



WEB COPY

WA No.1049 of 2023
and WP No.13575 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

WA No.1049 of 2023 and WP No.13575 of 2023
and WMP No. 13729 of 2023 &
CMP Nos.10482, 10485 and 11429 of 2023

W.A.No.1049 of 2023

Master Nitin Krishna V.G. (Minor/17 yrs)

Rep. by Natural Guardian,

Mr.Gopalakrishnan Subramanian

... Appellant

-vs-

1. The Chairperson,
Special Olympics Bharat,
J-47, Lower Ground Floor,
Lajpat Nagar-III, Delhi 110 024.
2. The Area Director,
Special Olympics Bharat Tamil Nadu,
A3-A4, Golden Fortune,
No-1, Nolambur Main Road,
Mogappair West, Chennai 600 107.
3. The Director General,
Sports Authority of India,
Jawaharlal Nehru Stadium Complex
(East Gate), Lodhi Road, New Delhi 110 003.



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4. Union of India,
Under Secretary, Ministry of Youth Affairs
and Sports, Room No.15-C,
Shastri Bhavan, New Delhi 110 001. ... Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent to set aside the order dated 17.04.2023 passed in W.P.No.11426 of 2023 on the file of this Court.

WP.No.13575 of 2023

Master Nitin Krishna V.G. (Minor/17 yrs)
Rep. by Natural Guardian,
Mr.Gopalakrishnan Subramanian ... Petitioner

-VS-

1. The Executive Director,
Air Cmde Lalit Kumar Sharma,
Special Olympics Bharat,
J-47, Lower Ground Floor,
Lajpat Nagar-III, Delhi 110 024.
2. Union of India,
Under Secretary, Ministry of Youth Affairs
and Sports, Room No.15-C,
Shastri Bhavan, New Delhi 110 001. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the order dated 21.04.2023 issued by the 1st respondent in compliance of the order dated 17.04.2023 passed in W.P.No.11325 of 2023 rejecting consideration of the representation made by the petitioner dated 15.03.2023 and quash the same as non-est in law.



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For the Appellant and
Petitioner

:: Mr.P.V.Balasubramaniam
Senior Counsel
for Mr.S.Arunkungumaraaj

For 1st Respondent in
both WA and WP

:: Mr.T.T.Ravichandran

For 2nd Respondent in WA
For Respondents 3 & 4
in WA and For 2nd
Respondent in WP

:: Mr.M.Jayakumar

:: Mr.A.Prakash
CGSC.

* * * * *

JUDGMENT

(Made by the Hon'ble Chief Justice)

The appellant, Master Nitin Krishna V.G., is a minor aged 17 years old and a special child with intellectual disabilities. The issue as raised by his father on his behalf pertains to the alleged improprieties in the selection of the candidates for participating in the National Coaching Camp for swimming.

2. It is the grievance of the appellant that in fact the name of the appellant appeared in the list of selected candidates and included



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for the National Coaching Camp. However, a separate selection list was prepared dropping the name of the appellant.

3. This is the second round of litigation for the same purpose.

4. The learned counsel for the petitioner submits that the appellant was selected to represent Tamil Nadu Special Olympics Bharat Swimming at the Special Coaching Camp conducted by Special Olympics Bharat at Mumbai between 13.02.2022 and 18.02.2022, which was further re-scheduled because of the Covid lockdown. The learned counsel submits that finding that the name of the appellant has been removed in the second list prepared, the appellant's father had filed W.P.No.17714 of 2022 to consider his representation. This Court disposed of the writ petition by directing the respondents to consider the representation of the appellant's father and to file a report. Subsequently, in the said writ petition, the report was filed and pursuant to the report, the writ petition was closed. According to the learned counsel, as liberty was given, the report has been challenged in the present writ petition in W.P.No.11426 of 2023 before the learned



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Single Judge. The said petition has been dismissed, pursuant to which the present appeal is filed.

5. W.P.No.13575 of 2023 is filed challenging the order dated 21.04.2023 rejecting the representation of the appellant/petitioner dated 15.03.2023 requesting to reconsider his case with respect to the selection process to participate in the Special Olympics World Games, 2023 to be held in Berlin, Germany.

6. The learned counsel for the appellant/petitioner strenuously contends that in fact the respondents were supposed to initiate the selection process under the supervision of the retired Judge of this Court. The respondents flouted the same. They did not conduct the process under the supervision of the retired Judge of this Court. It is further submitted that under the Right to Information Act, when an application was filed, the appellant was supplied with two lists. In one list, the name of the appellant was included and in the other list, the name of the appellant was dropped. This itself shows that there was no transparency in the selection process conducted by the



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respondents. According to the learned counsel, in an earlier round of petition, the respondents made the Court to believe that there is only one list and relying upon them, the earlier writ petition filed by the appellant's father was dismissed. In fact, the same was not in consonance with the factual matrix. The learned counsel further submits that from tomorrow, the coaching camp is to commence at Delhi. The appellant is a meritorious swimmer. He can bring medal for the country and his name requires to be recommended.

7. Countering the submissions of learned counsel for the respondents, the learned counsel for the petitioner submits that there is no such rule or guideline to suggest that only two male and two female participants can be permitted in the National Coaching Camp from each State. The respondents cannot, as per their whims, suggest that only two male and two female candidates are allotted to each State.

8. The learned counsel for the respondents submits that in fact one list where the name of the appellant was included was prepared



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under influence. The same would also find support from the report which was submitted. According to them, in the Olympics for which the Indian team has to be sent, 12 swimmers are permitted and each State is allotted two candidates for male and two candidates for female for participating in the National Coaching Camp. The appellant was at Sl.No.5 in the selection trials. His name was not included. The influence was made by the appellant's father through one Mr.Paul and he was suspended.

9. We have considered the submissions. It is unfortunate that this Court is required to consider the dispute of the present nature.

10. This is not the first round of litigation between the parties for the same purpose. The earlier writ petition was filed by the present appellant's father wherein direction was sought against respondents to consider the representation of the appellant's father and pass a final order with regard to the participation of his son in the National Swimming Coaching Camp. The representation was rejected on the ground that the appellant was never directed to be selected for



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participating in the event. The appellant's father filed an appeal before the Division Bench bearing W.A.No.1705 of 2022. The said appeal was also dismissed. The Division Bench of this Court, under the judgment and order dated 26.08.2022, while dismissing the Writ Appeal No.1705 of 2022 observed thus:-

"3. The learned counsel for the appellant has made a reference of the list issued on 10.12.2021 by the Special Olympics Bharath-Tamilnadu. The name of the petitioner's son is figured therein at Serial No.5. The said list has not been relied by the respondents rather they have relied on the other list, which was prepared by the authorities competent for it. The learned counsel for the appellant could not refer to any rules or regulations or any direction that the Special Olympics Bharath Tamilnadu would be competent to conduct the selection and otherwise, while issuing the letter dated 10.12.2021 by the Special Olympics Bharath, no reference of any competition to make selection or any relevant fact has been given other than to endorse that the candidates named therein have been selected. The learned Single Judge, therefore, dismissed the writ petition finding that the list issued by the Special Olympics Bharat Tamilnadu could not have been relied for want of authority and otherwise, a list was prepared separately by the competent authorities. Apart from that, we found that the period of coaching camp has already expired and therefore, the prayer to permit the petitioner for swimming coaching camp cannot be accepted."



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11. It has been observed that the list issued by the Special Olympics Bharat Tamil Nadu could not have been relied for want of authority and otherwise, a list was prepared separately by the competent authorities. The Division Bench also observed that the period of coaching camp has already expired and therefore, the prayer to permit the petitioner for the swimming coaching camp cannot be accepted. More than a year has already lapsed after the order is passed in the first writ petition. Moreover, the selection sheet is also placed on record. The selection sheet, which is signed by SDAT Coach, National Swimmer, Sports Director (SOBTN), Family Head (SOB) and others records that the appellant has secured 5th overall position and in freestyle, he is at Sl.No.3, but the overall position is at Sl.No.5 and two candidates for male and two candidates for female are sent for the National Coaching Camp. Even standing on the merit, as per the selection sheet, where the timings are also recorded, the appellant stands at overall position at No.5. In view of that also, it will not be possible for us in a writ jurisdiction under Article 226 of the Constitution of India to consider the case of the appellant more particularly in the second round.



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In light of the above, no case for interference is made out. The Writ Appeal and the Writ Petition are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(S.V.G., CJ.) (P.D.A., J.)
05.06.2023

Index : No
Neutral Citation : No
sra

To

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THE HON'BLE CHIEF JUSTICE
AND
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