution dated July 1, 2016, is framed with an intention to simplify and maintain transparency in the process of selection and appointment of the candidates seeking public employment against the quota reserved for sports persons. The policy is framed after considering the earlier policy dated April 30, 2005, the difficulties faced by the sport persons while applying for grant of public employment and also in verification of the sports certificate. The Government noticed that at times, such sports persons are required to agitate their grievance before the Administrative Tribunal or High Court and so as to overcome all these difficulties, a simplified and transparent policy is brought into force by the Government. The

Government, in the new policy, instead of identifying a particular sport event like the event conducted by Indian/Maharashtra Olympic Association, has tried to recognise the merit of sports persons in individual or team work. The State Government has also considered such achievements que the sport event conducted at national, international, rural, women, universities, schools levels and the sports event for specially abled.

8. In the aforesaid background, if the policy framed in the Government Resolution dated July 1, 2016 is appreciated, it does not appear to be the intention of the Government to single out a particular game or sport. If a particular game like the petitioners claim to have played Throw Ball is part of a sport event mentioned in the Government Resolution, then of course, a sports person will be entitled to draw benefit in the public employment.

9. It is not the case of petitioners that the State Government has intentionally and deliberately avoided to include the sport Throw Ball in the new policy as the new policy is not based on a game or sport but is based on sport event organised at various levels.

10. That being so, if the petitioners satisfy the requirements as per the new policy while claiming public employment against the quota meant for a sports person, of course, the authority selecting and recruiting the candidate will look into the same by examining the case of each of the sports person based on the policy.

11. That being so, no infirmity could be noticed with the existing

policy.

12. Once the State Government in supercession to all the earlier policies has framed a new policy based on its experience of about more than ten years, and such new policy has already given effect, the claim of petitioners that the petitioners candidature should be considered from the policy which is already superceded cannot find support in law. Petitioners individual candidature que the game that they play cannot be segregated so as to confer benefit under the policy dated April 30, 2005.

13. That being so, no case of interference is made out. Petitions stand dismissed.

NITIN W. SAMBRE
JUDGE

PRASANNA B. VARALE
JUDGE

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