

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

237

**CWP-15723-2021 (O&M).
Date of Decision: 15.02.2023.**

PIYUSHA MODI

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Rakesh Sobti, Advocate, for the petitioner
in CWP-15723-2021 and COCP-49-2022.

Mr. Jaswinder Singh, Advocate, for
Mr. Sunil Mallan, Advocate, for the petitioner
in CWP-26964-2021 and COCP-113-2022 and
for the respondent in CWP-15723-2021.

Ms. Niharika Sharma, AAG, Punjab.

Mr. Tushar Sharma, Advocate for respondent No.2 in
CWP-15723-2021 and CWP-4580-2021.

Mr. Rahul Soi, Advocate,
for respondent No.5.

Mr. Ritesh Aggarwal, Advocate,
for the petitioner in CRM-M-22688-2022 and
for the respondent No.7.

Mr. Sahil Kumar, Advocate, for
Mr. Nitin Kaushal, Advocate, for respondent No.8 in
CWP-15723-2021, COCP-49-2022, CWP-26964-2021
and COCP-113-2022.

Mr. Salil Sabhlok, Advocate, respondents No.9 to 12.

VINOD S. BHARDWAJ. J (ORAL)**CM-2963-CWP-2022 and CM-2966-CWP-2022 in CWP-15723-2021**

The instant applications have been filed for impleading the applicants as party - respondents No.9, 10 and 11 as well as respondent No.12 respectively.

The applicants claim to have applied for admission in MBBS under the Sports Category. Gradation Certificates had been issued to them by the Competent Authority, the counselling, however, under Sports Category was not being undertaken even though there is no order of restraint.

Notice of the applications was issued on 04.03.2022, however, no reply has been filed to the same. He, however, submits that the petitioner has not claimed any relief against the applicants and hence, they are not necessary parties.

Learned counsel for the applicants, however, submits that he only wishes to assist the Court for expeditious decision in the matter and does not intend to file any reply.

No serious opposition is raised by the counsel for the petitioner.

Accordingly, the present applications are allowed.

Applicants are impleaded as respondents No.9 to 12.

Amended Memo of Parties is taken on record.

The Registry is directed to tag the same at appropriate place.

Main cases

A batch of seven petitions is being decided by a common order since the counsel for the respective parties are *ad idem* that issue involved in the present batch of petitions can be decided by a common order. The details of the cases are tabulated as under:-

Sr. No.	Writ Petition Number	Title
1	CWP-15723-2021	PIYUSHA MODI V/S STATE OF PUNJAB AND OTHERS
2	COCp-49-2022	PIYUSHA MODI V/S PARMINDER PAL SINGH SANDHU AND ANR
3	CWP-26964-2021	SEHAJBEER BHANDAL V/S STATE OF PUNJAB AND ORS
4	COCp-113-2022	SEHAJBEER BHANDAL V/S AJOY SHARMA AND OTHERS
5	CWP-4580-2021	MANUREET SINGH V/S STATE OF PUNJAB AND ORS
6	CWP-9784-2022	GURJEEV SINGH RIAR AND ORS V/S STATE OF PUNJAB AND OTHERS
7	CRM-M-22688-2022	NETBALL PROMOTION ASSOCIATION (REGD) V/S THE DIRECTOR SPORTS,DEPARTMENT OF SPORTS,SECTOR 63,MOHALI

For the facility of reference, facts have been taken from CWP No.15723-2021 titled ‘Piyusha Modi Vs. State of Punjab and others.’

The writ petition raises a challenge to the letter dated 07.06.2021 (Annexure P-9) whereby the respondent No.3 – the Director Sports, Department of Sports, Punjab, has declined issuance of the Sports Gradation Certificate to the petitioner who had participated in the tournament organized by the Netball Promotion Association – respondent No.7. It has been conveyed through the aforesaid

communication that there are two Organizations namely Punjab Netball Association and Netball Promotion Association. Out of these two organizations, the Punjab Netball Association, Punjab is stated to be affiliated with the Olympic Association which as per the counsel appearing on behalf of the State of Punjab is to be read as Punjab Olympic Association. It is further averred in the aforesaid communication that the Netball Promotion Association is not affiliated with the Olympic Association i.e. the Punjab Olympic Association and that a dispute *inter se* amongst both these Netball Associations is pending consideration before the Punjab and Haryana High Court and until the said *lis* is decided, the Sports gradation of the players who won medal in Netball game in Open Level Tournament is not possible. A further direction has been sought by the petitioners to direct the respondents to issue Sports Gradation Certificate in terms of the Sports Policy issued by the respondent so that the petitioner may take advantage thereof in various competitive examinations or admission in courses under the Sports Category.

The petitioner claims to be a player of Netball and having participated in the 19th All India Inter Zonal Netball Championship (2020), had secured Gold Medal/First Position in the said Championship. The Certificate (Annexures P-1) shows that the aforesaid 19th All India Inter Zonal Netball Championship (Women) was organized by the Netball Promotion Association (Regd.) Punjab, which is duly affiliated with Netball Federation of India and also with the Indian Olympic Association as well as International Netball Federation and Asian Netball Federation. The said Championship is also recognized by the

Ministry of Youth Affairs & Sports, Government of India. The event in question was held on 5th and 6th February 2020. The petitioner had also participated in various Netball competitions during her school days. The details of the said Tournaments/Championships in which the petitioner participated at various levels are extracted as under:-

Game	Team, through which the player played	Name of Competition	Place	Date	Position
Netball	D.A.V. Public School, Patiala	Zone Patiala School Games Under – 17	Patiala	03.08.2017 to 04.08.2017	First position
Netball	Zone Patiala	District School Games, Patiala Under – 17 2017-18	Patiala	29.08.2017 to 06.09.2017	First position
Netball	District Patiala	63 rd Punjab State Inter-District School Games under-17 2017-18	Tarn Taran	06.11.2017 to 10.11.2017	Participated
Netball	Zone Patiala	Patiala District School Games under-17 2018-19	Patiala	04.09.2018 to 07.09.2018	First position
Netball	District Patiala	64 th Punjab State Inter-District School Games under-17 2018-19	Sri Muktsar Sahib	10.10.2018 to 14.10.2018	Participated
Netball	Punjab	64 th Punjab State Inter-District School Games under-17 2018-19	Durag Chattishgarh	24.12.2018 to 27.12.2018	Participated
Netball	Zone Patiala	Patiala District School Games under-17	Patiala	29.08.2019 to 30.08.2019	First position

		2019-20			
Netball	District Patiala	65 th Punjab State Inter-District School Games under-17 2019-20	Sangrur	17.10.2019 to 22.10.2019	Second Position
Netball	Punjab	3 rd North Zone Netball Championship 2019-20	Mai Sarkhana Bathinda	28.12.2019 to 30.12.2019	Second position
Netball	North Zone	19 th All India Inter-Zonal Netball Championship Women 2019-20 Senior	Anandpur Sahib	05.02.2020 to 06.02.2020	Second position

It is averred that the Government of Punjab, Department of Sports & Youth Affairs had issued its Sports Gradation Policy dated 10.11.1997 as per which the sportsmen/women were entitled to a Sports Gradation Certificate and to claim reservations of seats for sportsmen/women in technical/medical Institutions and preferential treatment in service of the State Government. The petitioner claims that she is entitled to be issued a Sports Gradation Certificate in Grade B (iv) thereof. The relevant extract of the said policy is reproduced as under:-

XXX XXX XXX

GRADE B

(iv) Senior and Junior National Championship organised by recognized National Federation of that games under the banner of Indian Olympic Association where at least 15 States have participated.”

It is stated that the sports discipline which are eligible for being considered for Sports Gradation Certificates have been mentioned in paragraph No.3 and the game of Netball is included in the aforesaid Circular vide Memo No.47/26/83-ISS/1103 dated 05.06.2003. The sports discipline of Netball thus was incorporated as part of the aforesaid policy.

Learned counsel for the petitioner further makes a reference to the Memo No.47/26/83-ISS/1457 dated 18.08.2008 issued by the Government of Punjab, Department of Sports & Youth Services which provides for reservations of seats for sportsmen/women in technical/medical and preferential treatment in service of the State Government. The aforesaid communication was issued to streamline the process of gradation and that only the genuine sportsperson may get the gradation for the category of the following:-

“Category ‘B’

- (i) *Gradation Certificate should be awarded only to the first three position holders of the Senior National Championship, National Games, Junior World Championship, All India Inter Universities Competitions/National Championships under 19, National School Games under 17/ All India Rural Sports.*
- (ii) *and to the first three position holders of National Games where the competition held amongst eight or more than eight teams.”*

It is thus stated that even though the initial policy document dated 05.12.1997 contemplated for a Senior and Junior Championship

and was recognized by the National Federation, there should be at least 15 States to have participated in the said event, such number of participating States was reduced to 8 teams by subsequent corrigendum. The Government of Punjab vide its memo dated 08.08.2018, had held that for the issuance of a Gradation Certificate in Category B, a position holder of the games where competition amongst more than 8 teams has been held, the teams to have secured first three positions would be entitled to the aforesaid gradation certificate. He refers to the player profile form of North Zone issued by the Netball Federation of India and has appended the same along with the present petition (Annexure P-7) to contend that the aforesaid certificate clearly shows that more than 10 teams had participated in the 19th All India Inter Zonal League Tournament. He submits that the petitioner was thus eligible in terms of the policy issued by the respondent-State for issuance of a Grade B Sports Gradation Certificate and to claim eligibility for preferential treatment in Government Service and/or admission under technical/medical quota.

Learned counsel for the petitioners further submits that the petitioner had submitted her application along with documents/certificate issued by the Netball Federation of India (Annexure P-11) wherein it has been informed that Netball Promotion Association is the only Association which is recognized by the Netball Federation of India. He further submits that since the petitioner had participated in the Inter Zonal event, the Department of Sports and Youth Services, vide communication Memo dated 01.08.2016, had directed that Category B Gradation Certificate would be awarded only to the first three position

holders of the Senior National Championship, National Games, Junior World Championships, All India Inter Zonal League Tournament (Only for the participants from Punjab) and All India Inter University Competitions, National Championships under-19, National School Games under-27 and All India Rural Sports. He thus contends that by virtue of the aforesaid communication, an All India Inter Zonal League Tournament has been equated to a Senior Tournament and as such, the participants who had participated in the Inter Zonal Event are held entitled to the Gradation Certificates. Since the event in which the petitioners have participated took place in the year 2020 i.e. after the issuance of the aforesaid Memo by the State of Punjab, the certificate issued to the petitioner ought to be considered for issuance of a Gradation Certificate in terms of the Sports Gradation Policy. He further submits that the similar issue has already been decided by a Single Bench of this Court in relation to the game of Netball in **CWP No.16604 of 2019 titled 'Simranjeet Singh and others Vs. State of Punjab and others' and CWP No.9842 of 2020 titled 'Harsahij Singh Vs. State of Punjab and others' decided on 28.04.2022** and the respondent-State had been directed to issue Gradation Certificates to the players who were petitioners therein and had participated in the events organized by the Netball Promotion Association and gradation certificate was not being issued for the same reasons.

Learned State counsel contends that the petitioners are not entitled to the issuance of the Sports Gradation Certificate and that the same have rightly been declined. She submits that the office of the Director, Sports, Department of Sports, Punjab has laid down certain

conditions in the instructions dated 24.12.1997 as pre-requisites which are necessary for issuance of such Sports Gradation Certificates. A copy of such instructions has been attached as Annexure R-1. She further contends that one of the pre-requisites for issuance of Sports Gradation Certificate is that the concerned Sports Association must be recognized with the Punjab Olympic Association and that since the Netball Promotion Association had not been recognized by the Punjab Olympic Association, hence the petitioners are not entitled to seek Sports Gradation Certificate on the strength of having participated in an event organized by the Netball Promotion Association. She draws attention of this Court to the instructions dated 24.12.1997 (Annexure R-1). The relevant clause thereof reads as under:-

“2. Sports Association must be recognized by Punjab Olympic Association.”

It is also contended that a clarification was sought from the Punjab Olympic Association and that vide Ref.No.POA/1188 dated 16.11.2017, it has been informed that the Punjab Olympic Association does not recognize the Netball Promotion Association and that it only recognizes the Punjab Netball Association. It is also informed that the Punjab Netball Association had been registered vide Registration No.MLK/Regn./226 in the year 2010 whereas the Netball Promotion Association was registered vide Registration No.30 in the year 2017-18 only.

A similar stand has also been adopted by the Punjab Olympic Association and it is averred that on account of the Netball

Promotion Association not being recognized by the Punjab Olympic Association, the players who had participated in the event organized by the Netball Promotion Association cannot claim Gradation Certificate since the affiliation/recognition of such sports body with the Punjab Olympic Association is a pre-requisite for issuance of a Gradation Certificate.

Learned counsel for added respondents No.9 to 12 also reiterates the submissions advanced by the learned State counsel and by the learned Counsel appearing for the Punjab Olympic Association. However, he further contends that so far as the judgment dated 28.04.2022 passed in **CWP No.16604 of 2019 titled 'Simranjeet Singh and others Vs. State of Punjab and others'** and **CWP No.9842 of 2020 titled 'Harsahij Singh Vs. State of Punjab and others'** is concerned, the aforesaid judgment has been passed only as a one-time measure and the ratio of the said judgment cannot be applied in favour of any other person.

Controverting the objections taken by the counsel appearing on behalf of the respondents, the learned counsel for the petitioner is also joined by the counsel representing respondent No.7. It is contended by the counsel in unison that the instructions dated 24.12.1997 (Annexure R-1) appended along with the reply of the State are being wrongly interpreted by the respondents. The aforesaid instructions are applicable in relation to inclusion/exclusion of a game and not in relation to gradation of a sporting event. The affiliation with the Punjab Olympic Association as a pre-requisite is prescribed for gradation of a game

whereas the Policy document (Annexure P-2) deals with the Gradation Certificate of a sporting event. They submit that event of Netball has already been recognized as per the communication dated 05.06.2003 (Annexure P-3) and as such, the aforesaid clause would not be applicable in the present case. He further draws attention to paragraphs No.8 and 9 of the aforesaid terms and conditions/pre-requisite which reads thus:-

“8. Committee mentioned in para - 7 will take into consideration if the particular discipline is recognized discipline in Asian and Olympic Games, popularity of the game, participation level, performance level will be given special emphasis.

9. All Sports Associations recognised by POA/Punjab Sports Council to fulfill the above mentioned criterias/pre-requisites and submit in writing to the Directorate of Sports Punjab by 15 December, 1997 after which decision for inclusion/exclusion of a game in the gradation list will be taken by the Committee which will be final and binding on all Sports Associations.”

By referring to the above, he contends that a Committee as stipulated in paragraph No.7 of the aforesaid terms and conditions, is required to take into consideration if the particular discipline is a recognized discipline in Asian and Olympic Games, popularity of the game, participation level, performance level etc. and it further specifies that All Sports Associations recognized by Punjab Olympic Association/Punjab Sports Council are required to fulfill the criteria/pre-requisites and submit in writing to the Director of Sports Punjab

whereafter a decision is to be taken regarding “inclusion/exclusion of a game in the gradation list.” He thus submits that a conjoint reading of the aforesaid two clauses clearly shows that the pre-requisites as per Annexure R-1 are not referable to the gradation of a sporting event and it only relates to inclusion/exclusion of a game under the sports gradation policy. Hence, the reliance placed by the respondents on condition No.2 of the aforesaid terms and conditions about affiliation with Punjab Olympic Association is misconceived. They further contend that the petitioners fulfill the conditions that have been prescribed in the policy dated 24.12.1997 as modified and that the said policy does not prescribe any condition such that the Associations organizing sporting events must be affiliated/recognized by the Punjab Olympic Association. The petitioner falling in category (iv) of the aforesaid policy and having participated in different tournaments, the gradation certificate ought to have been issued in terms thereof.

I have heard learned counsel for the respective parties and have gone through the documents appended along with the present petition.

The issue which thus arises for consideration is as to whether the petitioners in the writ petitions are entitled to the Sports Gradation Certificates for having participated in the sports event which was duly recognized by the Netball Federation of India as well as by the Indian Olympic Association and also by the International Netball Federation and Asian Netball federation or that the aforesaid Gradation Certificate can be denied merely because the aforesaid event was conducted by an Organization which was not affiliated to the Punjab

Olympic Association notwithstanding its affiliation with the National Federation i.e. Netball Federation of India as well as the Indian Olympic Association in terms of the Sports Gradation Certificate Policy dated 10.12.1997 as amended from time to time.

A perusal of the aforesaid policy shows that so far as Grade-B certificate is concerned, a sportsperson who has participated and achieved positions in the tournament mentioned thereunder are entitled to a Gradation Certificate. The Inter-University Championship has been included as a sporting event against which a Gradation Certificate can be issued the requirement for the same being that the event must have nine or more teams. It is not the objection of the respondents that the sporting event does not fall in the said category. The only objection raised pertains to the Netball promotion Association not being registered with the Punjab Olympic Association. The objection raised by the respondents does not inspire confidence and is rejected for the following reasons:-

- (i) The policy of 1997 deals with the criteria of grant of Sport Gradation Certificates to the sports persons who participated/achieved positions in the tournament/competition/championships. The policy does not prescribe the requirement that the event ought to be conducted only by an association which is recognized by the Punjab Olympic Association.
- (ii) The requirement for the Gradation Certificate of “**Grade B**” is that the Senior and Junior National Championships

are required to be recognized by the National Federation of that game under the banner of Indian Olympic Association. A perusal of the certificate shows that the event was organized by the Netball Promotion Association which is affiliated with the Netball Federation of India which is a National Federation of that game and the event was also recognized by the Indian Olympic Association as well as by the Ministry of Youth Affairs and Sports, Government of India. Thus, the requisite of the championship being recognized by the National Federation and being under the banner of Indian Olympic Association stands fulfilled.

- (iii) Clause (iv) of the aforesaid Policy dated 10.12.1997 prescribes for the requisites for certification by the Sports Department of Punjab. No such requisite of the event being organized by a Sports Federation recognized by the Punjab Olympic Association has been held to be an essential pre-requisite for grant of certificate. The document dated 24.12.1997 appended as Annexure R-1 by the respondent-State prescribes the requirement for consideration of a sports gradation of a game by the Sports Department. The aforesaid instructions have been issued on 24.12.1997 for consideration for Sports Gradation. The said instructions are not stated to be in supersession of the instructions of 10.12.1997 which relate to issuance of Sports Gradation Certificates. The

Gradation of a game under the instructions dated 24.12.1997 is thus not the same as a Sports Gradation Certificate issued for participation/being a position holder in a sporting event.

(iv) The instructions of 24.12.1997 are essentially prescribing the requirement of a game to be graded by the Department of Sports i.e. inclusion/exclusion thereof from the Sports Gradation Policy. I am supported in my aforesaid view from a complete reading of aforesaid instructions dated 24.12.1997 which has used the expression sports association and nowhere deals with a sporting event. Besides, the reading of all the clauses of aforesaid instructions dated 24.12.1997 do not lead to the interpretation as is being portrayed by the respondent-State of Punjab and rather suggests that the aforesaid pre-requisites are prescribed only for inclusion/exclusion of a particular sports discipline to be added/excluded from the Sports Gradation Policy of the State of Punjab.

(v) That even though the claim of the petitioners was for issuance of the Sports Gradation Certificates in terms of the policy dated 10.12.1997, however, the respondents have nowhere pleaded or have claimed that the aforesaid policy is not applicable for issuance of the Sports Gradation Certificates. As a matter of fact, the reply filed by the respondents is evasive. The applicability of

the Sports Gradation Certificate Policy dated 10.12.1997 is thus not disputed nor denied. So much so, in the response filed on behalf of the respondents, they have not even dared to inform as to whether the instructions dated 24.12.1997 are in supersession of the Sports Gradation Policy dated 10.12.1997 or not. It seems that a deliberate attempt to create confusion has been made by the respondents' officials themselves. If the above said instructions dated 24.12.1997 had been issued in supersession of the policy dated 10.12.1997, there was no occasion or reason why the respondents have not stated so in their reply or in any counter affidavit. Moreover, the complete policy document has also not been appended. The said omission cannot be construed as an oversight.

- (vi) That the facts pleaded in the petitions have neither been disputed nor denied by the respondent-Department in their reply.
- (vii) That the emphasis for issuance of a Sports Gradation Certificate is on the level at which a tournament is organized. Once the Indian Olympic Association is associated with the event in question along with the National Federation of that game, there can be no legitimate basis for denying Sports Gradation Certificate to a sportsperson merely because of the said event having been conducted under a banner of a sporting

federation which is not recognized by the State Olympic Association.

(viii) That act of respondents in wanting to read into a mandatory condition of the sporting event being recognized by the Punjab Olympic Association and/or the instructions dated 24.12.1997 amounts to rewriting the policy conditions/requirements of the policy dated 10.12.1997 and to prescribe the requirements/eligibility thereunder which are not so provided. The High Court would not in exercise of its powers under Articles 226/227 of the Constitution of India read eligibility conditions into a policy document that have not been prescribed by the Government itself as it would amount to failing of the policy decision.

(ix) That other sportsperson(s) who had participated in events held by the Netball Promotion Association affiliated to the Netball Federation of India and recognized by the Indian Olympic Association have already been directed to be granted sports gradation certificates by this Court vide judgment dated 28.04.2022 passed in CWP-16604-2019. There is no reason why the petitioners herein ought to be denied such benefit. Even though it has been stated in the aforesaid judgment that the same is as a one-time measure and would not be cited as a precedent, however, notwithstanding the aforesaid recital of the judgment, it

still has its persuasive value. The entitlement of the petitioners to the issuance of Sports Gradation Certificates is being considered after dealing with the objections raised by the respondents and the same not finding favour with this Court.

- (x) That the objection raised by the respondent-State if accepted would lead to an anomalous situation since no sportsperson participating in the Sport of Netball would ever be issued a sports gradation certificate. The Punjab Olympic Association does not recognize the Netball Promotion Association and the Punjab Netball Association which is recognized by the Punjab Olympic Association is not recognized/affiliated with the Netball Federation of India and/or the Indian Olympic Association. Hence, if an event is organized by the Punjab Netball Association, the players participating therein would also not be eligible for issuance of a sports gradation certificates since the event in question would not be recognized by the National Federation of the game and the Indian Olympic Association. Denial to a sportsperson in a sports discipline of any Sports Gradation Certificate cannot be the objective of the Sports Gradation Policy which intends to recognize the sporting contribution of a sportsperson. The stand of the respondent-State of Punjab thus suffers from non-application of mind and objectivity.

Accordingly, the following writ petitions are allowed:-

Sr. No.	Writ Petition Number	Title
1	CWP-15723-2021	PIYUSHA MODI V/S STATE OF PUNJAB AND OTHERS
2	CWP-26964-2021	SEHAJBEER BHANDAL V/S STATE OF PUNJAB AND ORS
3	CWP-4580-2021	MANUREET SINGH V/S STATE OF PUNJAB AND ORS
4	CWP-9784-2022	GURJEEV SINGH RIAR AND ORS V/S STATE OF PUNJAB AND OTHERS

Learned counsel for the petitioners submit that in view of the aforesaid writ petitions having been allowed, they do not press the following petitions and the same may be disposed of as not pressed.

Sr. No.	Writ Petition Number	Title
1	COCP-49-2022	PIYUSHA MODI V/S PARMINDER PAL SINGH SANDHU AND ANR
2	COCP-113-2022	SEHAJBEER BHANDAL V/S AJOY SHARMA AND OTHERS
3	CRM-M-22688-2022	NETBALL PROMOTION ASSOCIATION (REGD) V/S THE DIRECTOR SPORTS,DEPARTMENT OF SPORTS,SECTOR 63,MOHALI

Accordingly, the above petitions are disposed of as having not pressed.

All other pending applications shall stand disposed of accordingly.

A photocopy of the order be placed on the file of each connected case.

February 15, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No