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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Date of Decision: 12.12.2022**

% **LPA 710/2022**

PRASHANT Appellant

Through: Petitioner in person.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Balendu Shekhar, CGSC with
Mr. Krishna Chetanya, Advocate for
UOI.
Mr. Aditya Vikram Singh, Advocate
for NRAI.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SATISH CHANDRA SHARMA, CJ. (ORAL)

CM APPL. 53618/2022

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

LPA 710/2022 & CM APPL. 53619/2022

3. Cotton Mather, an acclaimed American writer from early 1700s, once spoke of history as "History is the story of events, with praise or blame". We think the same of every case that comes up before this Court for

adjudication. It has a history of its own, a story of its own events. And the story of this case goes like this. The Appellant, a shooting player, had been actively participating in the 10m Air Pistol shooting events in various State and National level tournaments. Admittedly, in 2017, the Appellant participated in the 40th U.P. State Shooting Championship' (Hereinafter referred as "the Championship"). Thereafter, in 2019, the appellant approached the Uttar Pradesh State Rifle Association (Hereinafter referred as "the State Association") – an affiliate body of National Rifle Association of India (Hereinafter referred as "the National Association") for the issuance of a participation certificate in lieu of his participation in the championship. In addition, the Appellant also sought permission to purchase an imported pistol of an advanced description. In response to this request, the Association served the appellant with a show cause notice dated 01.07.2019, thereby flagging certain discrepancies in the date of birth of the Appellant.

4. The show cause notice observed that in the online registration form filed by the Appellant for participating in the said tournament, the date of birth was mentioned as 21.08.2002, which was backed by two documents, namely, his birth certificate and his Aadhar Card. It further observed that the National Association sent the aforesaid registration form for verification to the State Association, wherein it was discovered that in the previously filled offline form submitted by the Appellant, before the State Association, a different date of birth was mentioned and two documents namely, a birth certificate issued by Municipal Corporation and his Aadhar Card were annexed to substantiate the same. In view of the same, the said show cause notice directed the Appellant to submit the authentic proof of his date of

birth, duly attested by the District Magistrate. The notice also flagged certain disciplinary issues on the part of the Appellant observed during the course of the Championship. Furthermore, in view of the disciplinary issues and presentment of forged government certificates as proof of date of birth, the aforesaid notice proposed a two years' ban on the Appellant from participating in national and state level competitions.

5. In response to the aforesaid notice, the Appellant submitted the proof of date of birth, along with supporting documents, duly attested by the Magistrate. However, no certificate was issued by the Respondents. After the passage of two years, as per the Appellant, he approached the Respondent associations for issuance of participation certificates but, to no avail. The Appellant then preferred a writ petition challenging the show cause notice dated 01.07.2019 and sought directions against the Respondents for issuance of a participation certificate as well as requisite permission to the Appellant to import a sport pistol so that he could participate in future tournaments. The writ petition was dismissed by Ld. Single Judge and the order of dismissal dated 24.11.2022 stands impugned before us.

6. During the course of hearing, a detailed counter affidavit was placed on record by the Respondent National Association. It so conspired that in 2017, the Appellant had submitted two forms before the State Association, namely the Championship registration form and a shooter ID form. The date of birth mentioned by the Appellant in both the forms was 21.08.1996. Subsequently, the Appellant submitted a new registration form wherein the date of birth was mentioned as 21.08.2002, duly backed by some new supporting documents, including his Aadhar Card and birth certificate issued

by the same authority. The show cause notice under question was issued in this backdrop and the Appellant filed no reply to the same. It is also a matter of record that the National Association has placed all the cases of age dispute before a review committee and the Appellant was afforded a hearing before the committee, wherein he took a stand that the earlier birth certificate, recording his date of birth as 21.08.1996, was never submitted by him and the document lying on the record of the Association was, in fact, doctored by the State Association. The relevant chain of circumstances has been recorded in the impugned order thus:

"7. Those minutes would indicate that when confronted with the documents which had been submitted by the petitioner before the U.P. State Rifle Association and the evident discrepancy in his date of birth, the petitioner took the incredible stand of alleging that the birth certificate which recorded his date of birth as 21 August 1996 had never been submitted by him. He is further recorded to have alleged that the documents have been doctored by the U.P. State Rifle Association. NRAI also called upon the petitioner to resolve all disputes by submitting himself to an Age Verification Test. He is, however, stated to have refused to undergo the said test. In view of the aforesaid stand which was taken, NRAI has ultimately concluded that as per the applicable rules insofar as issues relating to age related disputes are concerned, it is the records maintained by the State Association which would be relevant and determinative and therefore it would be imperative for the petitioner to undergo the Age Verification Test." (emphasis supplied)

In light of the aforesaid submission of the Appellant before the review committee, the National Association directed the Appellant to undergo an Age Verification Test (AVT), which was refused by the Appellant. In view of the National Sports Development Code of India, 2011 (Hereinafter

referred as “the Code”), it was incumbent upon the Appellant to undergo the medical examination to resolve the age dispute and ascertain his correct age.

7. In the impugned order, the Ld. Single Judge noted that the Appellant was unable to furnish any explanation as to how he could question the very document on the strength of which he admittedly participated in the tournament. It was further noted that the Appellant failed to explain as to why the cancellation of previous documents was not sought if they did not record the correct age of the Appellant. The Court further noted that the score sheets, attendance documents of the tournament and other material on record clearly belied the case of the Appellant. The relevant para reads thus:

"10. The Court finds itself unable to sustain the aforesaid contention since once the petitioner had come to participate in a competition on the strength of a birth certificate and which had been duly taken on record, it was incumbent upon the petitioner to have provided a plausible explanation for the evident discrepancy which existed. The allegation that was levelled against the State Rifle Association clearly lacks credibility and in any case appears to be wholly implausible bearing in mind the record which has been taken into consideration by the NRAI. The Court in this regard takes into consideration the certificates and testimonials which had been submitted at the relevant point of time as well as the attendance sheet and score cards of that tournament. That material clearly belies the allegation that stands levelled."

8. The order of Ld. Single Judge stands impugned before us, primarily on the ground that the Court failed to look into the supporting documents of the Appellant which indicated his date of birth as 21.08.2002. The Appellant has submitted that his documents were conclusive for the determination of his date of birth and the Court erred in relying upon the contested documents

of the Respondents as they were forged and fabricated. The Appellant has further submitted that he has been a victim of personal vendetta of the Respondent Association and the Court ought to have considered that while deciding his prayer.

9. We have heard the parties at length and now proceed to decide the controversy.

10. The Appellant submitted different information regarding his date of birth at different stages before the same Association. The Appellant also annexed different supporting documents to substantiate the information supplied by him. When the subsequent form was sent to the State Association for verification, it was nothing but proper for the Association to issue the show cause notice under question. The show cause notice was issued by the Respondent Association to elicit the truth regarding the date of birth of the Appellant. Moreover, considering the prevalence of age-related frauds in sporting activities at all levels, it was imminent for the Respondents to verify the credentials of the Appellant.

11. The Appellant failed to reply to the show cause notice and nothing has been placed on the record to indicate that duly attested proof, as required by the show cause notice, was submitted by the Appellant to the Association. Be that as it may, the Appellant approached this Court by way of a Writ Petition and sought directions to be given to the Respondents on the strength of two documents viz. Aadhar Card and a new birth certificate. Pertinently, these two documents are the same documents which were put to question by the Respondents, and rightly so, owing to the discrepancy in date of birth

between these documents and previously submitted documents. Thus, the controversy before the Court could not have been answered by looking into the documents of the Appellant himself. We reject the Appellant's contention that the Ld. Single Judge ought to have determined the date of birth of the Appellant solely on the basis of the documents submitted by him. The documents relied upon by the Appellant were inconsistent with previously submitted documents and this inconsistency was the root of the entire issue.

12. The matter of the Appellant was placed before the review committee of the National Association. In order to resolve the controversy, the committee found a way forward in the 2011 Code, and in accordance with the Code, the review committee proposed an Age Verification Test. The Appellant refused to undertake the verification test. The Ld. Single Judge during the course of hearing enquired from the Appellant about his willingness to undertake an age verification test. However, as noted in the impugned order, the Appellant refused and insisted upon the decision to be made on the basis of the (questioned) documents. The Appellant has taken an anomalous stand that the documents lying with the State Association were forged and fabricated by the Association itself. Without expressing any legal view on it, at the outset, we feel that this submission is not only devoid of any basis in fact, but is also a crude statement given in the Court in a highly casual and cavalier manner. Moreover, the clear reluctance on the part of the Appellant to submit himself to medical examination also goes on to show his own disbelief in the case set up by him in the writ petition.

13. The Constitution of India, under Article 226, permits the invocation of

writ jurisdiction of this Court for seeking appropriate directions/orders/writs for the enforcement of the rights enshrined in Part-III or for any other purpose. The *raison d'etre* underlying this fairly expansive power is to enable the High Courts to not only protect the fundamental rights of the citizens but also to enforce their legal rights against certain authorities. However, the first principles underlying this power dictate that the existence of a right in favour of the Petitioner in a writ petition is a pre-requisite for its exercise. In this case, the Appellant has failed to show any right accruing in his favour which entitled him to a relief against the respondents. The case set up by the Appellant, although presented as a simpliciter determination of rights existing in black and white, involves some complicated factual concerns, and we find ourselves in agreement with the larger policy of the Respondents which prescribes medical examination as a way forward in cases involving age disputes. In the face of certain serious concerns regarding the authenticity of documents, which may even attract criminal liability if proved satisfactorily, it would not be proper for a court of law to issue directions on the basis of those documents. Moreover, the contentious aspects of this case may not be judicially verifiable at this stage, however, they are scientifically verifiable.

14. As we move on, we may note that the Appellant, in the course of this appeal, moved an application for placing certain additional documents on record. The documents also include the report of the Age Verification Test of the Appellant, which was conducted after the dismissal of the writ petition i.e. after the impugned order was passed. It bears repetition that the Appellant had refused to undertake the said test when it was proposed by the

Ld. Single Judge. Be that as it may, we find ourselves unable to take the documents on record in view of the scope set out for this appeal. In a Letters Patent Appeal arising out of an order passed by the Ld. Single Judge in exercise of his original writ jurisdiction, the Court cannot enter into an examination of new facts which were never placed before the original Court. The domain of this proceeding is limited to finding unsustainable errors, if any, in the order passed by the original Court, and not to act as a Court of first instance and determine an entirely new set of facts. Even otherwise, the Court cannot directly examine the report of the Age Verification lest without first letting the Respondents examine the same. We would be advancing ahead of time until and unless the report of the Appellant is examined by the review committee of the National Association and a decision is taken in that regard. A Constitutional Court is best suited to adjudicate and enforce rights, and not to step into the shoes of the authorities and reverse the order of decision making. To preempt the decisions yet to be taken by the authorities is something we must refrain from doing. We say no more.

15. However, in the interest of justice and equity, we deem it appropriate to direct the Respondents to place the case of the Appellant before the review committee constituted for the determination of age disputes, and decide it afresh in light of the age verification report of the Appellant. Needless to observe, the decision shall be taken, unaffected by the observations recorded in this order or in the order of Ld. Single Judge.

16. In view of the above discussion, we find no merit in this appeal and accordingly, the same is disposed of. The order of Ld. Single Judge suffers no infirmity and is upheld.

Neutral Citation Number: 2023/DHC/000403

17. Interim applications, if any, stand disposed of in the aforesaid terms.
No order as to costs.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J.

DECEMBER 12, 2022

