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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.11829 OF 2022

**KISHOR WAMARAO WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA, THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS**

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Mr S. S. Thombre, Advocate for petitioner;
Mr P. S. Patil, A.G.P. for respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 29th November, 2022

PER COURT:

1. The petitioner seeks to challenge the communication dated 02/11/2022, issued by the Deputy Director, Sports and Youth Services, Latur Division, Latur, addressed to the petitioner, informing him that, since there is a shortfall of documents and material to consider the authenticity of his being a qualified player in the Ice Hockey game, his request for issuance of a certificate, which would enable him to apply for employment in the 5% reservation for the Sports category, cannot be considered.

2. According to the petitioner, the concerned authority has not taken any decision in view of the last sentence in the impugned

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communication, which reads as “सबब श्री. किशोर वामनराव वाघमारे यांनी सादर केलेला प्रमाणपत्र पडताळणी अर्ज नस्तीबंद करण्यात येत आहे”. He prays that the authority should pass an order, either granting such certificate or otherwise.

3. The learned A.G.P. has strenuously canvassed that, though the petitioner has claimed to be involved in the Ice Hockey competition, there should be enough material before respondent No.4, in the light of the Government Resolution dated 01/07/2016, vide which, the said authority can issue a certificate confirming the petitioner being a sports person, so as to entitle him to the 5% reservation in appointments in Government service. If sufficient material is not available, respondent No.4 could not have allowed the application.

4. The learned Advocate for the petitioner submits that, the petitioner is aggrieved by the fact that respondent No.4 has declined to draw a conclusion or take a decision. If he rejects the application, the petitioner would be then approach the appropriate authority for redressal of his grievance. However, as no order is being passed and the file is simply closed, the petitioner is in an uncertain condition. He, therefore, prays that the Maharashtra Ice

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Hockey Association can be called upon to tender relevant documents to indicate the participation of the petitioner in various recognized competition, by virtue of which, he would be eligible to be awarded with a sports person certificate.

5. We have considered the impugned communication, which cannot be said to be an order, as respondent No.4 has merely referred to the procedure, by which, documents can be uploaded and tendered to the department. The documents are to be supplied within 20 days of the conclusion of the competition. We have perused the certificate issued to the petitioner by the Ice Hockey Association of Maharashtra, which claims that the petitioner had participated in the 8th Maharashtra State Ice Hockey Championship 2021-2022, as a player. The communication at page 18 does not carry the date of its issuance.

6. We are entertaining this petition, only for the reason, that the impugned order is inconclusive and does not render any decision. A proceeding ought not to be kept pending or inconclusive. A proceeding culminates with the passing of an order. It is, therefore, desirable that respondent No.4 should pass an order on the proposal of the petitioner.

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7. In view of the above, this petition is disposed off, with the following directions :-

- (a) The impugned communication would not be treated as an order.
- (b) Since the Maharashtra State Ice Hockey Association has been added as respondent No.5, and we are disposing off this petition without issuing notice, we direct the petitioner to serve a copy of this order upon respondent No.5, as expeditiously as possible and in any case, on or before 02/12/2022.
- (c) Respondent No.5 will tender the additional documents to respondent No.2, as expeditiously as possible and in any case, on or before 09/12/2022.
- (d) Respondent No.2 shall upload the documents on the website, on or before 20/12/2022.
- (e) Respondent No.4 shall scrutinize the uploaded documents, as well as any note or remarks by respondent No.2, and decide the application filed by the petitioner, as expeditiously as possible and in any case, on or before 05/01/2023.

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(f) Needless to state, a reasoned order will be passed by respondent No.4.

8. Considering Clause 12(ii) of the Advertisement, pertaining to the recruitment of Police Sepoy/Police Sepoy Driver/Armed Police Sepoy/Recruitment Drive of 2021, the petitioner would be at liberty to file an application, strictly as is provided for. It is made clear that the filing of the application by the petitioner, in the light of the advertisement, as adverted to above, will create no equities in favour of the petitioner.

9. We also make it clear that, we have not expressed any opinion in favour of the claim of the petitioner and it would be respondent No.4, who would independently arrive at a decision in the light of his scrutiny and verification of the documents.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

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