



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.9570 of 2021

and

W.M.P. (MD) Nos.7330, 7331 & 7332 of 2021

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Punniya Suriyan

... Petitioner

vs.

1.The State of Tamilnadu
rep.by its Secretary
Home (Police V) Department
Fort St.George, Chennai-9

2.The Director General of Police
Tamil Nadu, Chennai-600 004

3.The Chairman
Tamil Nadu Uniform Service Recruitment Board
Pantheon Road, Egmore, Chennai-08

4.The Secretary
All India Police Sports Control Board
Hall No.002, Ground Floor
IBCTS Building, Gate No.4
Kuan, New Delhi

5.The Secretary General
Athletic Federation of India
F-90, 2nd Floor, Narina Industrial Area, Phase I
Near PVR Cinema, New Delhi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records in connection with the impugned order passed by the 3rd respondent proceeding Nil, dated 16.03.2020 and directing the respondents to conduct further selection process independently to the petitioner and appoint him as Sub Inspector of Police.

For Petitioner : Mr.Chellapandian.S.

For Respondents : Mr.Veera Kathiravan

Additional Advocate General
assisted by Mr.A.K.Manikkam
Special Government Pleader

O R D E R

The relief sought for in this writ petition is to quash the order dated 16.03.2020, passed by the respondents and to direct them



to conduct further selection process independently and to appoint the petitioner as Sub Inspector of Police.

2. A question arises whether High Court can interfere with the selection process, more specifically by directing the Authority Competent to conduct fresh selection process.

3. The power of judicial review under Article 226 of the Constitution of India is to ensure the process during which a decision is taken in consonance with the rules in force, but not the decision itself.

4. Regarding the scope of judicial review in the matter of selection, the Full Bench of Madhya Pradesh formulated questions of laws in respect of such selections in the case of **Ashutosh Pawar vs. High Court of Madhya Pradesh and others**, reported in **2018 (1) CTC 353** and question Nos.2 and 3 are relevant, which are extracted hereunder:

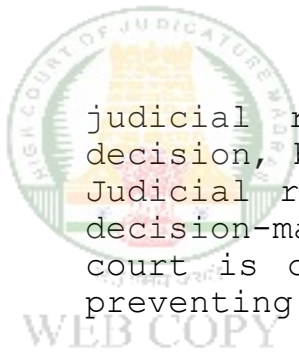
"2. Whether the High Court in exercise of its powers under Article 226 of the Constitution of India, can step into the shoes of the Appointing Authority and determine as to whether the person concerned is fit for appointment or whether the High Court on finding that the Authority concerned has wrongly exercised its discretion in holding the candidate to be ineligible should, after quashing the order, remit the matter back to the authority concerned for reconsideration or for fresh consideration as to the eligibility of the person?

3. Whether the High Court while allowing such a petition in exercise of its powers under Article 226 of the Constitution of India can issue a further direction to the authority to appoint the person concerned on the post from the date his batchmates were appointed and to grant him back dated seniority and all other benefits or whether the High Court should simply remit the matter back to the authority for taking a decision in this regard?"

5. The Full Bench further considered the scope of judicial review under Article 226 of the Constitution of India by the High Courts.

6. In the case of **Chief Constable of the North Wales Police v. Evans [(1982) 3 All ER 141, 154]**, Lord Brightman said that

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judicial review, as the words imply, is not an appeal from a decision, but a review of the manner in which the decision was made. Judicial review is concerned, not with the decision, but with the decision-making process. Unless that restriction on the power of the court is observed, the court will in my view, under the guise of preventing the abuse of power, be itself guilty of usurping power.

7. In the same case, Lord Hailsham commented on the purpose of the remedy by way of judicial review under RSC, Ord. 53 that this remedy, vastly increased in extent, and rendered, over a long period in recent years, of infinitely more convenient access than that provided by the old prerogative writs and actions for a declaration, is intended to protect the individual against the abuse of power by a wide range of authorities, judicial, quasi-judicial, and, as would originally have been thought when I first practiced at the Bar, administrative. It is not intended to take away from those authorities the powers and discretions properly vested in them by law and to substitute the courts as the bodies making the decisions. It is intended to see that the relevant authorities use their powers in a proper manner.

8. In ***R. v. Panel on Takeovers and Mergers, exp Datafin plc (1987) 1 All ER 564***, Sir John Donaldson, M.R. Commented that an application for judicial review is not an appeal.

9. In ***Lonrho plc v. Secretary of State for Trade and Industry [(1989) 2 All ER 609]*** Lord Keith said that judicial review is a protection and not a weapon. It is thus different from an appeal. When hearing an appeal the Court is concerned with the merits of the decision under appeal.

10. In ***Amin v. Entry Clearance Officer [(1983) 2 All ER 864]***, Re, Lord Fraser observed that judicial review is concerned not with the merits of a decision but with the manner in which the decision was made... Judicial review is entirely different from an ordinary appeal. It is made effective by the court quashing the administrative decision without substituting its own decision, and is to be contrasted with an appeal where the appellate tribunal substitutes its own decision on the merits for that of the administrative officer.

11. In ***R. v. Panel on Take-overs and Mergers, exp in Guinness plc [(1989) 1 All ER 509]***, Lord Donaldson, M.R. referred to the judicial review jurisdiction as being supervisory or 'longstop' jurisdiction. Unless that restriction on the power of the court is observed, the court will, under the guise of preventing the abuse of power, be itself guilty of usurping power.

12. The duty of the Court is to confine itself to the question of legality. It's concern should be:



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- (i) Whether a decision-making authority exceeded its powers?
- (ii) Committed an error of law,
- (iii) Committed a breach of the rules of natural justice,
- (iv) Reached a decision which no reasonable tribunal would have reached or,
- (v) Abused its powers.

13. Therefore, it is not for the Court to determine whether a particular policy or particular decision taken in the fulfillment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

- (i) **Illegality:** This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.
- (ii) **Irrationality,** namely, **Wednesbury** unreasonableness.
- (iii) **Procedural impropriety.**

14. This Court is of the opinion that the very relief sought for by the petitioner is misconceived. No doubt, the petitioner has participated in the selection process for appointment to the post of Sub Inspector of Police. He was successful in the written examination and participated in the physical verification test and endurance test. The petitioner submitted application under the sports quota. However, the certificate in the required format has not been submitted. The petitioner though enclosed such certificate while applying, it is not in the proper format and authorized by the proper designated authorities. The said issue has been considered by the Authorities Competent and in this regard, paragraph No.5 of the counter affidavit filed by the third respondent is relevant and it is extracted hereunder:

"5. It is submitted that during scrutiny by the board it was found that the petitioner had uploaded the merit certificates for the above events instead of the certificates in specified format as Form I, Form II or Form III as per notification. Hence he was not considered under sports quota and his status was changed from sports to general category. The eligibility criteria for claiming 10% sports quota has been enumerated in Para 10 of the Information Brochure, which is as below:

Para 10. ELIGIBILITY FOR APPLYING UNDER 10%

SPORTS QUOTA:

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i.Candidates applying under 10% Sports Quota should fulfill all the norms prescribed for open candidates. In addition, the candidate is required to produce Form-I or Form-II or Form-III for the approved 15 games / sports for an event held within 5 years preceding the date of notification i.e. from 08.03.2014 to 08.03.2019.

ii.The details of certificates required for claiming sports quota are as follows:

Type of form	Level of participation	Issuing authority
FORM-I	Represented India at International Competition	Secretary of the National Federation of the game concerned.
FORM-II	Represented State at National Level Competition	Secretary of the National Federation or Secretary of the State Association of the game concerned.
FORM-III	Represented University at Inter-University Competition	Director or other officer in-charge of sports in the University

iii.List of approved Games and Sports

1.Basket Ball, 2.Football, 3.Hockey, 4.Volley Ball, 5.Hand Ball, 6.Kabbadi, 7.Wrestling, 8.Boxing, 9.Gymnastics, 10.Judo, 11.Weight Lifting, 12.Aquatics (Swimming), 13.Athletics, 14.Equitation (Horse riding) and 15.Rifle Shooting.

iv.The candidate should have participated in the events representing Tamil Nadu State / Indian Nation and obtained the Form I or Form II certificates from the recognized associations of Sports Development Authority of Tamil Nadu or Tamil Nadu Olympic Association or Indian Olympic Association.

v.The candidates should have participated in the events representing the Tamil Nadu Colleges / Universities and obtained the Form III certificates from the Director or other officer



in-charge of sports in the University."

15. In such view of the matter, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

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Fort St.George, Chennai-9.
- 2.The Director General of Police,
Tamil Nadu, Chennai-600 004.
- 3.The Chairman,
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- 5.The Secretary General,
Athletic Federation of India,
F-90, 2nd Floor, Narina Industrial Area, Phase I,
Near PVR Cinema, New Delhi.

+1 CC to M/s.SPL GP (SR-14245[F] dated 24/03/2022)

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