



W.A.(MD)No.1339 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	21.08.2023
Date of Judgment	25.08.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.A.(MD)No.1339 of 2023
and
C.M.P.(MD)No.10106 of 2023

- 1.The Secretary to Government
Department of Health and Family Welfare,
Secretariat, Fort St. George,
Chennai-600 009.
- 2.The Director of Medical Education and Research
Ministry of Health and Family Welfare,
Government of Tamil Nadu,
Chennai.
- 3.The Secretary,
The Selection Committee,
The Director of Medical Education and Research,
No.162, Periyar EVR High Road,
Kilpauk, Chennai-600 010.
- 4.The Common Committee,
Sports Development Authority of Tamil Nadu,
Chennai. : Appellants/ Respondents 1 to 4

[R4 is *suo motu* impleaded vide order dated 26.07.2023]



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Vs.

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1. Minor S.Priyadharshan,
Rep by his mother and natural guardian
Padmavathi : Respondent/Writ Petitioner
- 2.The Roller Skating Federation of Indian, RSFI,
Secretariat, A 695, Shastri Nagar,
New Delhi-110 052.
- 3.The Tamil Nadu Roller Skating Association,
No.96, Pantheon Road,
Egmore, Chennai-8,
Email ID: rsfitnrsa@gmail.com
Cell No.98410 27667. : Respondents 2 and 3

[R2 and R3 are *suo motu* impleaded vide order dated 14.08.2023]

Prayer:

Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 03.08.2023 made in W.P.(MD)No.18178 of 2023 on the file of this Court.

For Appellants 1 to 3
: Mr.J.Ravindran,
Additional Advocate General
assisted by
Mr.J.Ashok
Additional Government Pleader

For Appellant 4 : Mr.S.Santhoshkumar for R4

For Respondents : Mr.D.Shanmugaraja Sethupathy for R1

Mr.S.Balamurugan for R3



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J U D G M E N T

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D.BHARATHA CHAKRAVARTHY, J.

A. The Appeal:

This Writ Appeal is directed against the Judgment of the learned Single Judge dated 03.08.2023 made in W.P.(MD)No.18178 of 2023. The learned Single Judge allowed the writ petition filed by the first respondent herein. In the writ petition, the first respondent herein prayed for a Certiorarified Mandamus to call for the records relating to impugned provisional rank list of the candidates eligible for sports category dated Nil published on 24.07.2023 (MBBS/BDS) (Government quota) Course 2023-2024 Session) by the 3rd respondent and to quash the same and consequently direct the respondents to issue revised rank list for special reservation for Eminent Sports Person by awarding 330 marks to the first respondent and accordingly to conduct counselling for these sports quota.

B. The Brief Facts :

2. The first respondent had obtained 120 marks in the National Eligibility cum Entrance Test conducted on 07.05.2023. The first respondent is an Eminent Sports Person having participated in Roller



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Skating Championships and has won medals. For admission to the MBBS Course for 2023-2024 session, the first respondent applied under the quota for Eminent Sports persons. The Rules regarding the allotment of marks for Eminent Sports person is contained in Annexure VII of the Prospectus issued by the appellants. Tables I to VI contain the number of marks which would be allotted for the achievement at the International, National, State, State Level, Divisional Level and District Level achievements. Clause 2 of Annexure VII reads as follows:

“..2.The candidate shall submit all the sports certificates along with participation certificates and relevant forms issued by Association/Federation concerned, but only one highest achievement in a tournament (among the International, National, State, Divisional and District) in an academic year in the sports disciplines listed in Table VIII will be considered for awarding marks.”

Clause 5.2 of Annexure VII reads as follows:

“5.2. Participation/achievements in each academic year from 01.06.2019 to last date of submission of application (01.06.2019 to 31.05.2020, 01.06.2020 to 31.05.2021, 01.06.2021 to 31.05.2022 and 01.06.2022 to last date of submission of application) in sports/games shown in the list alone will be considered for the award of marks. National or State Level Championships or Tournaments conducted by Sports Federations or Associations recognised by MYAS or IOA or SDAT or TNOA alone will be considered for the award of marks. (Recognition of State



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Associations/National Federations should be relevant to the year concerned).”

2.1. The petitioner had therefore, submitted four certificates of merit and claimed marks as depicted in the following table:

Sl. No.	Name of the Tournament	Level of Achievement	Academic year	Marks Claimed
1.	Trichy District Roller Skating Championship	District Level Winner	2019-2020	45
2.	Tamil Nadu State Roller Skating Championship	State Level Winner	2020-2021	95
3.	Tamil Nadu State Roller Skating Championship	State Level Winner	2021-2022	95
4.	Tamil Nadu State Roller Skating Championship	State Level Winner	2022-23	95

2.2. The third appellant committee which had scrutinised the certificates, held that since two of the said certificates produced by the first respondent namely, the certificate for the academic year 2021-2022 in which, the event was held between 08.06.2022 to 09.06.2022 and the certificate which is produced in respect of the academic year 2022-23 in which the event was held between 03.11.2022 to 06.11.2022, being in the



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same academic year, by reading Clause 2 of the prospectus extracted above, gave marks in respect of only one certificate thus disallowing 95 marks claimed by the first respondent. On account of the same, even though there were 8 seats in respect of sports quota in Government College, the petitioner did not come within the zone of consideration. However, if the above 95 marks is also added to his total marks, he comes within the zone of consideration. Therefore, he filed the present writ petition claiming that the said two certificates, which were his achievements in different tournaments, which belonged to different academic years, ought to be taken into account and thus, the selected list has to be redone and he be granted admission by placing him in the appropriate place in the merit list meant for Eminent Sports persons.

C. The Order in the Writ Petition:

3. The learned Single Judge considered the issue in detail and by the Judgment under appeal, held that the reading of the Clause 2 extracted above gives room for two possible meanings. It can be read to mean that when in any academic year, only one highest achievement can be taken into account in respect of one tournament and thus if it is read in that manner, if different tournaments are conducted in the same academic year also, one highest achievement of each of the tournament can be taken into account.



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By applying the rule of harmonious construction and by following the beneficial rule of interpretation stating that if a provision is ambiguous it should only be read to preserve the benefit and not to be read in a manner to take away the benefit, the Learned Single Judge allowed the writ petition.

D. The Submissions:

4. *Mr.J.Ravindran*, the learned Additional Advocate General appearing on behalf of the appellants 1 to 3 taking this Court through the selection records would firstly submit that it was the decision of the Expert Committee of the Sports Authority of India to award marks as per the sports achievement. Secondly, the prospectus is to be read as a law binding between the parties and therefore, he would submit that as per the Clause 2 (*supra*), it is very clear that only one tournament for one academic year can be taken into account. He would further rely upon the Clause 5.2 (*which is also extracted above*) to contend that even the dates have been specifically mentioned in respect of each academic year starting from 1st June and ending upto 31st May of the particular academic year, it can be seen that each candidate can only produce a maximum of four certificates in one each of the academic year and therefore, if Clause 2 is read together with Clause 5.2, it does not leave any doubt. He would further submit that the rule of beneficial interpretation followed by the learned Single Judge is erroneous



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in law and when it comes of interpretation/reading of prospectus, the manner of reading by the author or the admission committee/authorities should be given pre-eminence as the authority follows the interpretation same in respect of every candidate. Therefore, he would submit that the order under appeal is liable to be interfered with.

4.1. Per contra, *Mr.D.Shanmuga Raja Sethupathi*, the learned counsel appearing on behalf of the first respondent would submit that a reading of Clause 2 extracted above only indicates that in a tournament which is conducted in an academic year, the highest of the achievement alone will be taken for the purpose of marks. The meaning which can be ascribed to Clause 2 is that if a person goes on to win gold at the National Level in a particular tournament he cannot claim marks for winning the District gold, State gold, but has to claim only for the highest achievement that is the National gold alone. Except for that, there is no any impediment in Rule 2 to consider the four certificates which are produced before the first respondent/petitioner. He would submit that all the four tournaments are different tournaments. All the four tournaments are for different academic years. In the year 2020, because of the lock down imposed by the Government of India from conducting any open field events, the said tournaments which were meant for the year 2020 was conducted in the year



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2021 and thus delaying the further tournaments and therefore, when the Hon'ble Supreme Court of India itself in *Suo motu* Writ Petition No.3 of 2020 had even excluded the limitation period for filing of Court cases, the same analogy can be drawn and in the instant case, there was absolutely no application of mind on the part of the authorities with reference to the Covid-19 pandemic difficulty. He would further submit that even the International Olympic Games which was conducted only in the year 2021, was called Olympic 2020 and the next Olympic is scheduled only in the year 2024. Therefore, any postponement of the games on the account of Covid-19 pandemic cannot result in otherwise undoing the merit of the first respondent, who is an outstanding sports person and he cannot be deprived of the benefit. Just because the concerned association could not conduct the tournament in time, the first respondent cannot be put to prejudice.

E. The Further Developments:

5. After hearing the both sides learned counsels, we also *suo motu* impleaded the Tamil Nadu Roller Skating Association as a second respondent in the writ appeal and they have also filed a counter affidavit. It is useful to extract paragraph 4 and 5 which reads as follows:



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“4. I humbly submit that the Government of India and the State Government had again announced complete Lock down due to the spread of second wave of COVID -19 virus. The Government had prohibited the public transport, festival and sports events from 10.05.2021 to 19.07.2021 without any relaxation and it was subsequently extended up to 09.08.2021. Thereafter, the essential activities were allowed from 23.08.2021 by the Government. The State Government has issued G.O. vide G.O. (Ms)No.25, Revenue and Disaster Management Department dated 07.01.2022, whereby the night curfew was enforced from 10 PM to 5 AM due to the spread of mutated virus namely COVID-19(Omicran). The sports competition shall be permitted in the open space, play grounds by following the Standard Operating Procedure. After partial relaxation, the prohibition was extended up to March 2022. In view of the above, the 31st Tamil Nadu State Roller Skating Championship tournament was held between 05.06.2022 and 09.06.2022 for the academy year 2021-2022. Due to the COVID-19 restrictions imposed by the Government, the above tournament was held in the month of June 2022 for the academic year 2021-2022.

5. I humbly submit that the next tournament namely 32nd Tamil Nadu State Roller Skating Championship-2022 for the academic year 2022-2023 was held from 03.11.2022 to 06.11.2022. The above tournament for the academic year 2022 - 2023 was conducted regularly without any restrictions. Therefore, all the above three tournaments were conducted for three consecutive academic years i.e., 2020-2021, 2021-2022 and 2022-2023.”



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5.1. We have also heard *Mr.S.Santhosh Kumar*, learned counsel appearing on behalf of the fourth appellant and *Mr.S.Balamurugan*, learned counsel appearing on behalf of the third respondent and gave our anxious consideration to the submissions made on behalf of either side.

F. The Findings & Discussion:

6. We are unable to agree with the learned Additional Advocate General for three reasons:

6.1. Firstly, a reading of *Clause 2* extracted above, clearly conveys the meaning that in respect of a tournament conducted in an academic year only one highest achievement will be taken into account. Therefore, a reading as if it bars that if the second tournament conducted in an academic year is beyond its purview and it is not mentioned in the said Clause. The Appellant authorities being in the dominant position and being the authors of the prospectus if have left out to add a specific Clause that if a second tournament is conducted in the same academic year, the same will not be taken into account then by following the *contra proferentem* rule, the prospectus can only be read to grant marks for the second tournament also.



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Useful reference in this regard can be had to the Judgment of this Court in **The Secretary, Selection Committee, Directorate of Medical Education and another Vs. Dr.R.Aashritha and another**¹ and the relevant portion reads as hereunder:

*“8.....That being the situation, it is the appellants who are the authors of the Prospectus and as per the contra proferentem rule enunciated by the Hon'ble Supreme Court of India in **United India Insurance Co. Ltd. Vs. Pushpalaya Printers [(2004) 3 SCC 694]** and **Central Bank of India Vs. Virudhunagar Steel Rolling Mills Limited and Others [(2015) 16 SCC 207]**, the benefit enures to the first respondent and adversity has to be borne only by the author of the document and we accordingly hold that the first respondent will not be liable to pay the discontinuation fees of Rs.15,00,000/-.”*

6.2. Alternatively, even assuming that Clause 2 should be read as one tournament for one academic year, it is very clear from Clause 5.2 that achievements can be produced by the candidates in respect of four academic years starting from 01.06.2019 upto the date of submission of the applications. In that view of the matter, it must be seen that all the four certificates which are produced by the first respondent are specifically in respect of four tournaments for four different academic years as depicted in the table above. If the said tournaments have been conducted as per

¹ W.A.No.810 of 2023 dated 31.03.2023.



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schedule, the first respondent would have got marks in respect of all the four certificates. In this case, in the year 2020, since in respect of *COVID-19 Pandemic*, there was a complete lock down which was imposed by the Government of India and there was express prohibition in the Standard Operating Procedure from conducting sports competitions in open place playgrounds etc., which extended upto March 2022, resulted in postponing of the competition for the year 2020 to the year 2021. Consequently every activity was running late and the competition for the year 2021-22 which should have been held before 31.05.2022 was postponed by 8 days by holding it in June 2022, thereby the clash of two certificates in the same year. As rightly contended by the learned counsel for the first appellant when the extra-ordinary situation that arose of *COVID-19 Pandemic* has been taken into consideration even for extension of the period of statutory limitations, the same analogy has to be extrapolated in reading the periods mentions Clause 5.2 of the prospectus also. Again Clause 2 as well as the Clause 5.2 if read together it would be clear that the achievement in each academic year alone is the criteria and not the date of conduct of the sports competition which is relevant. Thus even going by the submissions made by the learned Additional Advocate General, it can be seen that the petitioner is entitled to marks for all the four certificates as depicted in the tabular column.



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6.3. Finally, the entire purpose of granting admission to Eminent Sports persons is to admit the meritorious sports person in the MBBS Course. There is absolutely no doubt whatsoever that the petitioner is eminently meritorious in his sport, having consecutively won gold atleast at the State Level. In that kind of a scenario, it has been held by the Hon'ble Supreme Court of India in **Charles K. Skaria Vs. Dr.C.Mathew**², it has been held that when the requirement of the prospectus in substance is pitted against the requirement of the prospectus in letter, it is the substance it should be followed and the prospectus cannot be read as if they are scriptures. More specifically, para 24 of the Judgment reads thus :

“...24. It is notorious that this formalistic, ritualistic, approach is unrealistic and is unwittingly traumatic, unjust and subversive of the purpose of the exercise. This way of viewing problems dehumanises the administrative, judicial and even legislative processes in the wider perspective of law for man and not man for law. Much of hardship and harassment in administration flows from over-emphasis on the external rather than the essential. We think the government and the selection committee rightly treated as directory (not mandatory) the mode of proving the holding of diplomas and as mandatory the actual possession of the diploma. But a prospectus is not scripture and common sense is not inimical to interpreting and applying the guide-lines therein. Once this position is plain the addition of special marks was basic justice to proficiency measured by marks.”

² (1980) 2 SCC 752



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6.4. The Hon'ble Supreme Court of India even in the latest Judgment of **Sakshi Arha vs. The Rajasthan High Court**³ held that when it comes for matters of procedure etc., which are provided in the prospectus then the rigid interpretation as contended by the learned Additional Advocate General in this case need not be followed. It is useful to extract Paragraph 35 of the said Judgment whereunder the Judgment of the Hon'ble Supreme Court of India in the earlier case of **Dolly Chhanda vs. Chairman, Jee and Ors.**⁴, is extracted:

“35.This Court in Dolly Chhandav.Chairman, Jee,[\(2005\) 9 SCC 779](#), has considered the situation where the incumbent has failed to furnish the certificate seeking benefit of reservation and after examining the Scheme, this Court in the given circumstances, held as under:

“7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage, etc. necessary certificates have to be produced. These are

³ 2023 SCC online SC 662

⁴ (2005) 9 SCC 779



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documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement to benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.”

(emphasis supplied)

6.5. Thus it can be seen that the purpose of Annexure VII of the prospectus itself is to select the Eminent Sports persons and even going by one tournament for one academic year principle and when the same is substantially satisfied by the first respondent, merely because procedurally the game was conducted on abnormal dates giving rise to an anomaly, the prospectus have to be read by applying principles of substance over the rigidity of the letters. Thus applying any method of interpretation, the case of the first respondent is bound to succeed and the order of the learned Single Judge granting the relief cannot be interfered with.

G. The Result:

7. It is now brought to our notice that the writ petition was filed on 26.07.2023 and an interim order was passed that any selection would be subject to the result of the writ petition and accordingly, making the

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selection subject to the outcome of the writ petition, selections were made on 27.07.2023 and the final orders in the writ petition was passed on 03.08.2023.

7.1. In that view of the matter, we see no difficulty whatsoever for the appellants to grant the 95 marks left out to the first respondent and accordingly, rearrange the order of merit and granting admission to the first respondent in an appropriate Government College. The said exercise shall be forthwith be done without any delay whatsoever as the rest of the seats are also to being filled up.

8. With the above directions, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R.,J.) (D.B.C.,J)

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NCC : Yes / No

Index:Yes/No

Index:Yes/No

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Pre-Delivery Judgement made in
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