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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

909 WRIT PETITION NO.7026 OF 2020

**SHRI. NILESH BHAGWAN RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

....

Mr C. V. Dharurkar, Advocate h/f Mr Shreerang Bhandarkar,
Advocate for petitioner;
Mr S. G. Karlekar, A.G.P. for respondent Nos.1 to 4

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 7th January, 2023

PER COURT:

1. The petitioner has approached this Court with prayer clauses (a), (b) and (c), which read as under :-

“a) by an appropriate writ, order and or direction hold and declare that, the impugned communication dated 10.09.2020 (ANNEXURE-K) issued by the Deputy Director of Sports and Youth Services, Aurangabad is arbitrary, illegal, unjust, and against the settled principle of law;

b) by an appropriate writ, order and or direction quash and set aside the impugned communication dated 10.09.2020 (ANNEXURE-K) issued by the Deputy Director of Sports and Youth Services, Aurangabad as being arbitrary, illegal, unjust, and against the principle of natural justice;

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c) by way of interim relief stay the effect, operation and implementation of the impugned communication dated 10.09.2020 (ANNEXURE-K) issued by the Deputy Director of Sports and Youth Services, Aurangabad, during pendency of the present Writ Petition;”

2. On 16/10/2020, this Court had directed status-quo to be maintained and consequentially, the petitioner continued in employment.

3. The learned Advocate for the petitioner relies upon an order dated 03/02/2021, passed by this Court (Coram : S. V. Gangapurwala and Shrikant D. Kulkarni, JJ.), in Writ Petition No.6693/2020, filed by Sachin Baliram Tawar Vs. The State of Maharashtra and others and group of cases, wherein this Court disposed off the writ petitions by relegating the petitioners to the statutory remedy of approaching the Joint Director of Sports, to espouse their cause. The learned Advocate for the petitioner prays that the petitioner may be permitted to approach the Joint Director and until then, the protection may be continued, akin to the order dated 03/02/2021.

4. The learned Advocate for the petitioner further submits that, he has secured employment as a ‘Police Constable’ in the Police

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Force on the strength of his sports certificate from the Sports Quota. As the Deputy Director, Sports and Youth Services, Aurangabad has cancelled the Sportsman Certificate of the petitioner, a D.E. has been initiated on the charge that the petitioner has produced a bogus certificate. He submits that the petitioner may be protected until the Joint Director decides the issue.

5. The learned A.G.P. has strenuously opposed this petition and submits that, this Court should vacate the protection, as several such candidates with bogus certificates, are continued in employment only because of the orders of the Court.

6. We are of the view that, a bogus certificate is a different issue than a genuine certificate, though the claim of the candidate may not stand the test of declaring him as a sportsman. Since the Joint Director would now consider the grievance of the petitioner, it would be appropriate to direct the Enquiry officer, not to deliver a final decision in the D.E. for reasons more than one. Firstly, that, if the certificate is found to be genuine irrespective of whether the petitioner was eligible to acquire the certificate or not, the charge leveled upon him would fail. Secondly, if the

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certificate is genuine and the claim of the petitioner is valid, the D.E. would be wholly unpurposeful and would stand neutralized.

7. In view of the above, this petition is disposed off, by relegating the petitioner to the Joint Director, Sports and Youth Services at Pune. The petitioner would approach the said authority within 7 days and the protection granted by this Court earlier, would continue for 15 days from today. We make it clear that the authority would consider the case of the petitioner on its merits, even for the purpose of grant of interim relief and would not be influenced by the fact that this Court had protected the petitioner while issuing notice in this matter. Naturally, we expect the Joint Director to take a decision on the interim relief application, within 15 days.

8. In view of the above, the pending civil application would not survive and the same stands disposed off.

(SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)

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