

RAJESH
VASANT
CHITTEWAN

WRIT PETITION NO.9433 OF 2021

Versus

And Others

... Respondents

Mr. R.S. Pawar, AGP for the State.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 23 DECEMBER, 2021

P. C. :

Heard Mr. Krishna Rodge, learned Counsel appearing for the Petitioner.

2 The Petitioner is challenging the order passed by Respondent No.3-The Joint Director, Sports and Youth Services, Pune. The Petitioner was appointed in the service of Respondent No.6-Lokmanya Tilak Municipal Corporation General Hospital and Medical College, Shiv, Mumbai as Staff Nurse from the sportsman quota. Perusal of the communication shows that for seeking appointment, the Petitioner relied on certain certificate showing his participation in a particular sports activity, i.e. Acrobatics Gymnastics at National Level.

3 It is informed to the Petitioner that for short reasons, which are

stated in the communication, the certificate, on which the Petitioner place reliance and entered in the services, is held illegal. The Petitioner is then informed that in case of any grievance against the order of the authority dated 7 September 2021, the Petitioner can avail remedy of filing the appeal before Respondent No.2-The Joint Director, Sports and Youth Services, Pune, within stipulated period of two months. Learned Counsel for the Petitioner invited our attention to Exhibit 'J', at page 82 of the petition, to submit that the Petitioner had filed a representation to the authority and the representation is pending before the authority till date and as there is no other option for protecting the interest of the Petitioner, the Petitioner is before this court.

4 We are unable to treat document placed on record at Exhibit "I", as appeal when the Petitioner was specifically informed by the communication dated 7 September 2021, if they have objection, they can file appeal within two months from the receipt of the communication. The Petitioner submitted representation, expecting that the authority shall decide the representation, treating it as an appeal. As we are not inclined to treat the said document as representation and in view of the communication dated 7 September 2021, the Petitioner can avail remedy of appeal within the stipulated period.

5 We are of the opinion that the petition can be disposed of with the following directions :

- (a) The Petitioner is directed to file a proper appeal along with application for any interim order, if the Petitioner desirous, before the Competent Authority referred to in communication dated 7 September, 2021, namely, Respondent No.2-the Joint Director, Sports and Youth Services, Pune, without **four weeks** from today.
- (b) If such appeal and application are received by Respondent No.2, Respondent No.2 shall not raise a rider to delay as the Petitioner was before this court. By of abandoned caution, we state that the delay, if any, is condoned by this court on filing of such appeal and the application before the authority-Respondent No.2. The authority to decide the appeal as expeditiously as possible.
- (c) By way of protective order, we direct Respondent Nos.5-The Commissioner, Brihanmumbai Municipal Corporation, Mumbai and Respondent No.6-The Dean, Lokmanya Tilak Municipal Corporation General Hospital and Medical College, Shiv, Mumbai, not to take any coercive action in pursuance of the communication dated 7 September 2021, till the Petitioner files appeal and the application before Respondent No.2. We further make it clear that as soon the Petitioner approaches the competent authority, Respondent No.2, and files appeal and the applications, the protective order granted in favour of the Petitioner, shall stand vacated.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)