

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

CWP-13293-2023 (O&M)
Date of decision : 18.07.2023

YASHIKA SHARMA

...Petitioner

Versus

UNION TERRITORY, CHANDIGARH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Puneet Sharma, Advocate
for the petitioner.

Mrs. Madhu Dayal, Additional Standing Counsel,
Union Territory, Chandigarh assisted by
Ms. Shubreet Kaur, Junior Panel Counsel
Union Territory, Chandigarh
for respondent Nos.1 and 2.

HARSH BUNGER, J.

Petitioner (Yashika Sharma) has filed this petition through her father and natural guardian-Sh. Rajesh Sharma, under Articles 226/227 of the Constitution of India, seeking issuance of an appropriate writ, order or direction in the nature of *certiorari* for quashing of Sports Gradation Certificate dated 24.05.2023 (Annexure P-13) whereby, she has been wrongly issued Grade 'D' Certificate rather than her rightful entitlement of Grade 'C' Certificate as the proviso under Grade 'C' of the Gradation Policy of Sports Department, Chandigarh Administration is superfluous being unachievable because during the Sessions 2021-22 and 2022-23, no inter-school matches at Chandigarh were held on account of Covid-19 *pandemic*.

A further prayer has been made for quashing of the reply/letter

dated 29.05.2023 (Annexure P-14), wherein none of the concerns raised in

the representation dated 28.04.2023 (Annexure P-7) with regard to inapplicability/non-achievability of the *proviso* under Grade 'C' of the Gradation Policy, Sports Department, Chandigarh Administration, have been addressed.

Petitioner also seeks a direction for issuance of Grade 'C' Sports Gradation Certificate in her favour while not impressing upon the applicability of the *proviso* under Grade 'C' under the Gradation Policy as no inter-school basketball matches/competition were held during the Sessions 2021-22 and 2022-23, on account of the Covid-19 *pandemic*.

2. Briefly, the petitioner is stated to be a brilliant student and an outstanding basketball player, who had been participating in District level Women Basketball competitions organized by Sports Department, Punjab State Sports Council. The petitioner is also stated to have participated in sub junior Punjab Basketball Championship organized by Punjab Basketball Association in the year 2016-17. The petitioner and her team is also stated to have stood 2nd in the CBSE cluster U-19 Basketball Championship in the year 2016-17. It is claimed that the petitioner has been regularly participating in various District, State and National Level Basketball Championships.

3. As per the petitioner, she got selected for 71st Junior National Basketball Championship held at Indore, Madhya Pradesh through selection by trial conducted by respondent No.3 i.e. Chandigarh Basketball Association (Regd.) as Inter School Matches were not held because of the spread of Covid-19 *pandemic*. It is stated that the petitioner was selected and participated in 72nd North Zone Senior National Basketball Championship held at Noorpur (Himachal Pradesh) having been selected in trials conducted

by Chandigarh Basketball Association (Regd.) as even for this year, on account of Covid-19 *pandemic*, inter school matches for shortlisting of the players for National Basketball Championship could not be held.

4. The petitioner appeared for her 10+2 Board Examination, wherein she secured 81.2%. She further appeared in JEE (Mains) 2023 examination, whose result was declared on 29.04.2023, wherein she secured NTA Score of 88.75%. As per the petitioner, on the strength of NTA score along with 10+2 result, she attended the counselling for admission to B.E. at Thapar Institute of Engineering and Technology, Patiala and was selected for provisional admission to the said institute under the Sports Person Category and was allotted 'Electronics and Computer Engineering'. It is the stand of the petitioner that she received an e-mail dated 15.05.2023 from the Deputy Registrar, Academics, Thapar Institute of Engineering and Technology for submission of certain documents including Sports Gradation Certificate. As per the petitioner, respondent No.2-Director, Sports Department, Chandigarh Administration, wrongly issued Sports Gradation Certificate adjudging her as Grade 'D' in sports discipline of Basketball by taking into consideration her participation in 71st Junior National Basketball Championship.

5. According to the petitioner, she applied for an admission in 'Thapar Institute of Engineering and Technology' under Sports category in anticipation of issuance of Grade 'C'. The petitioner states that she applied for issuance of Sports Gradation Certificate on the basis of her achievements i.e. participation in 71st Junior National Basketball Championship from 04.01.2022 to 10.01.2022 at Indore, Madhya Pradesh and 72nd North Zone

Senior National Basketball Championship from 13.10.2022 to 16.10.2022 at Noorpur, District Kangra (Himachal Pradesh).

6. As per the petitioner, on making enquiries regarding the issuance of the Sports Gradation Certificate, she was informed that Grade 'C' Gradation Certificate will not be issued on account of non-fulfillment of the conditions of the proviso under Grade 'C' of the Gradation Policy of the Sports Department, Chandigarh Administration; whereupon, the petitioner, through her father, is stated to have submitted a representation dated 28.04.2023 (Annexure P-7), wherein, it is explained that on account of Inter School Matches, having not been held in the year 2021-22, 2022-23 due to Covid-19 *pandemic*, the condition stipulated in the proviso under Grade 'C' of the Gradation Policy be not made applicable. It is submitted that the petitioner had received the impugned Sports Gradation Certificate with Grade 'D' dated 24.05.2023 (Annexure P-13) and being dissatisfied with the same, the petitioner submitted representation dated 28.04.2023 (Annexure P-7). However, the petitioner has now received the impugned letter dated 29.05.2023 (Annexure P-14), wherein, it is stated that the petitioner has been accorded Grade 'D' as per the existing Sports Gradation Policy of Chandigarh Administration.

7. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court.

8. Upon issuance of notice of motion in this case, short reply on behalf of respondents No.1 and 2 by way of affidavit of Sh. Sorabh Kumar Arora, PCS, Director (Sports Department), Chandigarh Administration, was filed, which is already on the record.

9. Learned counsel for the petitioner contends that respondents No.1 and 2 have failed to consider and apply the Gradation Policy for the issuance of Sports Gradation Certificate in sync with the prevalent conditions/scenario; wherein, on account of Covid-19 *pandemic*, no Inter-School Basketball Tournament/matches were held in Chandigarh either in the Session 2021-22 or even the Session 2022-23. It is submitted that under the Sports Gradation Policy (Annexure P-15), in order to secure Grade 'C' Certificate, the following provision has been made :-

“ GRADE `C`

- (i) Participation in Senior Nationals/Inter-University Tournaments/Federation cup/organized by the Federation/AIU.*
- (ii) Participation in Junior National Championship/National School Games/KVS National team participated in the National School Games.*
- (iii) First three positions in the recognized Chandigarh State Championships in Seniors provided minimum 7 teams participated.*
- (iv) First three positions in the Panjab University Inter College Tournaments provided minimum 7 teams participated.*
- (v) First three positions in the recognized Chandigarh State Championships for Juniors provided minimum 7 teams participated.*
- (vi) First three positions in Chandigahr Inter-School tournaments conducted by the Sports Deptt./KVS National Tournaments for Seniors and Juniors, provided minimum 7 teams participated.*

Provided that a sportsperson, who intends to get benefit of clause (i) & (ii), must have obtained first three positions in the respective State/Inter-College/Inter School/KVS Nationals.”

A perusal of the afore-said clauses contained in the Sports Gradation Policy, would manifest that in order to secure Grade 'C' certification under Clause (i) and (ii) of Grade 'C', there is an additional condition by way of proviso; which states that a sports person, who intends to get benefit of Clause (i) and (ii), must have obtained first three positions in the respective State/Inter-College/Inter School/KVS Nationals.

10. It is the contention of the petitioner that since Inter-School matches were not held due to Covid-19 *pandemic* during the Session 2021-22 or 2022-23; accordingly, the afore-said proviso under Grade 'C' in the Sports Gradation Policy (Annexure P-15) cannot have any applicability. It is thus contended that the said proviso is not only superfluous but also impractical as none of the students, having participated in the National School Games, would be entitled to Grade 'C' Certificate. Accordingly, it is prayed that the Sports Gradation Certificate dated 24.05.2023 (Annexure P-13) as issued to the petitioner may be quashed with a further direction to the authorities for issuance of Grade 'C' Sports Gradation Certificate in favour of the petitioner.

11. On the other hand, learned counsel appearing for the Union Territory, Chandigarh, while referring to the short reply filed on behalf of respondents No.1 and 2, has opposed the afore-said prayer and contentions raised by the petitioner. It is submitted that the policy in question (Annexure P-15) was issued on 05.05.2003 by the Department of Home, Chandigarh Administration for grant of Sports Gradation Certificates and the said department has not been impleaded in the instant writ petition. It is stated that since 2003, the Sports Department, Chandigarh Administration has been following the afore-said policy and the role of the Sports Department

(respondent Nos.1 and 2) is to grade the certificates presented by the sports persons as per the prevailing policy.

12. Learned counsel for respondents No.1 and 2, has re-iterated the stand taken in para Nos.5, 6 and 8 of the short reply, which read as under :-

“5. That the petitioner submitted her application (Annexure P-6) for gradation listing the following achievements: 71st Junior National Basketball Championship at Indore, MP in which she participated and did not obtain a position and 72nd National Junior Basketball Championship Phase 1 North Zone at Kangra, HP in which she obtained second position in the said North Zone level competition. In fact, the latter was not graded being a Zone level competition. The petitioner did not participate in the next level of the said tournament at Bangalore. The petitioner in her representation dated 28.04.2023 (Annexure P-7) admits that she did not participate in the next part of the competition at Bangalore due to injury. It is submitted that the Chandigarh girls’ basketball team also did not secure any of the top positions at Bangalore.

6. That accordingly on the basis of the Petitioner’s participation in the 71st Junior National Basketball Championship at Indore, MP, she was granted Grade ‘D’ sports gradation (Annexure P-13).

7. xxx xxx xxx

8. That in the absence of any such certificate regarding obtaining one of the first three positions in the respective State/Inter-College/Inter School/KVS Nationals, it is not possible to grant Grade ‘C’ Sports Gradation. In compliance with the said Policy (Annexure P-15) and as per the Petitioner’s own application (Annexure P-6) she has been issued the Sports Gradation Certificate dated 24.05.2023 (Annexure P-13), which is liable to be upheld.”

13. With the afore-said submissions, learned counsel appearing for the Union Territory, Chandigarh, has prayed for dismissal of the writ petition, being devoid of any merit.

14. I have heard learned counsel for the parties and have perused the paper book as well as the short reply filed on behalf of respondents No.1 and 2.

15. The only contention raised by learned counsel for the petitioner is that the petitioner is entitled to the issuance of Grade 'C' Sports Gradation Certificate on the basis of the afore-said Sports Gradation Policy dated 05.05.2003 (Annexure P-15) by ignoring the additional condition envisaged under the proviso mentioned under Grade 'C' of the Sports Gradation Policy. In this regard, it is contended that since no Inter-School Matches (as envisaged under the proviso under Grade 'C') were held in the year 2021-22 and 2022-23 on account of Covid-19 *pandemic*; accordingly, the condition envisaged under the proviso for the issuance of Grade 'C' Gradation Certificate shall not be made applicable.

16. Per contra, learned counsel for the Union Territory, Chandigarh, has submitted that the role of the Sports Department is to grade the certificates presented by the Sports person as per the prevailing policy and since the policy dated 05.05.2003 itself had not been challenged; accordingly, there was no scope for any interference therein. It is further stated that the petitioner had submitted her application for gradation, listing the following achievements:-

“a. 71st Junior National Basketball Championship at Indore, MP in which she participated and did not obtain a position;

b. 72nd National Junior Basketball Championship Phase 1 North Zone at Kangra, HP in which she obtained second position in the said North Zone level competition.”

In reference to the above, learned counsel appearing for the Union Territory, Chandigarh, has submitted that the 72nd National Junior Basketball Championship, Phase 1, North Zone at Kangra (H.P.) was not graded being a Zone level competition and the petitioner did not participate in the next level of the said tournament at Bangalore due to injury. It is further submitted that the Chandigarh Girls' Basketball team also did not secure any of the top positions at Bangalore. Accordingly, it is stated that on the basis of the petitioner's participation in the 71st Junior National Basketball Championship at Indore (M.P), she was granted Grade 'D' Sports Gradation Certificate (Annexure P-13). It is also stated that in the absence of any certificate regarding obtaining one of the first three positions in the respective State/Inter-College/Inter School/KVS Nationals, it is not possible to grant Grade 'C' Sports Gradation to the petitioner. It is next submitted that the petitioner has been accorded Grade 'D' as per the existing policy, which is liable to be upheld.

17. Concededly, the petitioner has not challenged the Sports Gradation Policy dated 05.05.2003 (Annexure P-15). As per the said policy, a Sports Person is entitled to Grade 'C' Certification under Clause (i) and (ii) provided the said Sports Person had obtained first three positions in the respective State/Inter-College/Inter School/KVS Nationals. Admittedly, neither the petitioner nor the team in which, she was a member, has secured any of the first three positions in the respective State/Inter-College/Inter School/KVS Nationals. Further as per the note appended to the said Gradation Policy (Annexure P-15), the student seeking admission under

various sports disciplines as mentioned therein, which includes basketball, shall be considered only if his/her age falls within the age group, which is eligible for participation in Inter-College/Inter-University tournaments and if his/her achievement in sports relates to his/her activity in any of the three years preceding to admission. Thus, the achievements of a Sports person in order to secure gradation, are liable to be considered only in respect of three years preceding to admission under a particular grade in a particular year. Thus, for the purposes of the instant case, since the petitioner has sought gradation in the year 2023; accordingly, her achievements for the last three years preceding i.e. for the year 2020-21, 2021-22 and 2022-23, are required to be considered, which as per Annexure P-1 are as under :-

<i>SESSION</i>	<i>TOURNAMENT</i>	<i>TEAM</i>	<i>POSITION</i>
2020-21	No tournament due to Covid-19 pandemic.		
2021-22	71 st Junior National Basketball Championship Indore Madhya Pradesh from 04.01.2022 to 10.01.2022.	Chandigarh	Participation
2022-23	72 nd Junior National Basketball Championship Phase 1 – Kangra from 13.10.2022 to 16.10.2022	Chandigarh	Second
	Shanta Singh Memorial Basketball Tournament	GNPS-36 School	Third
	BFI-INBL FIBA 3 on 3 Tournament	GNPS-36 School	Participation
	S.D. Basketball Tournament	GNPS-36 School	Second

A perusal of the above-extracted chart (Annexure P-1) would show that as against Session 2022-23, the petitioner claims to have obtained second position in 72nd Junior National Basketbal Championship, Phase I-

Kangra from 13.10.2022 to 16.10.2022; however, in fact the said “second position” was in the North Zone level competition i.e. 72nd National Junior Basketball Championship, Phase I, North Zone, H.P. As per the stand of Union Territory, Chandigarh, the same was not graded being a “Zone Level Competition” and the petitioner did not participate in the next level of said tournament at Bangalore, due to her injury.

Thus, it appears that the Sports Gradation Certificate dated 24.05.2023 (Annexure P-13) of Grade ‘D’ in the Sports Discipline of Basketball has been rightly granted as per the existing Sports Gradation Policy (Annexure P-15).

18. The contention of the petitioner that the additional condition envisaged in the proviso under Grade ‘C’ of the policy (Annexure P-15) be ignored for the purpose of granting Grade ‘C’ gradation to the petitioner, as due to Covid-19 *pandemic*, no Inter-School tournaments were held; cannot be accepted as the same would amount to interfering with the Government policy. It is well settled that the policy decisions are taken by the Executive, depending upon the facts and circumstances at the given point of time and has to be tested independently in the circumstances in which it has been exercised by the competent authority. It is within the realm of the executive to take a policy decision based on the prevailing circumstances for better administration and in meeting out the exigencies but at the same time, it is not within the domain of the Courts to legislate. The Courts do interpret the laws and in such an interpretation, certain creative process is involved. The Court is called upon to consider the validity of a policy decision only when a challenge is made that such policy decision infringes fundamental rights guaranteed by the Constitution or any other statutory right.

19. Merely, because of non-holding of matches due to Covid-19 *pandemic* situation, no assistance can be claimed by the petitioner in seeking a *mandamus* to respondents No.1 and 2 to issue Grade `C` Sports Gradation to the petitioner by ignoring the proviso under Grade `C` of the policy (Annexure P-15) which requires additional conditions to be fulfilled to secure Grade `C` certification; more so when the petitioner has not laid any challenge to the said policy.
20. In view of the above discussion, I do not find any merit in the instant petition and the same is accordingly dismissed.
21. All pending application/s, if any, shall stand closed.

July 18th, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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