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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 3195 OF 2022**

Jayashree D/o Govind Naik .. Petitioner

**Vs.**

The State of Maharashtra and ors. .. Respondents

Mr. S. B. Talekar a/w Ms. Madhavi Ayyappan i/b  
Talekar & Associates, for Petitioner.

Mr. B. V. Samant, AGP for State.

**CORAM: DIPANKAR DATTA, CJ &  
M. S. KARNIK, J.**

**DATE: MARCH 23, 2022**

**P.C.:**

1. This writ petition is directed against the order dated January 31, 2022 passed by the Maharashtra Administrative Tribunal, Mumbai (hereafter "the Tribunal", for short) effectively dismissing Original Application No. 1020 of 2021. The said original application was instituted by the petitioner under section 19 of the Administrative Tribunals Act, 1985.

2. Perusal of the impugned order reveals that the Tribunal declined to entertain the point raised by Mr. Talekar, learned advocate for the petitioner to the effect that once a certificate has been issued certifying that the petitioner is a sports woman, who is entitled to obtain public employment on the basis of such certificate in the sports quota, the authority has no power to recall such certificate upon exercising the power

of review which, Mr. Talekar contended, should be statutorily conferred.

3. The Tribunal refused to entertain the point raised by Mr. Talekar only on the ground that Government Resolution dated July 1, 2016 provided two appeals, the first before the Joint Director, Sports and Youth Services and the second before the Commissioner, Sports and Youth Services, and the petitioner ought to pursue her appellate remedy.

4. Ordinarily, we would not have interfered with the order of the Tribunal; however, having heard Mr. Talekar and Mr. Samant, learned AGP appearing for the State, we are left with no option, but to set aside the order of the Tribunal and direct a remand of the matter to the Tribunal for fresh consideration in accordance with law.

5. It has been brought to our notice by Mr. Talekar that the Commissioner of Sports and Youth Services by his letters dated November 26, 2021 addressed to the Divisional Deputy Director of Sports and Youth Services and the Secretary, Maharashtra Public Service Commission, had disclosed his mind that the certificate issued in favour of the petitioner cannot be considered for offering the petitioner appointment in any of the vacancies in the sports quota on the ground mentioned therein. Consequently, the Commissioner ordered that the process by which the certificate was issued in favour of the petitioner certifying her as a sports woman entitled to public employment must be re-verified. It has also been shown to us by Mr. Talekar that by letter dated November 29, 2021 issued by the Deputy Director, Sports and Youth Services, it has been conveyed to the petitioner that the

Commissioner, Directorate of Sports and Youth Services, Pune has ordered cancellation of the certificate issued in favour of the petitioner.

6. Perusal of such letters would leave no manner of doubt that the Commissioner has prejudged the issue by observing that the certificate, which the petitioner produced for obtaining public employment, is not worthy of consideration and that steps should be taken for cancelling the same. The Commissioner having said so in clear and unambiguous terms, any appeal before any authority subordinate to the Commissioner by way of first appeal or a second appeal to the Commissioner would be of little help for the petitioner. A bias is likely to operate, which went unnoticed by the Tribunal. In such view of the matter, the Tribunal itself ought to have considered the issue raised by Mr. Talekar regarding the power of review that was exercised by the Deputy Director, Sports and Youth Services to cancel the certificate.

7. The order of the Tribunal stands set aside. The matter is remitted to the Tribunal, with the result that the original application would stand revived on the file of the Tribunal.

8. The writ petition stands allowed. No costs.

9. We request the Tribunal to expedite its decision on the original application, in accordance with law. Till such time the Tribunal decides the original application on merits, the petitioner's service shall not be disturbed.

10. It is made clear that continuance of the petitioner in service, till such time the Tribunal decides the original application afresh, will be without prejudice to the rights and

contentions of the respondents in such application and that, at the time of final hearing, the petitioner shall not claim any equity arising from continuance of her service in terms of this order. All contentions on merits are left open.

**(M. S. KARNIK, J.)**

**(CHIEF JUSTICE)**