

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE**

WRIT PETITION NO. 15658 OF 2022

Shrikrishna Bhagwanrao Kharat,
Age-32 years, Occu.: Service,
Clerk Typist- at General Administration
Department, Mantralaya, Mumbai.
R/at Palaskheda (Dabhadi), Post Javkheda,
Tal. Bhokardan, Dist. Jalna, ... Petitioner.

V/s.

1. The State of Maharashtra,
(Through its Principal Secretary)
Department of Sports and Youth
Service, Mantralaya, Mumbai-32.
2. The Commissioner,
Sports and Youth Services,
Sports Complex, Balewadi, Pune.
3. The Joint Director,
Sports and Youth Services,
Sports Complex, Balewadi, Pune.
4. The Deputy Director,
Sports and Youth Services,
Sports Complex, Balewadi, Aurangabad.
5. The Desk Officer,
Establishment-19, General
Administration Department,
Mantralaya, Mumbai. ... Respondents.

**SANJAY
KASHINATH
NANOSKAR**

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SANJAY KASHINATH
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WITH

WRIT PETITION NO. 15722 OF 2022

Ramdas Bandu Jaybhay,
Age- 28 years, Occu.: Service,
Railway Police Constable,
Office of Deputy Commissioner of
Railway Police, Mumbai,
Area Manager Building,
4th floor, P.D. Malo Road,
Wadi Bandar, Mumbai
Permanent r/o At post Pimpalner,
Tq. Shirur (ka), Dist. Beed.

... Petitioner.

V/s.

1. The State of Maharashtra,
(Through its Principal Secretary)
Department of Sports and Youth
Service, Mantralaya, Mumbai-32.
2. The Commissioner,
Sports and Youth Services,
Sports Complex, Balewadi, Pune.
3. The Joint Director,
Sports and Youth Services,
Sports Complex, Balewadi, Pune.
4. The Deputy Director,
Sports and Youth Services,
Sports Complex, Balewadi, Aurangabad.
5. The Commissioner of Railway Police,
Mumbai. Area Manager Building,
4th Floor, P.D. Malo Road,
Wadi Bandar, Mumbai.
6. The Deputy Commissioner of Railway
Police, Mumbai. Area Manager Building,

4th Floor, P.D. Malo Road,
Wadi Bandar, Mumbai.

7. The State of Maharashtra
Through its Principal Secretary,
Home Department,
Mantralaya, Mumbai- 400 001.

... Respondents.

Mr.S.B.Talekar with Ms.Kalyani Mangave i/b. Talekar
& Associates for the Petitioners.

Mr.N.K.Rajpurohit and Mr.R.P.Kadam, AGP for the
Respondent- State.

**CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.**

DATE: 30 October 2023.

JUDGMENT : (Per Nitin Jamdar, J.)

By these petitions, the Petitioners are challenging the orders passed by the Maharashtra Administrative Tribunal dismissing their Original Applications. The Petitioners had filed Original Applications challenging the show cause notice issued to the Petitioners and the orders passed by the Respondents. The Respondent- State, the employer has taken action against the Petitioners on the ground that the Petitioners had submitted forged/

bogus sports certificates while securing appointments in the sports quota.

2. The Petitioner- Shrikrishna Kharat, in Writ Petition No.15658/2022, and Applicant in Original Application No.592/2021, was working as Clerk-Typist in the General Administration Department, Mantralaya. The Petitioner- Ramdas Jaybhay, in Writ Petition No.15722/2022 and Applicant in Original Application No.645/2021, was working as a Railway Police Constable in the office of the Deputy Commissioner of Railway Police, Mumbai.

3. The events leading to the impugned orders and the contentions of the Petitioners are common. Their Original Applications are disposed of by the Tribunal by a common order. They are argued before us together and are disposed of by this common judgment and order.

4. The State Government took a policy decision to encourage the sports persons who bring laurels to the State in National and International sports events. The State took into consideration that to achieve a certain level of excellence in sports, substantial time has to be invested, and it is not possible to the sports persons to focus on the studies at the same time; therefore, such sports persons are not able to compete in the educational and vocational fields. Pursuant to this objective, the State of

Maharashtra issued a Government Resolution on 1 July 2016 providing for reservation to the extent of 5% in the services for the sports persons who had excelled in the State and National level championships. This Government Resolution thereafter has been modified from time to time. This being the purpose and object of this reservation, it is important that only genuine sports persons must benefit from it. Any fraudulent entry under the guise of being a sportsperson must be prohibited and strictly dealt with. Unfortunately, as the record would show, the Petitioners have attempted to pervert this beneficial policy, depriving the genuine sports persons of the posts meant for them.

5. The Petitioner- Mr.Shrikrishna Kharat claimed that he, being a sports person, excelled in the second Maharashtra State Men-Women Trampoline Championship of 1998 held at Aurangabad and got second prize. An advertisement was issued by the Maharashtra Public Service Commission for recruitment to the post of Clerk-Typist in the year 2018. Mr.Kharat was selected after clearing the examination and was appointed to the post of Clerk-Typist by order dated 23 August 2019. After one year of service, Respondent No.4, cancelled the Sports Validity Certificate of Mr.Kharat by order dated 23 September 2020. Mr.Kharat filed the first appeal before Respondent No.3- Joint Director, Sports and Youth Service. It was dismissed by the Joint Director, of Sports and Youth Services on 22 June 2021. So he filed a second appeal before Respondent No.2- The

Commissioner of Sports and Youth Services which was rejected vide order dated 22 June 2021. Thereafter, on 29 October 2021, Respondent No.5- General Administration Department, Government of Maharashtra, issued a show-cause notice to Mr.Kharat in respect of the termination of services. Hence, Mr.Kharat filed the Original Application. He was continued in service by an interim order dated 3 November 2021 passed by the Tribunal.

6. As per the case of the Petitioner- Ramdas Jaybhay, he had participated in the 6th Maharashtra State Junior Under 19 Boys/Girls' Trampoline Championship. He secured third position in the said competition which was conducted from 10 to 12 February 2002 and organized by the District Trampoline Association of Aurangabad. An advertisement was issued for the post of Police Constable by the Respondent-State for the post reserved under the Sports Category as a 5% reservation was kept for Sports persons in Government service pursuant to a Government Resolution dated 1 July 2016. He was selected based on a Sports Certificate dated 29 January 2018 issued by the Maharashtra Amateur Trampoline Association. He joined the said post and started working from 2 February 2019. After almost 18 months, he received a letter dated 18 August 2020 from Respondent No.6- Deputy Commissioner of Police, Mumbai, wherein Petitioner- Jaybhay was called upon for a hearing on 31 August 2020, however, he did not attend the same. Thereafter, Respondent No.4- Deputy Director, Sports & Youth

Services, Aurangabad Division, issued notice to him that his Sports Certificate is verified and is cancelled and set aside by Respondent No.4. Mr.Jaybhay, therefore, challenged the said order before this Court by filing Writ Petition No.6963/2020. The said writ petition was disposed of with a direction to Mr.Jaybhay to approach the Joint Director, Sports & Youth Services, for filing the first appeal. Mr.Jaybhay filed the first appeal before Respondent No.3- Joint Director, Sports and Youth Services, on 5 February 2021. The first appeal was dismissed on 1 April 2021. So he filed a second appeal before Respondent No.2- Commissioner, Sports and Youth Services. However, the second appeal was dismissed on 3 August 2021. Mr.Jaybhay challenged the communication dated 25 September 2020 issued by Respondent No.4, cancelling the Sports Certificate. He also sought mandatory direction from Respondent No.4 to restore the validity of the Sports Certificate.

7. Both the Petitioners filed their respective Original Applications in the Maharashtra Administrative Tribunal. The Respondents opposed the Original Applications filed in the Tribunal.

8. The Tribunal considered the rival contentions and came to the conclusion that the Petitioners were given adequate opportunity. The material on record shows that the sports certificates produced by the Petitioners were bogus. The Tribunal noted the extent of the scam and the fact that 261 certificates were

being issued in 20 years when, at the most, 60 certificates could have been issued. The Tribunal accordingly, by the impugned order dated 9 June 2022 dismissed the Original Applications. The Petitioners are now before us with these writ petitions.

9. We have heard Mr.Talekar for the Petitioners and Mr.Rajpurohit and Mr.Kadam, Assistant Government Pleaders for the State. The petitions are argued with reference to the facts in the petition of Sri. Kharat and we have referred primarily to the facts in this petition.

10. The Petitioners' services were terminated. Mr.Kharat was terminated on 4 July 2022, and Mr.Jaybhay was terminated on 7 May 2022. Writ petitions were filed on 29 June 2022. The order which was impugned before the Tribunal is dated 26 October 2021. In these petitions, interim applications were taken out and leave was sought to amend the petitions to challenge the termination orders. The amendment was granted by order dated 27 July 2022 and it was carried out only on 10 April 2023 after seeking extensions.

11. The primary contention of the Petitioners is the breach of principles of natural justice. It is alleged that the copies of the reports relied upon by the Respondents to take action against the Petitioners have not been given to the Petitioners. The Petitioners contend that the copies of the report dated 14 July 2020 of Mr.Pathania, Honorary Secretary of the Association and the report

dated 14 July 2020 of Mr.Suhas Patil, Assistant Director of Sports and Youth Services, were not supplied to the Petitioners. The original record of the Association of the competition held in 1998 was not placed; only a duplicate record was placed after 17 years. It is submitted that the notices issued by the First Appellate Authority and the Second Appellate Authority were not served and the Petitioners could not appear before the Authorities. The Petitioners were not allowed to cross-examine the Honorary Secretary and the Chairman of the Association. Despite a direction, not only Mr.Kareer, President of the Trampoline Association, was not permitted to be cross-examined, but the documents were also not sent to a hand-writing expert. It is contended that the certificates of the Petitioners were verified. Thereupon, they were appointed, and once they were so appointed, this issue could not have been reopened. It is contended that the reports called for were not submitted and that the remedy of appeal provided to the Petitioners was a farce as the first and second appellate authorities i.e. the Joint and Deputy Commissioners, are the officers below the rank of the Commissioner who had issued the general directions regarding the bogus certificates and they could not have taken different view. The learned counsel for the Petitioners relied upon the decisions in *Capt. M.Paul Anthony v. Bharat Gold Mines Ltd.*¹; *Oryx Fisheries Private Limited v. Union of India*²; *Mahendra Pal v. State of Himachal*

1 (1999) 3 SCC 679

2 (2010) 13 SCC 427

*Pradesh*³; *State of Bihar v. Lal Krishna Advani*⁴; *Javed and others v. State of Haryana*⁵; *Board of Control for Cricket in India v. Cricket Association of Bihar*⁶; and *State of Punjab v. Davinder Pal Singh Bhullar*⁷.

12. The learned AGP for the Respondent- State supported the impugned order and submitted that the Petitioners were given show cause notices as to why they should not be terminated, which the Petitioners had challenged before the Tribunal and argued the matter on merits and thereafter, after the Tribunal had dismissed the Original Applications, the Petitioners, pursuant to the notices issued, were rightly terminated from service. The Respondents contended that the Petitioners were issued show cause notices before invalidating their sports certificates. The Respondents submitted that initially, Maharashtra Public Service Commission had conducted an examination at Kolhapur and suspected that the certificate issued to one person, namely, Mr.Vijay Borkar, in Trampoline, appearing for the examination for the post of Police Sub Inspector, was found bogus. A detailed investigation/ inquiry ensued, and it was found that various sports certificates, that is, 261, were bogus. It is stated that after giving full opportunity to the Petitioners action has been taken against the Petitioners. It was contended that Dr.Nitin Kareer, Honorary President of Maharashtra Amateur Trampoline

3 (2010) 13 SCC 441

4 (2003) 8 SCC 361

5 (2003) 8 SCC 369

6 (2015) 3 SCC 251

7 (2011) 14 SCC 770

Association (Trampoline Association) and Mr. Rajendra Pathaniya, Honorary General Secretary of the Trampoline Association, had stated that they had not signed the certificates and communication to that effect was issued. A criminal case is also registered against the Deputy Director of the Sports and Youth Association, Aurangabad, who was in jail. It was stated that the principles of natural justice were fully complied with. The Petitioners were given opportunity, however, they did not appear, and in the appeal to the query made by the Appellate Authority, they did not give satisfactory answers. The Respondents contended that not only the Petitioners but there is a large-scale scam of fake sports certificates and, therefore, the Respondents have taken strict action, and no case is made out by the Petitioners. The learned AGP submitted that the Petitioners were given full opportunity during the appeals and the Tribunal has rightly considered the magnitude of the scam and dismissed the Original Applications.

13. We have considered the rival contentions.

14. The cases of the Petitioners cannot be seen in isolation, and the background in which the matters have arisen needs to be noted. As stated earlier, the reason for providing 5% quota in the services of the State Government to genuine sports persons who, due to their devotion to sports, cannot pay equal attention to their studies. The record would show that the procedure for verification of the sports certificates is to be undertaken by the Deputy Director

of Sports and Youth Services of the region where the applicants/sports persons reside. The Sports Associations have to send the entire record to the Deputy Director. The certificates are to be scrutinized.

15. That Maharashtra Public Service Commission, while conducting an examination at Kolhapur, came across a bogus certificate issued to one of the candidates in Free Trampoline. Suspecting a large scale scam, by order dated 15 June 2020, Mr.Om Prakash Bakoria, Commissioner, Sports and Youth Services issued instructions to the Assistant Director Suhas Patil to scrutinize the certificates for this sport and submit a report. The Assistant Director submitted a report to the Commissioner of the Directorate on 14 July 2020. This was a comprehensive report. It first dealt with the original results of the Maharashtra Trampoline Association. Then it referred to the report called for from Mr.Rajendra Pathania, Honorary Secretary of the Trampoline Association. Mr.Pathania had stated that from the year 1976 to 2000 there was no event held in respect of the age group of 19 years. It was stated that no result, which was referred by the Divisional Deputy Director, Aurangabad, was ever submitted by the Association. It was stated that the Association never communicated to the Deputy Director, Aurangabad, regarding the results. He stated that out of 261 applicants, only 3 were genuine candidates, and 258 were bogus. As regards the names of 3 genuine candidates, Mr.Pathania gave the

details. Mr.Suhas Patil, Assistant Director, recorded that out of 261, only 3 were found to be genuine. Mr.Pathania then highlighted the negative role in the Aurangabad Divisional Office, particularly the Divisional Deputy Director at Aurangabad. It was stated that certificates had to be given after examining the original results, but bogus certificates were issued based on bogus results. It was found that Divisional Deputy Director Mr.R.D.Mahadwad was guilty. Then the report fixed individual responsibility and also examined the statements. Mr.Sachin Kuri, Sports Coach, gave his statement on 17 June 2020, from where it can be discerned that the names of candidates were not included in 2002-2005 sports, and it was not brought to the notice in the preliminary inquiry. The report also found that several documents were missing, and bogus documents were created. The report highlighted the seriousness of the scam and that almost 258 bogus certificates were issued. Thereafter, the Commissioner of Sports and Youth Services directed the Deputy Director, Aurangabad, to initiate action regarding cancelling sports certificates by issuing show-cause notices to the candidates. Thereafter remedies of appeals were provided. Therefore, the Respondents have brought on record the extent of the seriousness of the scam by which bogus persons were appointed in the sports quota, depriving the genuine sports persons.

16. The Tribunal has also highlighted one more peculiar feature that in the year 1987, the first championship was held, and

for 20 years thereafter, at the most, 60 certificates could have been issued for the first 3 winners. It is not placed on record that everyone who participated was given certificates. Therefore, the Tribunal has noted that when there could have been only 60 certificates for 20 years, in fact, 258 certificates have been shown to be issued for Trampoline. Therefore, the Tribunal proceeded to examine the application on the backdrop of a scam where sports certificates were manufactured, and disadvantages were taken by unscrupulous persons of the reservation provided for the sports persons.

17. Now, we proceed to turn to the procedure adopted in respect of the cancellation of Petitioners' sports certificates and the grievance of the Petitioners regarding the breach of principles of natural justice. It is the case of the Respondents before the Tribunal that show cause notices were issued to the Petitioners not only on the basis of the report of the Assistant Director but also on the basis of the letter of Mr.Pathania, Secretary of the Association. Mr.Pathania specifically stated that he had verified the certificates personally and mentioned his remark about each and every certificate and that he has not issued any certificate Trampoline was not played separately for under 19 age group for boys and girls but it was an open competition.

18. Firstly, we note that the merit certificate has been annexed in which it is stated that the Petitioner- Kharat, attended the

Second Maharashtra State Women Trampoline Championship from 18 to 19 July 1998. The event is stated as "Tumbling" with a position as "Second". There is another certificate annexed where the Petitioner is stated to have participated in a tournament from 18 to 19 July 1980 in the event of "Trampoline". The Petitioner- Kharat's case was individually examined by the Respondents, wherein the following remark was made:

“ The candidate has submitted the application (Inward No. 3847/27/2018) for the verification of the sports certificate to the office of Divisional Deputy Director, Aurangabad.*

** The office of Divisional Deputy Director, Aurangabad, gave eligibility letter under player reservation, on dated 28/2/2018.*

** Name is not included in the result submitted by the Association to the Sports Directorate, on dated 16/6/2015. The ----- in the year of 1998, the Tumbling competition has not been arranged during the said period.*

** Vide the letter dated 4/7/2020, Mr. Pathaniya, the Honorary Secretary informed that the Association has not given Sport Performance certificate as well not given any affidavit to the candidate as well informed that the said candidate has not been participated in the competition arranged by the Association.*

** From the above said things it is seen that by making bogus and fake certificate and affidavit of the Association as well result the candidate has get verification of the spot performance.”*

Petitioner- Kharat's certificate was initially checked by Deputy Director R.D. Mahadwad, against whom an offence is registered.

Kharat was given notice on 7 August 2020 to remain present in the office of the Deputy Director on 24 August 2020. A reference was made to the statement of Mr.Rajendra Pathania, and after examination, it was found that the Petitioner-Kharat had obtained a bogus sports certificate, and an opportunity was given to the Petitioner-Kharat to produce the original documents leading to the sports certificates. Thereafter another notice was given on 10 September 2020. The Petitioner- Kharat, sought to allege that he did not receive the notice. The Petitioner did not remain present, and thereafter, by order dated 23 September 2020, his certificate was cancelled. As stated earlier, the Petitioner filed a writ petition where the original order was not set aside, but the Petitioner was relegated to a remedy of appeal. Petitioner- Kharat filed a detailed appeal-memo.

19. The appeal filed by Mr.Kharat was taken up for hearing on 3 March 2021 when Mr.Kharat remained present. His application for condonation of delay was allowed. The record was called for, and the Assistant Director, Aurangabad, was personally present and demonstrated before the Appellate Authority that Mr.Kharat's name did not appear and the certificate was bogus. The Appellate Authority checked the appeal, and the application made by Mr.Kharat for obtaining a sports certificate and found variance in the signatures. The Petitioner- Kharat, accepted that the signature was different. He also stated that he had not submitted the form to the

Aurangabad office. Even the Stamp Paper for the affidavit was taken by some other person. The affidavit of association and affidavit of sports person were signed by a third person. Petitioner-Kharat accepted these facts and could not give a satisfactory explanation. He could not answer the basic questions regarding the game of Trampoline, the rules thereof, etc. After examining the entire record, the Appellate Authority concluded that the remark in respect of Petitioner- Kharat made by the Honorary Secretary of the Association was correct. Accordingly, the appeal was dismissed. Thereafter, Petitioner- Kharat filed a second appeal before the State Government and the State Government, after considering the matter, dismissed the second appeal as well.

20. In the case of the Petitioner- Jaybhay, except for certain dates, the case of Mr.Jaybhay is identical to that of Mr.Kharat. The case of Petitioner- Jaybhay was also individually examined by the Respondents, wherein the following remark was made:

“ The candidate has submitted the application dated 1.2.2018 for the verification of the sports certificate to the office of Divisional Deputy Director Aurangabad.*

** The office of Divisional Deputy Director, Aurangabad, gave eligibility letter under player reservation, on dated 5/2/2018.*

** Name is not included in the result submitted by the Association to the Sports Directorate, on dated 16/6/2015. The*

** In the year of 1998, the Tumbling competition has not been arranged during the said period.*

** Vide the letter dated 4/7/2020, Mr. Pathaniya, the Honorary Secretary informed that the Association has not given Sport Performance certificate as well not given any affidavit to the candidate as well informed that the said candidate has not been participated in the competition arranged by the Association.*

** From the above said things it is seen that by making bogus and fake certificate and affidavit of the Association as well result the candidate has get verification of the spot performance.*

The Appellate Authority, in the case of Mr. Jaybhay, examined the appeal memo and noted that apart from the certificate, no other documents of any kind were produced by Jaybhay. The Appellate Authority found that in the record from 1997 to 2001, the name of Mr. Jaybhay as a sportsperson did not appear. It was stated that the Honorary Secretary of the Association had made clear that no such certificate was given and that the signature was not his signature. Also, during the hearing, Jaybhay was asked questions regarding sports and the types of equipment associated with the sports, but when he was confronted with the same, Petitioner- Jaybhay could not even answer the basic questions, and this was video-graphed. The Appellate Authority rightly commented that when the sports person is successful at the State level, he should have the basic knowledge of the equipment of the sports. None of these aspects have been denied in the oral arguments before us. These, according

to us, are core issues which demonstrate the falsity of the Petitioner's case.

21. Therefore, it is clear that the Petitioners were given the opportunity at the first instance to demonstrate their case based on the report of the Honorary Secretary of the Association. The Petitioners did not attend the said hearing and challenged the order of cancellation of their sports certificates. The Division Bench of this Court did not entertain the writ petitions to set aside the order on the ground of breach of principles of natural justice but relegated the Petitioners to an appellate remedy. In the appeal, the Petitioners were given full opportunity, thereafter a second appeal was preferred. Considering the background and the larger scam, the opportunity provided to the Petitioners was more than sufficient.

22. In our opinion, the Tribunal was not in error in proceeding based on the record mentioned above to dismiss the Original Applications. The large-scale scam in the issuance of bogus sports certificates was established before the Tribunal. The Association where the Petitioners stated to have participated has confirmed that only 3 certificates out of 261 were genuine, and the rest were bogus and fabricated. According to us, the Petitioners' conduct in securing bogus sports certificates and entering the Government services deprived the genuine sports persons of getting appointments. This needs to be deprecated, and no indulgence needs to be shown. The Respondents have already taken action against its

own Divisional Deputy Director, and an investigation was going on in respect of the scam. The Petitioners' cases were individually examined and the Authorities rightly concluded that even the certificates issued to the Petitioners were bogus. The action of not sending the documents to the hand-writing expert or not permitting cross-examination of the office bearers in the backdrop and facts of this case cannot be termed as a breach of principles of natural justice. That is so because it is settled that principles of natural justice are not mathematical formulas and would depend on the facts of each case.

23. In the case at hand, the Petitioners were given adequate opportunity, and the conclusion that the sports certificates produced by the Petitioners were bogus is justified. Once the Petitioners entered the services of the Government in the sports quota and found that their sports certificates were bogus, the entire foundation of the Petitioners for entry into the Government service is illegal and void.

24. In view of this conclusion, the decision relied upon by the Petitioners is inapplicable in the facts of the present case. In the case of *Capt. M. Paul Anthony*, the Hon'ble Supreme Court, has held that criminal cases and departmental proceedings can go on simultaneously, but if the evidence is common without there being any variance, then the departmental proceeding can be deferred. In the present case, the facts on record demonstrate that the sports certificates are bogus, and the Petitioners' conduct has confirmed the

position. In the case of *Oryx Fisheries Private Limited*, the Hon'ble Supreme Court considered the challenge to the cancellation of the registration certificate of the appellant company therein by the Customs Authorities. In that context, the Hon'ble Supreme Court observed that the guilt of the appellant could not have been pre-judged at the stage of show cause notice. This case is different from the facts of the present case, where after found that there was a large-scale scam of bogus sports certificates, individual cases were assessed on the background of the record and opportunity was given. The contention of the Petitioners, based on the decision in the case of *State of Bihar v. Lal Krishna Advani*, is that principles of natural justice must be followed when there is a question of personal reputation. In the case at hand, we have found that principles of natural justice have been adequately observed.

25. We find no merit in the Petitioners' contention that the Appellate Authority was under the dictate of the Commissioner who had issued necessary directions. The Commissioner had taken cognizance of reports of scams of bogus sports certificates and had ordered an inquiry. Thereafter, each individual was called with original documents to justify the issuance of a sports certificate to them. When the Petitioners had approached this Court to challenge the first order, this Court did not entertain writ petitions and the Petitioners were relegated to the appellate remedy, and pursuant to the order of this Court, the Petitioners filed first and second appeals. Nothing is demonstrated as to why the first and second appellate

authorities could not have acted independently. Therefore, considering the totality of the circumstances and the jurisdiction we are called upon to exercise, we find that there is no case made out by the Petitioners for interference with the impugned order of the Tribunal.

26. These Original Applications were dismissed by the impugned order passed on 9 June 2022. These writ petitions were filed on 29 June 2022 and were kept pending. In the meanwhile, there were no interim orders. Pursuant to the cancellation of sports certificates, the Petitioners' services were terminated. The appointment orders issued to the Petitioners would show that the Petitioners were appointed through sports quota; therefore, if it is found that the Petitioners are not entitled to appointment through sports quota, then sequitur would follow, resulting in termination of the Petitioners' services.

27. The Petitioners amended the petition to challenge the termination orders, that too with a delay and in one petition after we pointed out the lapse of not carrying out the amendment in spite of leave granted. The Petitioners contended that their termination without holding a departmental inquiry is bad in law. According to the Petitioners, the cancellation of sports certificates alone could not be a ground and cannot automatically result in dismissal. If the argument of the Petitioners is that the action of dispensing with the

Petitioners' services is independent of cancellation of their sports certificates and disciplinary inquiry has to be held, then it would be a different cause of action than the purpose for which the Original Applications were filed. We had pointed out this position to the learned counsel for the Petitioners. The learned Counsel for the Petitioners, to this specific query, has called upon this Court to decide the challenge to the termination orders, but at the same time contends that upholding the order of the Tribunal cannot mean that there would be automatic dismissal. Both stands of the Petitioners cannot be reconciled. The Administrative Tribunal under the Constitutional Scheme, is the court of first instance as regards the matters of services with the State. If the Petitioners contend that cancellation of sports certificates automatically will not lead to termination, then the Petitioners will have to challenge this development before the Tribunal. Therefore we leave it open to the Petitioners to challenge the subsequent termination orders by filing original applications if the Petitioners so intend to.

28. As a result, there is no merit in the challenge to the impugned order of the Tribunal and the Petitions are dismissed. The Petitioners' challenge to the termination orders is kept open to be considered by the Tribunal if original applications are filed.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)