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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20247-2022 (O&M)
Date of Decision: 28.09.2022

SUKHWINDER SINGH AND OTHERS

..... Petitioners

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Dr. R.P.S. Girwar, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

CM No.15327 -CWP-of 2022

Application for placing on record Annexure P-10, the judgment of the Division Bench is allowed. Subject to all just exceptions CM stands disposed of.

CWP-20247-2022

Challenge in this petition is to the notification dated 25.05.2018 (Annexure P-9) whereby fresh guidelines in supersession of the earlier instructions dated 30.11.1993 have been issued for the issuance of Sports Gradation Certificate to Eligible Sports-person (ESP) for job under Sports quota and other purposes. The challenge is based on the ground that various categories of sportsman for obtaining the sports certificate according to the earlier policy now stand excluded and that is

violative of the law as the instructions as such have started applying retrospectively and against the rights of the petitioners.

The petitioners had earlier filed CWP No.12538 of 2019, which was disposed of as infructuous in view of the judgment of the Division Bench in **LPA No.1332 of 2019 'State of Haryana and another Vs. Shankar and others reported as (2020) 4 SCT 588**. Resultantly, liberty was given to seek the remedy before the Administrative Authority in terms of the judgment of the Division Bench and interim protection was granted for a period of 30 days.

Resultantly, the notification has been challenged. The Division Bench while dealing with the said issue had specifically dealt with the fact as to whether policy is liable to be sustained or not and liable to be quashed being violative of Articles 14 and 16 of the Constitution of India and rejected the arguments raised.

The relevant portion reads as under:-

“Learned counsel for the Writ-Petitioners have contended that the said new policy, as framed by the Government, is violative of Articles 14 and 16 of the Constitution of India as it deprives a number of the sports persons, who were issued or were entitled to obtain the Gradation Certificates under the old instructions, of the opportunity to be selected for the government jobs under the ESP category and hence, it is liable to be quashed on this score alone.

On the other hand, learned Advocate General for the State has vehemently argued that the State, being the employer, has every right to lay down the eligibility criteria for the selection of the best candidates amongst the lot to serve it and the new policy has been framed with a view to afford opportunity to the sports persons having much better

achievements to their credit.

However, we do not find the contention of learned counsel for the Writ Petitioners to be tenable because it is the prerogative of the employer to settle the criteria for the jobs under a particular category so as to get the best employees to serve. Further, the old instructions only provided the parameters/guidelines to be kept in view by the competent authorities while issuing the Sports Gradation Certificates for the purpose of ascertaining the eligibility of the candidates to apply for the seats reserved for the outstanding players in Technical/Medical Institutions and the State Govt. jobs and there is nothing in the same to suggest that such certificates were meant for vesting any right in the sports persons to get selected for the Government jobs under the Sports Quota.

Moreover, the new policy has been framed about 25 years after the issuance of the old instructions. In normal course of events also, the substantive as well as the procedural laws require the modifications, and amendments after such a long span of time so as to keep pace with the continuing change in the circumstances and situations and even our Constitution has witnessed more than one hundred amendments after its coming into force/effect. Moreover, in the recent times, the sportspersons of the State have been performing quite well even at the international level and it being so, the State having come up with the new policy qua the guidelines/parameters to be taken into consideration by the competent authorities, for issuing the said Gradation Certificates, well commensurating with the performance level of the players of the State in the sports events, can, in no way, be termed to be violative of Articles 14 and 16 of the Constitution of India.”

Learned counsel for the petitioners fairly concedes that the

judgment of the Division Bench has been upheld by the Apex Court.

Keeping in view of the above, we are of the considered opinion that we see no reason to take a different view from the view that has already been taken by the Division Bench.

Accordingly, there is no merit in the present petition and the same is dismissed.

(G.S. SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

28.09.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>