

112

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.14811 OF 2022

DATE OF DECISION : 14.07.2022

Harshit Yadav

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Vipin Pal Yadav, Advocate,
For the petitioner.

Mr. AmanBahri, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioner herein, *inter-alia*, seeks issuance of a writ in the nature of mandamus directing the respondents to consider the case of petitioner for the post of Clerk in ESP-BCB category as applied in the application form instead of BCB category.

2. Having remained unsuccessful in the selection process qua the post of Clerk, the petitioner claiming himself to be an eligible Sports Person in Kabbadi is challenging the entire selection process on the ground that in the advertisement dated 20.06.2019 (Annexure P-1), it is not clear as to what is the criteria to be adopted to determine the eligibility of a sports person.

3. Before adverting to the claim of petitioner, it would be apposite to reproduce the relevant Clause 6 from the advertisement, which is as under :

“Clause 6 : The SC/BCA/BCB/EWS/ESP and PwD (Person with Disabilities) candidates are required to upload SC/BCA/BCB/EWS/ESP and PwD (Person with Disabilities) Certificate duly issued by the competent authority and submit the same when called upon to do so by Haryana Staff Selection Commission.”

4. A perusal of the above Clause, leaves no manner of doubt as it is clearly stated therein that only those sportsperson would be considered who have got sports gradation certificates issued from the competent authority.

5. On a Court query, learned counsel for the petitioner submits that petitioner was not aware as to who is the competent authority but he assumed that the Director General of Sports, Ministry of Youth Affairs and Sports, Government of India who had given certificate to the petitioner for having participated in an event called ‘*Khelo India, 2019*’, where he was a part of the team representing State of Haryana coupled with the certificate issued by Amateur Kabaddi Association, Haryana and yet his candidature under the ESP (BCB) category has not been entertained.

6. On advance service of copy of the petition, learned State counsel appears and submits that competent authority to issue the gradation certificate of any sports event is Director General of Sports of the State Government and not Central Government. He submits that all those candidates who have given sports certificates issued from State of Haryana have been given due benefit of the same wherever they are found deserving. He further points out that Amateur Kabaddi Association, Haryana is not competent to issue any sports gradation certificate and therefore, the same cannot be taken into consideration.

7. I have heard rival contentions of learned counsels for the parties as noted herein above.

8. I am of the view that, first and foremost having remained unsuccessful in the first round, it is too belated for the petitioner to challenge the selection as a volte face knowing fully well that all the selected candidates have been issued appointment letters. That apart, this is not the first round of selection. In fact earlier selection which was later set-aside by this Court vide order dated 25.04.2022 rendered by this Court in CWP-15672 of 2021, took place sometime in the year 2020, pursuant to advertisement of 2019 and the petitioner at that time never showed any grievance qua the complaint now being made saying that he is not aware as to who is the competent authority to issue gradation certificate.

9. To be also noted, that advertisement is of the year 2019 and the petitioner has not only challenged the same belatedly in the year 2022 but had also participated in the first round of selection process which took place in the year 2020 where too he was unsuccessful as per the result declared. He never challenged the same on the ground that his candidature was not considered since his certificate was not issued by the Director Sports, Government of Haryana. It is another matter that this Court had to set-aside the entire result owing to the admission made by the Commission that there was an erroneous answer key which was the basis of conducting re-evaluation of all the candidates and which resulted in awarding of wrong marks to a large number of candidates across board and the same required to be rectified by re-evaluation on the basis of correct answer key. By virtue of the re-evaluation, the petitioner's answer sheet was also re-assessed but there was no change in his marks i.e., 46 which were same in the earlier round of assessment of his answer sheet.

10. Be that as it may, the controversy ultimately that needs adjudication is not assessment of answer sheet but whether or not he is entitled to be considered in the ESP category. I am inclined to accept the argument of learned State counsel that not only it is too belated at this stage to plead that petitioner was not aware as to who is the competent authority, but also having acquiesced to the entire selection process in the first round, petitioner is estopped now to turn around and say that his candidature ought to have been considered on the basis of certificate issued by the Director General of Sports, Government of India, even if it is not in accordance with law.

11. There is also no substance in the argument being canvassed by learned counsel for the petitioner that at the time of advertisement in the year 2019, there was no policy by the State government to seek sports gradation certificate from the competent authority/Director of Sports as the fallacy of the argument is borne out from language used in the advertisement clause which states that only those certificates which are issued by the competent authority are to be entertained. The competent authority, as per notification dated 25.05.2018 (**as has been argued by learned State counsel**), which is way prior to the date of advertisement, is Director Sports, Government of Haryana. The notification dated 25.05.2018 assigning the competent authority is not under challenge before me. Since the petitioner had submitted the certificate from an authority other than the one who has made competent authority, the same thus is of no significance.

12. For the foregoing reasons, no ground for interference by this Court is made out.

13. Dismissed.

JULY 14, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No