

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

LPA-331-2021 (O&M)

Date of Decision: March 31, 2021

Jass Inder Singh Baidwan

.... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN,
HON'BLE MR. JUSTICE VIVEK PURI**

Present: Mr. Dilraj Singh, Advocate,
for the appellant.

Mr. Suveer Sheokand, Addl. Advocate General, Punjab.

Vivek Puri, J.

The matter has been taken up through Video Conferencing in the light of Pandemic COVID-19 situation and as per instructions.

Short affidavit of Smt. Navreet Kaur Sekhon, PCS Secretary Examination, Punjab Public Service Commission on behalf of respondent nos. 2 and 3 has been circulated through E-mail in the Court today and the same is taken on record.

Brief facts of the case are that the appellant has applied for the Punjab State Civil Services Combined Competitive Examination 2020 as a

Sports category candidate. The appellant possessed the eligibility as per the laid down criteria and was conferred the status of a player of Grade-B representing the State of Punjab in the sports of cricket. He had bagged first position (Gold Medal) in C.K. Naidu National Championship of Cricket under-23 category. He had submitted the sports certificates as sought by the Punjab Public Service Commission (for short 'Commission') on 16.12.2020, but no objection was raised. Considering the sports achievement of the appellant, after scrutiny of the documents, the candidature of the appellant was approved against the category of sports person, as is made out from the admit card (Annexure P-7). He appeared in the preliminary examination and managed to score 198 marks, which were 66 marks higher than the Sports category cut off. However, the candidature of the appellant has been considered in General category and he fell short of cut off marks of 244.5 pertaining to general category. The candidature of the appellant has been unilaterally shifted from sports to general category without the change of criteria and at the back of the appellant. The Punjab Civil Services Main examination is scheduled to commence from 01.04.2021. The appellant has challenged the action of the respondents by filing a writ petition bearing No. CWP-6107-2021 and also sought for interim relief of provisional candidature for appearing in the main examination as well as the subsequent interview during the pendency of the writ petition.

Learned Single Bench though issued notice of motion vide order dated 18.03.2021, but the prayer for interim relief was not considered.

Aggrieved, the appellant has filed the present intra-court appeal seeking the interim relief of provisional candidature to appear in the PCS

Main examination as the same has not been granted to him by the learned Single Judge.

It has been argued by the learned counsel for the appellant that he has represented State of Punjab in sports of cricket in C.K. Naidu National Championship of Cricket under-23 category. The appellant had applied in the category of Sports, the admit card was issued to him in the said category and accordingly, he appeared in the preliminary examination. However, his category has been wrongly shifted to general category, resulting in serious prejudice and injustice to him. As the admit card has been issued in sports category, he becomes entitled for provisional candidature to appear in the main examination scheduled to commence from 01.04.2021.

Per contra, it has been argued by the learned State counsel that the roll number had been issued on the basis of the documents furnished by the appellant. On scrutiny of the documents, it was found that the appellant was not qualified to be considered against sports category as the game of cricket is not included which is governed by the Indian Olympic Association as mandated by the Punjab Recruitment of Sportsmen (First Amendment) Rules, 2020. The admit card in sports category was issued on the basis of the category under which the appellant had submitted the application. All the candidates who had submitted the applications in Sports category were asked to submit the sports gradation certificate by the office of Commission to determine their eligibility in the Sports Persons category in terms of the Punjab Recruitment of Sportsmen (First Amendment) Rules, 2020 (for short 'Rules, 2020'). After the scrutiny of the documents, a public notice (Annexure R/1) was uploaded on the website of the Commission on

09.02.2021 mentioning the list of the rejected candidates who were not covered under the definition of Sports Persons Punjab as per the Rules, 2020. The appellant had participated in the sports i.e. cricket, which is neither affiliated nor recognized by the Indian Olympic Association as mandated by the Rules, 2020. As per the memorandum and rules and regulations of the Indian Olympic Association, the game of cricket is not included which is governed by the Board of Control for Cricket in India (for short 'BCCI'). The appellant was found to be ineligible in sports category and thus, considered in basic category i.e. general category.

We have heard learned counsel for the parties and perused the record.

Admittedly, the appellant had submitted his application in Sports category, the admit card was also issued in the said category and consequently, the appellant had appeared in the preliminary examination. The preliminary examination was scheduled to be held on 13.02.2021. Prior thereto, i.e. on 09.02.2021, a list of candidates, who were not covered under the definition of Sports persons, Punjab, was uploaded. The name of the appellant had been reflected at Serial No. 68 in the list. Consequently, the candidature of the appellant has been shifted to general category. As per the version of the appellant, he has secured 198 marks, which is more than the cut off marks in the category of Sports Persons, but less than the cut off marks in General category. The provision of the Rules, 2020 provides as following:-

“2(a) In the case of recruitment to a reserved vacancy in Group A or Group B posts:-

(i) that he belongs to the State of Punjab; and

(ii) that he has won Gold, Silver or Bronze Medal in Senior National Championship or National Games in team or individual events while representing the State of Punjab in such sports events as have been conducted by such respective National Sport federations as are affiliated or recognized to the Indian Olympic Association;

or

(iii) that he has won first, second or third position in team or individual events and/or he has won first, second or third position in team or individual events and or he has won Gold or Silver or Bronze Medals at International Sports meets, conducted by Sports Federation affiliated or recognized by the International Olympic Committee or by the International Olympic Committee itself.”

The game of cricket is governed and controlled by the BCCI.

As per the memorandum and rules and regulations of Indian Olympic Association, the BCCI is not affiliated or recognized with Indian Olympic Association. In such circumstances, the appellant cannot be termed to be eligible in sportspersons category.

The main plank of the argument as put-forth on behalf of the appellant is to the effect that the admit card had been issued to him in the Sports Persons category and as such, he becomes entitled to the provisional candidature to appear in the PCS Main examination. Now, it has to be seen as to whether issuance of such an admit card will enure any vested right to the appellant to appear against the Sports Persons category in the main examination. In this regard, it may be mentioned here that the admit card was issued in the category as mentioned by the appellant in the application form. However, on submission of the sports certificates and scrutiny thereof, he was found to be ineligible to compete in the Sports Persons category and

accordingly, his result has been declared in the basic category. It can't be said that any vested right has accrued to the appellant or any prejudice occurred to him as prior to the preliminary examination, a public notice was uploaded on the website of the Commission, which provides as following:-

“PUBLIC NOTICE

PUNJAB STATE CIVIL SERVICES COMBINED

COMPETITIVE EXAMINATION-2020

1. *It is for the information of the candidates who have applied for the ibid posts in Sports Persons category Punjab that the scrutiny of Gradation certificates of candidates is being carried out. On the basis of ongoing scrutiny the candidates as per list attached as annexure-A have been found ineligible so far in the category of Sports Persons, Punjab as per the reasons mentioned against their names. These candidates will be considered in their basic category as mentioned against their names.*

2. **It is also informed that due to technical constraints the Admit Cards to these candidates had been issued in the category mentioned in the online application form but the result would be declared in their basic categories as mentioned in annexure-A.**

3. *It is further informed that the eligibility of the candidates in Sports Persons Category as per list annexure-B is subject to the clarification sought from the office of Director Sports, Punjab Chandigarh. Their eligibility will be finalized after the clarification is received from Director, Sports Punjab.”*

Merely because on account of some technical constraints, the Admit Cards to the candidates have been issued on the basis of the category mentioned in the online application will not result in accrual of any vested right to the appellant to appear, compete and considered in the category of

Sports Persons. A public notice was uploaded prior to the preliminary examination and it has been specifically and categorically provided that due to technical constraints the Admit Cards were issued in the category mentioned in on-line application form. Furthermore, it has also been specifically reflected that the result of the candidates will be declared in their basic categories as mentioned in the list (Annexure-A) of the public notice. It shall not be out of place to mention here that the candidature of 281 candidates, who had been considered in the Sports category, on examination and scrutiny of the documents have been shifted to their basic category on account of being not covered in the definition of Sports Persons as prescribed under the Rules or on account of non submission of Sports Gradation certificate or on account of non submission of any document. The name of the appellant finds mention at Sr. No. 68. The candidature of the appellant has been shifted to basic category prior to holding of preliminary examination.

In these set of circumstances, the claim of the appellant for interim relief of provisional candidature to appear in the PCS Main examination cannot be accepted. As such, we do not find any illegality or irregularity in the impugned order passed by the learned Single Judge warranting interference in it.

Accordingly, present appeal is dismissed.

[JITENDRA CHAUHAN]
JUDGE

[VIVEK PURI]
JUDGE

March 31, 2021

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<i>Whether speaking/reasoned</i>	:	<i>Yes / No</i>
<i>Whether reportable</i>	:	<i>Yes / No</i>