

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.2364 OF 2021 (FILING)
WITH
CIVIL APPLICATION NO.39 OF 2021

Blanche Themudo

Aged 38 years, Resident of H.No. 461,
Dongri, Navelim-Salcete, Goa.

...Petitioner.

Versus

1. State of Goa
Government of Goa
Through its Chief Secretary,
Secretariat, Porvorim, Goa

2. Cycling Association of Goa
Through the Secretary,
H.No. 348-8/4, Shetyewado Duler,
Mapusa, Goa

3. Cycling Federation of India,
12, Pandit Panth Marg,
Near DOI Dakh Khana
New Delhi, 110001

4. Directorate of Sports and Youth Affairs,
Government of Goa,
Campal, Panaji, Goa

5. Department of Sports,
Ministry of Youth Affairs and Sports,
Shastri Bhavan,
New Delhi, 110001

...Respondents.

Ms. Sailee R. Kenny, Advocate *for the petitioner.*

Mr. D.J. Pangam, Advocate General with Ms. Maria Correia,
Addl. Govt. Advocate *for Respondents No.1 and 4.*

Mr. Parag Rao, with Ms. Meghna Naik, Advocates *for the respondents No.2.*

CORAM : **REVATI MOHITE DERE &**
 M.S. JAWALKAR, JJ.

DATED : **17 November 2021**

ORAL JUDGMENT :- (Per Revati Mohite Dere, J.)

- 1.** Heard learned Counsel for the parties.
- 2.** Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal.
- 3.** By this Petition, the Petitioner seeks the following substantive prayers :

“(a) For a writ of mandamus or any other writ, direction or order in the nature of mandamus directing the Respondent No. 2 to include the name of the Petitioner in the final select list of participants to represent the State of Goa at the National cycling event to be held in Kurukshetra from 25th November 2021 to 28th November 2021 in the “Elite Women” category.

(b) That in the alternate, for a writ of mandamus or any other writ, direction or order in the nature of mandamus directing the Respondent No. 3 i.e. the Cycling Federation of India, to permit the Petitioner to participate in the National cycling event to be held in Kurukshetra from 25th November 2021 to 28th November 2021 in the “Elite Women” category.

(bb) Ad interim relief in terms of prayers clause (a) & (b).”

4. Being aggrieved by the non-inclusion of the Petitioner's name in the final list of selected candidates to represent the State of Goa by the respondent No.2-Cycling Association of Goa at the National Cycling Event to be held in Kurukshetra from 25th November 2021 to 28th November 2021, the Petitioner has approached this Court, seeking the aforesaid reliefs.

5. Learned Counsel for the Petitioner submits that the Petitioner, aged 38 years, is a Doctor by profession, and a native of Goa. She submits that the Petitioner is an extremely avid and competitive cycling athlete, who has been in the sport of cycling and running for over seven

years. Learned Counsel submits that since 2020, the Petitioner has taken up cycling very seriously and at a competitive level, and has won more than 8 races across Goa and owing to her exceptional performance, she has even been selected to join "*Equipe Goa*" racing team which comprises of the most proficient cycling athletes of the highest level in the State of Goa. It is further submitted that as the Petitioner was desirous of participating at the National Level Cycling Event to be held in Kurukshetra from 25th November 2021 to 28th November 2021, the Petitioner put in long hours of grueling training over the last one year, putting up over 8500 kms. in the last 10 months. It is submitted that on 14th September 2021, the Respondent No.3-Cycling Federation of India, announced that the 26th National Road Cycling Event will be held at Kurukshetra during the period from 25th November 2021 to 28th November 2021. It is submitted that the State Level Championships /National Trials were scheduled by the Respondent No.2-Cycling Dissociation of Goa on 6th November 2021 and 7th November 2021 and the outcome of the same, was to determine who would represent the State of Goa, for the National Event, scheduled to take place in Kurukshetra. It is submitted that the Petitioner won two events in which she participated, held by the Respondent No.2-Cycling Association of Goa, with a considerable margin, the results of which were declared on

the same day of the events i.e. 6th November, 2021 and 7th November, 2021, respectively.

6. According to the learned Counsel for the Petitioner, although the Petitioner had succeeded in both the events with a considerable margin and had stood first, the Respondent No.2-Cycling Association of Goa failed to declare who would represent the State of Goa at the National Event to be held at Kurukshetra, till 13th November 2021. It is submitted that Respondent No.2-Cycling Association of Goa deliberately delayed submitting the selected teams/participants with the malafide intention, till 13th November, 2021, so as to preclude the Petitioner from taking any action as against the Respondents. Learned Counsel for the Petitioner submitted that rejection of the Petitioner's candidature by the Respondent No.2-Cycling Association of Goa, was unjustified on the premise that the Petitioner, being 38 years of age, was not qualified.

7. Learned Counsel for the Petitioner relied on the UCI Cycling Regulations, Part 1 General Organisation of Cycling as a Sport dated 4/6/2021, in support of her submission, in particular Regulation 1.1.037. It is submitted that in the said Regulations, the category in which the Petitioner had sought an entry, did not define or mention the

upper age limit and, as such, the Petitioner's candidature for the said cycling event could not have been rejected by the Respondent No.2. Learned Counsel further relied on certain other results of the National Road Cycling Championship held by the Respondent No.3-Cycling Federation of India and the 25th National (Senior, Junior & Sub-Junior) Road Cycling Championship held by the Respondent No.3-Cycling Federation of India at Navi Mumbai, Maharashtra from 5th to 8th March, 2021. Learned Counsel has tendered the final results of the said event to show that one Abhirami Manoharan, who stood 3rd in the said championship, was aged 37 years at the relevant time, and was permitted to participate in the event by the Cycling Federation of India.

8. Learned Counsel for the Petitioner also tendered Selection Trials for the 26th National Road Cycling Championship 2021 to show that Abhirami Manoharan, whose date of birth is shown as 26/4/1983 i.e. 38 years of age of today, has been selected in the category Woman – Elite (WE : Women Elite) from District Chennai. She submits that having regard to the regulations and the selection of Abhirami Manoharan despite being aged 38 years, the candidature of the Petitioner should not have been rejected by the authorities.

9. Learned Counsel for the Petitioner also relied on the Circular dated 14th September 2021 issued by the Respondent No.3-Cycling Federation of India with respect to the 26th National (Senior, Junior & Sub-Junior) Road Cycling Championship at Kurukshetra, Haryana i.e. the event in which the Petitioner intends to participate to show that even in the said Circular, there is no mention of the upper age limit in the said category Woman – Elite (WE : Women Elite).

10. On 16th November 2021, when the Petition came up before this Court, learned Counsel appearing for the Respondent No.2 waived notice and sought time to file an affidavit-in-reply. Pursuant thereto, the Respondent No.2-Cycling Association of Goa has filed an affidavit. Learned Counsel for the Respondent No.2-Cycling Association of Goa states that the candidature of the Petitioner was rejected/not forwarded to the Respondent No.3-Cycling Federation of India, having regard to the communication sent by the Respondent No.3-Cycling Federation of India. He submitted that the Respondent No.3-Cycling Federation of India, on a query made by the Respondent No.2-Cycling Association of Goa, had sent one mail stating therein that the age limit for the elite category is 19-35 years and that the Respondent No.3-Cycling Federation of India would organize Masters Championships for which the Petitioner would be considered.

11. Perused the papers. The Petitioner, aged 38 years, is a Doctor by profession, and a native of Goa. It appears that the Petitioner has been participating in competitive cycling events and has been in the sport of cycling for several years. The Respondent No.2-Cycling Association of Goa is affiliated to the Respondent No.3-Cycling Federation of Goa and as such, is responsible for promoting sports of cycling in the State of Goa. It is also the duty of the Respondent No.2-Cycling Association of Goa to protect the interests of the cycling athletes in the State of Goa and provide support, training, infrastructure, etc. to them. One of the aims and objects of the Respondent No.2-Cycling Association of Goa in the Constitution of the Respondent No.1, is to select and ensure representation of players, team and/or technical officials for the National Competitions, Seminar, Programmes, Symposiums, etc. in the game or in the field of sports organization. Thus, it is the responsibility of the Respondent No.2-Cycling Association of Goa to secure the interests of the cycling athletes and to ensure that fair and neutral trials and selections are conducted and that the candidates who are qualified, are selected to represent the State of Goa, at the National events.

12. The short question that arises in the present Petition is, whether the Petitioner's name could have been withheld by the Respondent No.2-Cycling Association of Goa, considering that there was no upper age

limit prescribed under the UCI Cycling Regulations, as well as the Circular dated 14th September 2021 of the Respondent No.3-Cycling Federation of India, more particularly, when the Petitioner had qualified in the State Level Championship/National Trials, held by the Respondent No.2-Cycling Association of Goa on 6th and 7th November 2021.

13. We have perused the said Regulations and the Circular dated 14th September 2021 issued by the Respondent No.3-Cycling Federation of India and other documents relied upon by the learned Counsel for the Petitioner and the learned Counsel appearing for the Respondent No.2-Cycling Association of Goa. The UCI Regulations, Part 1 General Organisation of Cycling as a Sport (Version on 4/6/2021), in particular, Clause 2, which sets out the categories of “riders”. In the present Petition, we are concerned with 1.1.037, category 'Woman – Elite (WE : Women Elite)'. It is categorically stated in the said Regulation that 'this category shall comprise of riders aged 23 and above'. It is thus evident that there is no upper age limit prescribed in the said category by the UCI Cycling Regulations. Similarly, in the Circular dated 14th September 2021 issued by the Respondent No.3-Cycling Federation of India with respect to 26th National (Senior, Junior & Sub Junior) Road Cycling Championship at Kurukshetra, Haryana (in which the Petitioner

intends to participate) there is no upper age limit set out. In the list of events, in the category Woman – Elite (WE : Women Elite), it is stated that this category comprises of riders aged '19 years and above'. It is thus evident that even in the said Circular dated 14th September 2021 which pertains to the 26th National (Senior, Junior & Sub Junior) Road Cycling Championship at Kurukshetra, Haryana, in which the Petitioner intends to participate, upper age limit has not been stated. It also appears from the list sent to the Respondent No.3-Cycling Federation of India that in the Women category, i.e. (Women – Elite -WE-Women Elite), Abhirami Manoharan has been selected from Chennai District for the said event, though her age is 38 years.

14. Infact, the Petitioner was allowed to participate in the State Level Championships held by the Respondent No.2-Cycling Association of Goa on 6th November 2021 and 7th November 2021. No such condition was shown to the Petitioner when she participated in the State Trial. Infact, the Petitioner paid fees of ₹ 500 per event and participated in the two events i.e. on 6th November 2021 which was a 20 kms. event for women held at Goa University Road, Taleigao and a Mass Start Road Race on 7th November 2021, which was a 80 kms. race, held at Dharbandora, Ponda, Goa. The Petitioner was permitted to participate in both the events and also won both the said events with a considerable

margin. Results of the events were declared on the very same day of the events i.e. 6th November 2021 and 7th November 2021, respectively. It is the contention of the Petitioner that both the results were very clear and undisputed as to who would represent the State of Goa for the 26th National Road Cycling Championship at Kurukshetra, Haryana, however, the results declared were not sent by the Respondent No.2-Cycling Association of Goa, to the Respondent No.3-Cycling Federation of India until 13th November, 2021.

15. Perusal of the Regulations and Circular dated 14th September, 2021 of the Respondent No.3-Cycling Federation of India shows that no such upper limit as contended by the Respondent No.2-Cycling Association of Goa is mentioned in the category of 'Woman – Elite (WE : Women Elite)', for which the Petitioner intends to participate. Merely because there is some correspondence sent through mail by the Respondent No.3-Cycling Federation of India to the Respondent No.2-Cycling Association of Goa, stating that the elite category comprises between the age group of 19-35 years, cannot be a ground for not sending the Petitioner's name to the Respondent No.3-Cycling Federation of India. The e-mail sent by the Respondent No.3-Cycling Federation of India, stating therein that there is an age cap of 35 years, does not appear to be in consonance with the Regulations and Circular

issued by the Respondent No.3-Cycling Federation of India. Learned Counsel for the Respondent No.2 has not backed his submission with respect to the age cap of 35 years with any rule/regulation/circular of the Respondent No.3-Cycling Federation of India and as such, reliance placed merely on a mail sent by the Respondent No.3-Cycling Federation of India, cannot be accepted.

16. It is informed that a total number of names that could be sent from this category are about 4-5, however, only one name of a candidate i.e. Meghan Fernandes, from this category has been sent.

17. Hence, having regard to what is stated above, we allow this Petition. Accordingly, we direct the Respondent No.2-Cycling Association of Goa to forthwith during the course of the day send the name of the Petitioner to the Respondent No.3-Cycling Federation of India for representing the State of Goa in the National Cycling event to be held in Kurukshetra, Haryana from 25th November, 2021 to 28th November, 2021 in the 'Elite Women' category.

18. The Respondent No.3-Cycling Federation of India to consider permitting the Petitioner to participate in the the said event, having regard to what has been stated herein above, and having regard to the

UCI Cycling Regulations, Part 1 General Organisation of Cycling as a Sport dated 4/6/2021 and the Circular dated 14th September 2021. We make it clear, that the Respondent No.3-Cycling Federation of India shall not reject the Petitioner's name, on the ground of delay in forwarding the Petitioner's name, post the deadline.

19. The Petition is allowed in the aforesaid terms. There shall, however, be no order as to costs.

20. In view of the order passed in the Writ Petition, the civil application does not survive and stands disposed of accordingly.

21. All parties to act on authenticated copy of this judgment.

M.S. JAWALKAR, J.

REVATI MOHITE DERE, J.

SANTOSH S MHAMAL  Digitally signed by SANTOSH S MHAMAL
Date: 2021.11.17 19:10:38 +05'30'