

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9424 OF 2022

JALINDAR DATTATRAYA HAKE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...
Advocate for the Petitioner : Ms.Akshara Madake i/by Shri
S.S.Thombre
AGP for Respondents 1 to 4 : Shri S.G. Sangle
Advocate for Respondent 5 : Shri P.S. Dighe i/by Shri V.R.
Dhorde
...

CORAM : RAVINDRA V. GHUGE
&
SANDIPKUMAR C. MORE, JJ.

DATE :- 14th February, 2023

Per Court :-

1. On 22.09.2022, we had passed the following order:-

- “1. *The petitioner has put forth prayer clauses B, C and D as under :-*
- “B. *By issuing writ of certiorari or any other writ or order or direction in the like nature, the impugned orders dated 06.05.2021 and 21.07.2022 passed by the respondent no.3 and 4 may kindly be quashed and set aside and for that purpose issue necessary orders;*
- C. *Pending the hearing and final disposal of this writ petition, the further proceedings pursuant to the impugned orders dated 06.05.2021 and 21.07.2022 passed by the respondent no.3 and 4 may kindly be stayed and for that purpose issue necessary orders;*
- D. *Pending the hearing and final disposal of this Writ*

Petition, the respondent authorities may kindly be restrained from taking any coercive action against the petitioner including the termination of his services pursuant to the impugned orders dated 06.05.2021 and 21.07.2022 passed by the respondent no.3 and 4 and for that purpose issue necessary orders;”

2. *We have considered the submissions of the learned advocate for the petitioner and the learned AGP. We find from the judgment dated 26.11.2020 delivered by the learned Maharashtra Administrative Tribunal in a batch of original applications that the certificates of participation issued by the Vidarbha Power Lifting Association were held to be forged certificates. The petitioner is a recipient of one such certificate, which does not even carry a date. He stood third in the local competition at Nagpur conducted by the Vidarbha Power Lifting Association, Nagpur, registered under the Societies Registration Act and claiming to be affiliated to the Indian Power Lifting Federation. The learned Tribunal, however, concluded that none of these beneficiaries/recipients have been heard before the order was passed by respondent No.4/Sports Authority concluding that the certificates are bogus.*
3. *The matter travelled to this Court at the Principal Seat in Writ Petition (Stamp) No.99090/2020 filed by Tejas Balasaheb Suryawanshi and others vs. The State of Maharashtra and others. Vide order dated 19.03.2021, it was directed as under :-*
- “5. *Having heard learned advocates for the parties, we dispose of this writ petition by the following order:-*

ORDER

- i. *The petitioners shall appear before the competent officer on March 23, 2021 at the scheduled time and be at liberty to place before such officer, all points in support of their respective claims;*
- ii. *If any of the petitioners fails to appear before the competent officer on March 23, 2021, such officer may pass an order ex-parte;*

- iii. *The aforesaid clause shall, however, be subject to the condition that if any of the petitioners is undergoing training and does not get a release order for attending the hearing, he may appear through his authorized representative or through an advocate of his choice; and*
- iv. *If any adverse order is passed against any or all the petitioners in pursuance of the hearing granted on March 23, 2021, effect thereof shall not be given for three weeks from date of service of such order on the concerned petitioner.*
- 6. *It is needless to observe that if the respondents propose to proceed for termination of service of such of the petitioners who are found to have produced certificates which are not genuine while entering service, the appropriate procedure prescribed under the relevant service rules shall be followed before bringing an end to the employer-employee relationship.*
- 7. *All contentions of the parties are left open.*
- 8. *There shall be no order for costs.”*
- 4. *The learned advocate for the petitioner submits, on instructions, that the petitioner was never heard and never received a notice of hearing. Yet, his certificate has been cancelled by the impugned order dated 21.07.2022 passed by respondent No.4. He is likely to lose his job with respondent No.5, which he has secured on the basis of such certificate.*
- 5. *Issue notice to the respondents, returnable on 13.10.2022. The learned AGP waives service of notice on behalf of respondent Nos.1 to 4. Humdast is granted, on request, to serve respondent No.5. If respondent No.5 is not served, the ad-interim protection that we would be granting, shall stand vacated without reference to the Court.*
- 6. *Since the learned AGP categorically states that he would produce the record to indicate that the petitioner was served with a notice of hearing, we would appreciate if an affidavit in reply is filed at least seven days prior to the returnable date in this matter and a copy thereof is served on the learned*

advocate for the petitioner.

7. *Until 13.10.2022, respondent No.5/employer would not issue an order of termination of the services of the petitioner, if not already terminated.*
8. *List this matter on 13.10.2022 in the urgent admissions category.”*

2. On 18.11.2022, we were informed that the services of the petitioner were already terminated.

3. It is undisputed that the impugned order dated 21.07.2022 passed by the Deputy Director, Sports and Youth Affairs, Nagpur Division, is without hearing the petitioner. His certificate declaring him to be a sports person in a particular discipline, has been cancelled on the ground that the sporting event in which he has participated, is not a game which is recognized for Olympics, Asian Games, Commonwealth Games, etc.. It was, therefore, concluded that the power lifting certificate issued to the petitioner, deserves to be cancelled. However, this conclusion has been drawn without giving an opportunity of hearing to the petitioner.

4. The Government Resolution dated 30.06.2022 was issued by the School Education and Sports Department, State of Maharashtra and 5% reservation in employment is provided to the sport persons, who have played a particular sporting event.

On internal page 6 of the said Government Resolution, the Committee headed by the Joint Director of Sports and Youth Affairs, Pune, comprising of a sports discipline expert and a player, who has been awarded the State level or National level or Arjun Award in the same discipline, as it's members, is formed by the State Government as a first appellate authority. It is prescribed that the decision delivered by the said committee can be subjected to a second appeal before the Committee headed by the Commissioner, Sports and Youth Affairs, Maharashtra State, Pune, comprising of the Divisional Deputy Director (Head Office), Sports and Youth Affairs, Pune and two members, who have excelled in the particular discipline.

5. The impugned order dated 06.05.2021, indicates that the petitioner was issued with a notice. Such notice was also published in daily "Lokmat" on 06.03.3021. The petitioner did not remain present for the said hearing. However, some of the similarly placed candidates, instead of appearing before the committee, had rushed to the High Court at the Principal Seat in Writ Petition (Stamp) No.99090/2020 (Tejas Balasaheb Suryawanshi and others vs. The State of Maharashtra and others).

6. In view of the above, **this Writ Petition is disposed off**, with liberty to the petitioner to approach the first Appellate Committee headed by the Joint Director of Sports and Youth Affairs, Pune. After such an appeal is filed, the said Committee would follow the due procedure laid down in law and by affording a reasonable opportunity of hearing to the concerned parties, would proceed to pass an appropriate order, preferably on or before 30.04.2023.

kps (SANDIPKUMAR C. MORE, J.) (RAVINDRA V. GHUGE, J.)