

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

(2 connected cases)

Date of Decision: 20.09.2023.

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(1)CWP-14491-2023 (O&M)

AMIT AND OTHERS

.. Petitioners

VERSUS

UNION OF INDIA AND OTHERS

.. Respondents

(2)CWP-14802-2023 (O&M)

SAGAR

.. Petitioner

Versus

UNION OF INDIA AND OTHERS

.. Respondents

Present: Mr. Sajjan Singh, Advocate, for the petitioners.

Mr. Babbar Bhan, Advocate,
for petitioner No.3 in CWP-14491-2023.

Mr. Sudhir Nar, Senior Panel Counsel and
Ms. Samrit Gill, Advocate,
for respondents No.1 and 3/Union of India.

Mr. Abhimanyu Kalsy, Advocate, for
Mr. Atul Goyal, Advocate,
for respondent No.2 in both the writ petitions.

Mr. Mohit Garg, Advocate,
for respondents No.4 to 7 in CWP-14491-2023 and
for respondents No.4 to 6 in CWP-14802-2023.

VINOD S. BHARDWAJ, J.

Challenge in the present petition pertains to the impugned policies (Annexure P-5 and Annexure P-6) as well as the impugned Selection (Annexure P-7) along with the evaluation for Asian Games (Elite Men Report) with respect to respondents No.6 and 7 (wrongly mentioned as respondents No.5 and 6). A further mandamus has been sought for issuing directions to the respondents to conduct final selection trials stipulated in the National Sports Development Code of India (NSCI), 2011 (hereinafter referred to as “Code of 2011”) notified on 31.01.2011 and to recommend the names of the players for Asian Games on the basis thereof.

The petitioners herein claim to be outstanding Sports persons having excelled in various sporting competitions in boxing. Petitioner No.1 claims to have won 08 Gold Medals, 03 Silver Medals and 04 Bronze Medals at International level and petitioner No.2 is stated to have participated in various international championships and competitions. The petitioner No.3 is stated to be only a sports enthusiast. Counsel for the petitioners contends that the said petitioner No.3 may be deleted from the array of the petitioners.

The grievance espoused by the petitioners in brief is that notwithstanding the mandate of the Code of 2011 for holding of selection trials for selecting team to participate in major international events, the respondents have violated the mandate of the Code of 2011 by an

addendum whereby respondents No.6 and 7, who were otherwise not eligible, have been selected to participate in the Asian Games, 2022 (now being held in 2023 on account of COVID-19 Pandemic in the year 2022). It is further averred that the petitioners had performed better than the private respondents in the selection trial originally held and notwithstanding their better performance parameters, they have been declined a place in the entourage recommended for participation in the Asian Games in the Sports of Boxing. The act of the respondents is also challenged on the ground that the Selection Committee constituted by the respondents was not in accordance with the provisions of the Code of 2011 and the guidelines framed thereunder and that mandatory Government Observer had not been associated. Further, it is also stated that even though the selection criteria is required to be published at least 06 months prior to the selection trial, however, the addendum carrying out changes in the selection procedure was published only on 26.05.2023, after the selection process had already commenced and the aforesaid changes in the selection process were orchestrated at the behest of respondents No.6 and 7 to cause prejudice to the petitioners herein. A prayer is thus made that the recommendation of the respondents No.6 and 7 be set aside and the petitioner as well as the respondents No.6 and 7 be put to selection trial so that a better Athlete is selected for participation in the Asian Games to be held in China w.e.f. 23.09.2023. Highlighting such defects, the present writ petition has been filed.

Short reply on behalf of respondent No.1 i.e. Ministry of Youth Affairs and Sports through its Director has been filed, wherein it is

submitted that the Ministry of Youth Affairs & Sports had amalgamated the Government Guidelines/instructions and brought out one comprehensive Code of 2011 which is applicable on all National Sports Federations. The above said Code of 2011 contains Government instructions/guidelines for grant of Government recognition to National Sports Federations; limiting age and tenure of office bearers of National Sports Federations including the Indian Olympic Association; model election guidelines; measures to combat fraud in age of players; prevention of sexual harassment of women in sports etc. It is further averred that the aforesaid Code of 2011 is binding on every National Sports Body recognized thereunder. The above said Code of 2011 is followed up by various executive instructions that are issued from time to time in the exigent circumstances for achieving the dynamic object of the Code of 2011. It is further averred that the National Sports Federation is primarily responsible for judicious selection of national teams for participation in major international events based on merits and with an objective of enhancing national prestige and glory. The selection process for the outstanding sportspersons for participation in the major international events is the prerogative of the respective National Sports Federation and there is no direct involvement of the Ministry in the selection process. However, the National Sports Federations are obligated to ensure that the selection process is fair, transparent, impartial and the selection criteria is made known to all stakeholders well in advance. It is further averred that the name of the Indian Boxers selected by Boxing Federation of India to represent the country at Asian Games have already been sent by the Indian

Olympic Association to the Organizing Committee of Hangzhou Asian Games as the last date for submission of the same was 15.07.2023.

A separate reply on behalf of respondents No.4 to 7 i.e. the Boxing Federation of India; Head Coach of National Elite Men Boxing Coaching Camp and the selected boxers i.e. Deepak and Sachin has also been filed wherein, while conceding the binding nature of the Code of 2011, it is asserted that the Boxing Federation of India, being the National Sports Federation, is competent to formulate the selection process for selection of the athletes to represent India in the boxing event. The Selection Committee was formed by the Boxing Federation of India on 10.01.2023 comprising of the members in accordance with the Code of 2011. The abovesaid Selection Committee consulted the Sports Science Professionals as well as High Performance Units and finalized a selection policy in the first week of February 2023. The evaluation/selection policy finalized by the Boxing Federation of India is akin to the policy adopted by many leading boxing nations in the world. There are various parameters for evaluation, assessment and selection of an athlete to rule out any possibility of bias, partiality, absence of merit or arbitrariness. It is asserted that the aforesaid selection criteria adopted by the respondent No.4 - Boxing Federation of India has proved its efficacy in the World Championships where the Indian boxing team put an outstanding performance. The Indian Team Elite Men won three bronze medals in World Championship and the Indian Team Elite Women won four gold medals in the said Championship.

The Selection Policy notified in the first week of February, 2023 for selection of boxers of National Camp Elite World Championship and Asian Games, a comprehensive briefing was also given in the National Camp regarding the selection/evaluation process to be followed by the high performance unit including the high performance directors, coaches and sports staff. The same was also uploaded on the website of Boxing Federation of India and communicated to the Sports Authority of India and as well as the Ministry of Youth Affairs and Sports. The above selection policy was also presented in 92nd meeting of Steering Group (Core Members) of the Mission Olympic Cell. An addendum was thereafter published on 16.03.2023, which was also uploaded on the website of respondent No.4-Boxing Federation of India to further crystalize the selection criteria in a more concise manner and for the better understanding of the athletes by removing and addressing their queries.

Another addendum was published on 26.05.2023 regarding inclusion of Tokyo Olympic Participant Eligibility for inclusion in National Coaching Group Camp but no change had been made in the selection process finalized by the Boxing Federation of India.

It is submitted that some of the boxing sports persons, being aggrieved of the selection criteria finalized by the Boxing Federation of India, filed a petition before Delhi High Court bearing **Writ Petition (Civil) No.2860 of 2023** titled as '**Manju Rani and others Versus Boxing Federation of India and others.**' The prayer for interim relief was decline by the High Court of Delhi by holding that the jurisdiction of the Writ

Court is only to assess the overall process which is required to be fair, reasonable and transparent. The operative part of the said order reads thus:

“10. There is no doubt that selection of a team to represent a country, from amongst talented players is always an uphill task. Selections is to be done by professional persons who have knowledge of the said sport and it is expected that the same would be done in a fair and non-discriminatory manner, keeping quality representation on behalf of the country as the only priority. Selectors are expected to adopt objective criteria to the maximum extent possible but ultimately, there is no doubt that some discretion and subjective assessment would be involved

11. The Court, in such cases, is to assess whether the overall process has been fair, reasonable and transparent The process should also not reveal any arbitrariness. The scope of interference in a writ petition in such cases would be to ensure the same. Bearing this in mind, the evaluation forms have been perused by the Court as also the medal tally. The same does not in the opinion of the Court, smack of any arbitrariness or bias.”

Reference is also made to the judgment of the Delhi High Court reported as **2016 SCC Del. Online 3660** to contend that autonomy of the National Sports Federation in selection of the sportspersons has been upheld and that the Code of 2011 does not make it obligatory for the Sports Federations to conduct the selection trials for selecting the team. The relevant extract of the said judgment reads thus:

“A WRIT COURT WILL NOT INTERFERE IN THE EXERCISE OF DISCRETION OF THE NATIONALSPORTS FEDERATION EXCEPT WHERE THE DISCRETION IS

SHOWN TO HAVE BEEN EXERCISED IN AN ARBITRARY
OR CAPRICIOUS OR PERVERSE MANNER OR CONTRARY
TO SETTLED PRINCIPLES OR PRACTICES AFTER ALL
POWER AND RESPONSIBILITY GO HAND IN HAND.

36 Having heard the learned counsel for parties, this Court is of the view that the decision who should represent India in a sporting event is best left to the experts i.e. the concerned National Sports Federation.

xxx xxx xxx

THE CODE, 2011 GIVES FULL FLEXIBILITY AND AUTONOMY TO RESPONDENT NO 4-WFI TO DECIDE THE PROCESS OF SELECTION AND WHEN TO HOLD A TRIAL.

43. This Court is also of the view that the Code. 2011 does not restrict or impinge upon the autonomy or discretion of the National Sports Federations to select athletes/wrestlers to represent India in international sporting events The Code 2011 does not make it mandatory for respondent no. 4-WFI to hold trials for selection of wrestlers for Olympics just two to three months prior to the event. The Code, 2011 only obligates the National Sports Federations to judiciously select players to represent India on merit for major international events with the objective of enhancing national prestige and bringing glory to the country The Code 2011 gives full flexibility and autonomy to respondent no. 4-WFI to decide the process of selection and when to hold a trial It only stipulates that if selection trials are required they should be held two months in advance.”

Reference was also made to judgment of the Delhi High Court

in Writ Petition (Civil) No.9593 of 2023 titled ‘Sujeet and another Versus Union of India and others’ to contend that power of judicial review of the

High Court is restricted to whether the selection of athletes have been made in a fair and impartial manner or not and the High Court, not being an expert, cannot decide suitability of the sports-person.

It has also been averred that the selection of the athletes has been done strictly as per the selection criteria, with all fairness and merit of all the athletes has been evaluated on their overall performance over a period of two weeks before a final select list was recommended. The selection criteria had been published in February 2023 and circulated amongst all stakeholders, and no objection to the same was raised by the petitioners herein. After having participated in the said selection criteria, they cannot raise a challenge to the same on being unsuccessful.

A separate reply has been filed on behalf of respondent No.2- Indian Olympic Association through Joint Secretary/Acting C.E.O. of the Indian Olympic Association, wherein it has been averred that the role of Indian Olympic Association is limited only to enforcement of Rules and Regulations of the Indian Olympic Committee. The National Sports Federations have their own autonomy to be in consonance with their respective International Sports Federation. It is reiterated that the selection of the sportspersons for participation in major international events is the responsibility of the National Sports Federations only and that there is no involvement of the Indian Olympic Association in the determination/ alteration of the criteria, if any. It is further averred that the guidelines issued under the Code of 2011 are for efficient management of coaching camps, selection of coaches, selection of athletes etc. A prayer for dismissal of the petition was accordingly made.

An additional affidavit for placing on record the Selection Policy/Criteria adopted by the respondent-National Sports Federation has also been filed wherein it is averred that the Boxing Federation of India formulated the Selection Policy on 06.02.2023 and issued the addendum on 16.03.2023 only to clarify the Selection Policy and the same was duly uploaded on the website of the Boxing Federation of India on 17.03.2023. The said addendum allowing participants to join National Camp was issued much prior to the World Boxing Championships that were scheduled in the month of April 2023 and conclude in May 2023. It is thus averred that the allegation that the addendum had been issued only to advance benefits to the privates respondents was ill-founded and mis-conceived.

Referring to the selection process for the evaluation of the Athletes, details of the Selection Committee had been mentioned as under:

- a) Bernard Dunne, High Performance Director and Former WBA Super Bantamweight World Champion)
- b) Dmitrij Foreign Coach, (Russia)
- c) C.A.Kuttapa, Head Coach (Dronacharya Awardee)
- d) D.S. Yadav, Coach (Olympic, Arjuna Awardee).

It is averred that in consonance with the Selection Policy, the players were evaluated in the National Camp by the above four coaches as per the Selection Policy of the Boxing Federation of India for selection of the Indian Team for Asian Games, 2023. The list of the marks given to the petitioner and the other Athletes by all the four coaches has been attached.

It is further averred that Petitioner No.1-Amit was also assessed under the above Selection Policy 06.02.2023 in the month of

March 2023, and even in the said assessment, he had scored less than respondent No.6 – Deepak. Thus, respondent No.6 was sent to the World Championship 2023 where he won the Bronze Medal. A detailed description was also given of the multi-stage and multi-layered assessment criteria adopted by the respondents for short listing of the sportspersons to participate in the Asian Games, 2023.

No replication has, however, been filed.

ARGUMENTS OF COUNSEL FOR THE PETITIONERS

Learned counsel for the petitioners has referred to the Code of 2011 and the selection criteria laid down therein. The relevant clauses relied by him are reproduced hereinafter below:

“3. Selection of Athletes.

- (i)

The selection of sportspersons for participation in major international events shall be the responsibility of National Sports Federations (NSF) concerned, and Government and the Sports Authority of India, will not have direct involvement in the selection process, except to ensure that it is fair and transparent.
- (ii)-(iii)

XXXX XXXX XXXX
- (iv)

The holding of the selection trials should be announced at least one month in advance of dates of the trials.
- (v)

XXXX XXXX XXXX
- (vi)

The selection shall be done by a Selection Committee, consisting of the President of the NSF as the chairman, the National coach and eminent ex-sportspersons, preferably Arjuna awardees. There shall be no Government Observer/SAI nominee, as member, in the Selection Committee.
- (vii)

The NSFs shall send invitation to the Government Observer, for attending the selection trials, and the

selection committee meetings, as an Observer, atleast 15 days in advance, which shall further be followed up on personal basis. The Government Observer must send his/her report, directly to SAI and the Ministry, without delay.

(viii)-(xiii) XXXX XXXX XXXX”
(Emphasis supplied)

It is argued that Code of 2011 stipulates selection of sportspersons for participation in major international events through selection trials to be announced at least one month in advance.

Reference is also made to Clause 13.2 of the Code of 2011, which reads thus:

“13.1 XXXX XXXX XXXX
13.2. *The Selection Committee will be constituted by the Federation comprising of the President, the National Coach and eminent ex-sportspersons. The Government will appoint an Observer for priority and general category disciplines receiving financial grant, who will be associated with all the activities of the National Federation. It will be mandatory for the Federation to inform him or her about Selection Committee Meetings, important national and international competitions. The Government Observer will have to observe the selection process in order to ensure that it is fair and transparent.*
13.3 – 13.09 XXXX XXXXXXXX”

By referring to the aforesaid Clause, an argument has been raised that the Selection Committee required to be constituted by the National Sports Federation mandates appointment of a Government Observer to oversee fairness and transparency in the selection process. In

furtherance of the aforesaid mandate, a Selection Policy dated 16.02.2022 was published by the respondents and adopted for selection of Boxers for Elite Boxing Championships, Asian Games and Commonwealth Games, 2022. Reference is made to the following clauses of the above Selection Policy:

- “1. *National Campers will be eligible for participating in Selection Trials National Campers which include the participants of the 2020 Tokyo Olympic who did not participate in the National Championship.*
- 2. *XXXXX XXXXX XXXXX*
- 3. *In general changes in weight category will be allowed once in a year at the time of National Championships.*
- 4. *However, in view of Asian Games and Commonwealth Games to be held this year in which the weight categories of IBA do not exactly tally with the weight categories of these two games, change in weight categories will be allowed for the boxers in the camp only for these games to the extent that the Boxers can manage within the specified weight category.*
- 5-6. *XXXXX XXXXX XXXXX*
- 7. *Selection Trials will be held in Elite Men camp for Asian Games and Commonwealth Games in the middle of May, 2022*
- 8. *Selection Committee will comprise of President, BFI (or his nominee) and expert panel of reputed veteran boxers, preferably Arjuna Dronacharya Awardees, past Olympians and past World Championship medalists.*
- 9-10. *XXXXX XXXXX XXXXX”*

It is thus contended that all national campers were held eligible to participate in the selection trials and that the selection for the

Elite Men for Asian Games 2022 was to be held from amongst the campers. Selection Committee was to comprise of the President or nominee of the Boxing Federation of India and an Expert from the panel of reputed veteran boxers preferably Arjuna/Dronacharya Awardees, past Olympians and past World Championship medalists. It is argued that the Selection Committee had not been constituted as per Clause 8 of the abovesaid Selection Policy as one of the Member of the Committee was not an eminent sportsperson and was only an Executive Director of the Federation having no sports background.

He has further argued that the Asian Games to be held in May 2022 were deferred on account of the global pandemic and are scheduled in September 2023. A selection criteria for National Coaching Camps, World Championship and Asian Games, 2023 was thereafter published again by the respondents on 06.02.2023.

Reference is made to the additional requirements mentioned in the abovesaid selection criteria which are extracted as under:

“Additional requirements not set out above, for participation in domestic or international qualifying events may be imposed by the High Performance Selection Committee. Any such requirement will be published in writing with a four week notice to athletes.

Three athletes per weight division will be selected to participate in the selection process for World Championships 2023.

In addition to the minimum eligibility requirements above, athletes much meet at least one of the following performance markers to participate in collective training and advance to the evaluation stage of the selection process.

- A. *Gold and silver at Elite National Championships, 2022.*
- B. *Athlete is a medalist at the male World Championships 2021.*
- C. *Medalist at Commonwealth Games 2022.”*

Attention was also drawn to the evaluation and team selection criteria provided thereunder to contend that the Athletes who achieve Gold/Silver at World Championships were held automatically selected for the first Olympic qualifier at the Asian Games. Attention was also drawn to the clause dealing with trial which were mandated and is extracted as under:

“Evaluation & Team Selection

Athletes who meet the requirements above will be selected to participate in the National Coaching Camp, commencing January 20, 2023. Each athlete who participates in the National Coaching Camp will be evaluated. This evaluation will be based on the High-Performance Evaluation Guidelines outlined in Attachment A.

Once the evaluation process is complete, all evaluations will be submitted to the High Performance Selection Committee, which is composed of the [Secretary General BFI, HPD & Head Coaches] The High-Performance Selection Committee will review all evaluations and the athlete with the best evaluation, per weight class, will be selected to the Elite National Team to participate in the respective male/female world championships All athletes who are not selected to the Elite National Team will remain in the Elite High-Performance Pool in ranked order per weight class according to his or her weight division

Athletes who achieve Gold/Silver at World championships will be an automatic selection for the first Olympic qualifier at the Asian Games

Pruning of the National Coaching Camp will be based on continuous assessment and evaluation of athletes

Trial

Trials will be held for any remaining weight categories which have not achieved Gold/Silver at 2023 World Championships. To be eligible to participate in trials, an athlete must be a camper of National Coaching Camp, have Medalled at one of the National championships- 2021/22 or medalled at the previous Asian, Commonwealth or World championships An athlete at this stage will be allowed to move his/her weight up/down if they so wish, to participate Trials would be conducted for Elite Women in first half of April 2023 and from Elite Men in First half of June 2023. These dates are tentative and subject to change in accordance with dates of IBA World Boxing Championship of respective categories.

The winner of these trials will go forward to challenge the 2023 World Championship participant for a place at the Asian Games.”

Relying on the above, counsel for the petitioner has argued that even the above said Selection Criteria mandated a selection trial and that notwithstanding the same, the private respondents had been short listed. It is argued that trial were to be held for the remaining weight categories, who have not achieved Gold/Silver medal at World Championships 2023 as per the criteria published on 06.02.2023. An Athlete was required to meet at least one of the performance markers to participate in the collective training and before advancing to the evaluation stage of the selection process i.e. of having won a Gold/Silver medal at one of the National Championship 2021/2022; Medalist at the Male World Championship 2021 or Medalist at Commonwealth Games, 2022. It is

argued that respondents No.6 and 7 did not fulfill the additional eligibility requirements prescribed in the abovesaid selection criteria and were not even entitled to advance to the evaluation stage of the selection process. Having figured that the respondents would not be eligible to participate in the evaluation process, the addendum was issued to bring respondents No.6 and 7 in the zone of consideration. There were no compelling circumstances necessitating the issuance of an addendum to the selection criteria 10 days before the selection process, but for extending a benefit to respondents No.6 and 7. The abovesaid addendum to the Selection Criteria was further modified in the meeting held on 26.05.2023 and the eligibility to participate in the trials was modified as under:

- “1. The athlete was medal (Gold/Silver) at the World Championship 2023 will have an automatic selection for the Asian Games 2023 (first Olympic qualifier) in that particular weight category.
2. Trials will be held for all Olympic weight categories for athletes other than those who participated in Olympic weight at World Championship 2023.
3. An athlete at this stage will be allowed to move his/her weight up/down if they so wish, to participate.
4. An athlete to be eligible for trials must be a camper of National Coaching Camp/Participated in the Tokyo Olympic Games 2020 or have Medaled at any one of the following championships:
 - Elite National Championships 2021/22.
 - Elite Asian Championship 2021/22.
 - Commonwealth Games 2022.
 - Elite World Championship 2021/22.”

Referring to the above eligibility criteria, learned counsel for the petitioners has drawn attention to condition No.2 as per which trials were to be held for all Olympic weight categories for Athletes, other than those who participated in the Olympic weight at World Championship 2023. Since the respondents No.6 and 7 had participated in the World Championship 2023, hence, they were exempted from the selection trials. Thus they became eligible on account of arbitrary alteration of the Selection Criteria, after the process of selection of team to participate in the Asian Games had already commenced. It is argued that in the selection trials held pursuant to the Selection Criteria dated 16.02.2022 for selection of participants in the Commonwealth Games 2022, wherein the petitioners as well as the private respondents No.6 and 7 had participated, the petitioner had defeated respondent No.6 before being selected as the sportsperson to participate in the said event and had won a Gold Medal. He contends that there are numerous judicial pronouncements which have supported the necessity of conducting selection trial, when there is an arbitrary change of selection criteria so that a sportsperson who performs better in the selection trials is short listed. Reference is made to the made of order of Delhi High Court in Writ Petition (Civil) No.2966-2023 titled as “Anuj Kumar and others Vs. Union of India and others”. The relevant paragraph thereof is extracted as under:

“13. Considering the schedule for the trials, irreparable prejudice would be caused to the Petitioners if they are not permitted to participate in the trials, as they would in effect be excluded from competing for the Asian Championship 2023 as also the Paris Olympics 2024. Considering this position, and the fact that talented wrestlers like the Petitioners ought not to

be excluded as there ought to be greater talent to compete in the trials, this Court is of the opinion that the Petitioners ought to be permitted to participate in the trials tomorrow ie, 10th March, 2023 and on 11th March, 2023 in their respective categories. The Petitioners shall be permitted to compete in the trials and shall be judged on their own merit.”

Relying on above, it is argued that the petitioners herein may be permitted to participate in the trial in their respective categories and to compete, so as to be judged for their merit. It is further argued that the Ministry of Youth Affairs and Sports is the only Authority to sanction any relaxation in the Selection Criteria and that no such relaxation has been approved/authorized by the Ministry of Youth Affairs and Sport. He further argues that even the marks have been improperly awarded in the said Selection Criteria and that 80 marks have been wrongly awarded to the respondent for weight management. In case the abovesaid weight managements marks are deleted, the petitioner would infact fall in the select list. The respondent No.6 weighed 54.8 whereas parameters for weight management in the category of 51 KG are upto a maximum of 53.6. The petitioner was hence entitled for higher marks in the said evaluation criteria as well. It is argued that the Delhi High Court in its judgment dated 03.07.2014 passed in **Writ Petition (Civil) No.3914 of 2014** titled as **“Amit Kumar Dhankhar Vs. Union of India and others”** has ruled that selection trial is obligatory yet no selection trial has been held and the team has been short listed only on the basis of evaluation. The relevant extract of the same is as under:

“41. Having held that, a writ of mandamus can be sought by the petitioners for holding selection trials in accordance with

the Code, the next issue, which falls for consideration is whether the process followed by the respondent No. 4 (WFI) in selecting the team is justified A perusal of para 10.5 (page 108 of WP.C. 3743/2014), 10.6 (page 108 of WPC 3943/2014) and para 3 of the letter/guidelines dated September 18, 2008, issued by the Ministry of Youth Affairs and Sports would reveal the following position:

- (i) The Asian Games/Commonwealth Games Olympic Games are major multi-discipline international sports events.*
- (ii) A proposal at cost to the government should be sent three months prior to the event along with the Selection Committee's Minutes.*
- (iii) Selection of sports persons for participation in major international events shall be responsibility of NSF.*
- (iv) The selection criteria/norms shall be clearly communicated by NSF to all concerned, players, coaches etc and shall be put up on the website and forwarded to the Ministry.*
- (v) The minimum qualifying norms may be fixed and announced along with the notice for selection trials which shall be announced at least one month in advance.*
- (vi) The selection shall be done by the Selection Committee consisting of President of NFS as the Chairman, the national coach etc*
- (vii) The national coach will evaluate the progress and performance of each player on regular basis*
- (viii) The proceeding of the selection should spell out in detail the selection criteria, the past performance of the players and their performance within trials.”*

He reiterates that the selection trial being a prerequisite and a mandatory condition, the same could not have been exempted except with the prior permission of the Government of India from the Ministry of

Youth Affairs and Sports. It is thus argued that any selection done in violation of the mandatory provisions of Code of 2011 is arbitrary, discriminatory and liable to be set aside. He further contends that in any case, the private respondents No.6 and 7 cannot plead that they would be prejudiced in any manner by a mere holding of the selection trials and that the comparative achievement chart of the petitioners vis-a-vis the respondent establishes that the record of the petitioners is far more impressive than the private respondents. The same is extracted as under:

Name of Boxer: Amit

Weight Category	Achievement in International Tournament	Position/Medal
49 Kg	Asian Boxing Championship held at Tashkent (Uzbekistan) w.e.f. 30 Apr 2017 to 07 May 2017	Bronze Medal
	AIBA World Boxing Championship held at Hamburg, Germany we (sic) 25 Aug to 02 Sep 2017	Participated
	Grandprix Boxing Tournament held at Chzek Republic from 13-25 July 2017	Gold Medal
	Elite Open India International Boxing Championship at India from 27 Jan 2018 to 02 Feb 2018	Gold Medal
	69 th Strandja international boxing championship held at Bulgaria wef 11-20 Feb 2018	Gold Medal
	XXI Commonwealth Games- 2018 held at Goldcoast (Australia) w.e.f. 04 Apr 2018 to 14 April 2018	Silver Medal
	Chemistry Cup Boxing Tournament at Germany from 19-24 June 2018	Bronze Medal

	Asian Games -2018 held at Jakarta in Indonesia from 24 – 31 Aug. 2018	Gold Medal
	70 Strandja International Boxing Championship held at Bulgaria w.e. 14 Feb to 19 Feb 2019	Gold Medal
52 Kg	Asian Boxing Championship held at Bangkok (Thailand) we.f 19 Apr 2019 to 26 Apr 2019	Gold Medal
	AIBA World Boxing Championship held at Yekaterinburg, Russia from 9 to 21 September 2019	Silver Medal
	Olympic qualifier tournament in March 2020, and qualified for the 2020 Tokyo Olympics	Bronze Medal
	Cologne Boxing World Cup 2020 held at Cologne Germany from 16 to 20 December 2020	Gold Medal
	Governor’s Cup held at St. Pittsburgh, Russia from 18 to 25 Apr 2021	Bronze Medal
	Asian Boxing Championship held at Dubai (Soudi Arab) w.e.f. 23 May 2021 to 01 June 2021	Silver Medal
51 Kg	Olympic Game held at Tokyo in Japan w.e.f. 23 July 2021 to 08 August 2021	Participated
	XXII Commonwealth Games held at Birmingham (UK) w.e.f. 28 July 2022 to 08 Aug 2022	Gold Medal.

Name of Boxer: Rohit Mor

Weight Category	Achievement in International Tournament	Position/Medal
	Thailand Open International Boxing	Participated

57 Kg	Tournament, held at Phoket, Thailand, 01-10 April, 2022	
	AIBA World Boxing Championship held at Belgrade, Serbia w.e.f. 22 Oct. to 06 Nov. 2021	Participated
	73 rd Strandja international boxing championship held at Sofia, Bulgaria wef 20-28 Feb 2022	Participated
52 Kg	Asian Boxing Championship held at Ulaanbaatar, Mangolia w.e.f. 05-18 Nov. 2019	Participated

As against the abovesaid consistent outstanding performance of the petitioners, the respondent No.6 has merely won a Bronze Medal in the World Championship 2023. Moreover, the respondent No.3 has conducted sports trials for other weight categories and there was no occasion or reason as to why the selection trial ought not to have been held for the abovesaid category as well.

Learned counsel appearing on behalf of the Boxing Federation of India; Head Coach as well as the private respondents has defended the action and the selection process. It has been argued by the learned counsel that the petitioners are misreading the provisions of the National Sports Development Code of India, 2011 to draw conclusions that do not flow therefrom. The Code of 2011 does not prescribe selection trials and Clause 13 thereof deals with the selection procedure. The relevant extract of the same reads thus:-

“13. Selection Procedure:

13.1 NSFs are primarily responsible for judicious selection of national teams for participation in major international events bases on merit and with the objective of enhancing national prestige and bringing glory to the country. As such the best sportspersons/team has to be chosen for representing the country.

13.2 The Selection Committee will be constituted by the Federation comprising of the President, the National Coach and eminent ex-sports persons. The Government will appoint an Observer for priority and general category disciplines receiving financial grant, who will be associated with all the activities of the National Federation. It will be mandatory for the Federation to inform him or her about Selection Committee Meetings, important national and international competitions. The Government Observer will have to oversee the selection process in order to ensure that it is fair and transparent.

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13.8 The National Coach will evaluate the progress and performance of the sportspersons in the coaching camps and make recommendations to the Selection Committee regarding elimination of sportspersons who show unsatisfactory performance. He may also recommend inclusion of new probables. The Selection Committee will decide the elimination/inclusion of sportspersons as recommended by the National Coach.”

He contends that in so far as laying down of the selection procedure is concerned, Code of 2011 holds the National Sports Federation to be primarily responsible for judicious selection of the national teams for participation in major international events based on merit and with an object of ensuring enhancement of the national prestige and glory. The

selection has been left to the judicious determination by the National Sports Federation itself. It is submitted that emphasis laid by the petitioner on Annexure P-2 dated 18.09.2008 relating to Selection Committee is misconceived since the aforesaid guidelines were issued by the Government of India, Ministry of Youth Affairs and Sports, prior to coming into force of the Code of 2011. After coming in force of the Code of 2011, the Government of India, Ministry of Youth Affairs and Sports has revised the guidelines for composition of the Selection Committee for selection of Athletes/sports persons vide Folio No.8-2/2018-SP-III, Government of India, Ministry of Youth Affairs and Sports dated 08.01.2018. The guidelines for selection of Athletes/sportspersons stipulated in clause 3 (i), (iv), (vi) and (vii) have been substituted and it was that henceforth, the composition of Selection committee for selection of Athletes/sports persons would be as under:-

“2. The aforesaid instructions have been reviewed keeping in view the various developments taken place subsequently such as engagement of foreign coaches, foreign support personal, high performance directors etc. in several sports disciplines and it has been decided that henceforth the composition of the Selection Committee for the selection of the Athletes/sportspersons will be as under:

(i) The selection shall be done by a Selection Committee, consisting of the President of the NSF as the chairman, Foreign Coach/ High Performance Director of the concerned sports discipline and eminent ex-sportspersons, preferably Arjuna awardees. In case there is no Foreign Coach or he/she is not able to attend the Selection committee meeting, Head

Coach/Assistant Head Coach/Senior most Coach to be nominated by ED (TEAMS) Sports Authority of India (SAI), will be the part of the Selection Committee.

(ii) Government observer of the sports discipline, if any, will not be a member of the selection committee but will attend the selection committee meetings and report the proceedings to SAI and the Ministry.

(iii) Wherever Foreign coach is available, he/she shall evaluate the progress and performance of the players in the coaching camp and make recommendations to the Selection Committee, regarding discontinuation of players showing unsatisfactory performance, or inclusion of new probable giving due justification for the name.”

The requirement of Government observer stipulated in the guidelines of 18.09.2008 was, however, discontinued by the Government of India, Ministry of Youth Affairs and Sports vide Folio No.8-47/2010-SP.III dated 19.02.2014 w.e.f. 01.02.2014. The revised Selection Committee was to comprise of the President of the National Sports Federation as Chairman; Foreign Coach/high performance director of the concerned sports discipline and eminent ex-sportspersons preferably Arjun Awardees and in case there is no foreign coach or he/she is not able to attend the selection committee, Head Coach/Assistant Coach/Senior most Coach to be nominated by ED (TEAMS) Sports Authority of India (SAI) will be the part of the Selection Committee and the process of selection of the athletes was undertaken in accordance thereto.

Learned counsel for the respondents further argues that the selection policy dated 16.02.2022 stipulated selection of boxers of IBA Elite Women's World Boxing Championship, Asian Games and Commonwealth Games of 2022. Thereafter, the selection criteria was published afresh on 06.02.2023 for the events of 2023. Petitioners cannot refer to the old criteria and ignore the subsequent developments, more-so, when petitioners competed as per the said criteria.

It is emphatically argued that the mandatory eligibility requirements prescribed in clause 3 of the above said selection criteria pertained only for selection to participate in the national coaching camp and is not for selection of the team. Thereafter, each athlete was to be evaluated during his training schedule at the national coaching camp in accordance with the high performance evaluation guidelines outlined in 'Attachment A.' Once the evaluation process was complete, the same was to be submitted to High performance committee which comprised of the Secretary of the Boxing Federation of India, High performance Director and Head Coaches to review all evaluations and the best athlete was to be selected to the Elite National Team to participate in the respective male/female world championships. The remaining athletes were to remain in the Elite High Performance Pool. It was also incorporated in the above said selection criteria that the athletes who achieve gold/silver at the world championships will be an automatic selection for the first Olympic qualifier at the Asian Games. All the athletes including the petitioners herein as well as the respondents were assessed on the above evaluation criteria and as per the evaluation done, the respondent ranked higher than

the petitioner and had been short listed to participate in the World Championships. The respondent successfully won a bronze medal in the world championships 2023 by defeating world rank No.1 in his weight category.

It is further contended that addendum to the aforesaid revised guidelines for selection criteria was issued on 16.03.2023 and the relevant extract reads thus:-

“To be eligible to participate in trials:

- *The athlete who medal (Gold/Silver) at the world championship 2023 will have an automatic selection for the Asian Games 2023 (first Olympic qualifier) in that particular weight category.*
- *Trials will be held for all Olympic weight categories for athletes other than those who participated in Olympic weight at World Championship 2023.”*

Relying on the above said addendum dated 16.03.2023, it is contended that the athlete who won above medals at the World Championship 2023 will have an automatic selection for the Asian Games in 2023 in that particular weight category and trials were to be held for all Olympic weight categories for other than those who participated in the Olympic weight at the world championship 2023. As per the above addendum which was published on 16.03.2023, trial was to be held for those weight categories and athletes other than those who participated at the Olympic weight at the world championship 2023. Since the weight category of the respondents in the world championships is an Olympic weight category and they had participated (respondent No.6 won a bronze

medal), in the World Championship, hence, they were not required to undergo a selection trial to participate in the Camp. The allegation of the petitioner that the addendum dated 26.05.2023 was issued for the first time to extend benefits to the respondents is hence misconceived as the aforesaid condition was already in the addendum dated 16.03.2023. Further when the above addendum dated 16.03.2023, was issued the World Championship 2023 had not commenced and the team was yet to be selected and the petitioners had participated in the above selection process. The reference to only the addendum dated 26.05.2023 with the present writ petition is an attempt to mislead the Court. He has further made a reference to the Code of 2011 and the clause 15 thereof. Sub clause (i) deals with the improvement in coaching standards. The same reads thus:-

“(i) IMPROVEMENT IN COACHING STANDARDS:

The standards, utilization and development of coaches in respect of each discipline, is basic to any long term plan to improve sports. The specific requirements of each Federation in respect of each aspect of coaching would therefore need to be worked out in detail. While undertaking this exercise, Federations are advised to consider the following:

(i) Making better use of ex-Olympians and senior players, who have the potential for becoming a coach, by giving them the added responsibility of coaching.

(ii) Using the various facilities offered by International Federations and the IOC to significantly improve coaching standards.

(iii) Suggesting different coaching grades on the international pattern to make the best use of coaching skills.

(iv) Introducing a system of accountability for the performance of coaches at every level. It is acknowledged that the management of coaching is a complex problem requiring

a detailed exercise in respect of each Federation. It is for this reason that proposals to enable Federation to make use of professional advice have been included in the section on improving management standards.”

Relying on the same, it is argued that the standards, utilization and development of coaches in respect of each discipline has been realised to be basic to any long term plan to improve a sport and the federations were advised to make a better use of ex-Olympians and senior players, who have the potential for becoming a coach, by giving them the added responsibility of coaching by using various facilities including introduction of international patterns, coaching grades and skills. Accountability for the performance of coaches was also proposed to be introduced at every stage. He contended that the above said improvement in standards of coaching have been duly adopted and the same has yielded good results which is also reflected from the performance in World Championships where the total medal tally of Indian team included 04 gold medals in a women championships. He submits that evaluation of the athletes for the Asian Games was undertaken on the evaluation criteria attached as ‘Attachment A’ to the guidelines dated 16.02.2023 done by a Committee comprising of a former Super Bantamweight World Champion; a foreign coach from Russia and a Dronacharya Awardee respondent No.5 and Olympian and Arjuna Awardee. It is further submitted that selection process session was also observed by two Dronacharya Awardees and a report had been submitted by them to the Boxing Federation of India, wherein they have reported that that the high performance director had clearly explained the

eligible points for each boxer based on various parameters and evaluation was based purely on various performance parameters in National Camp. The process was merit-based, fair and transparent. The Boxers were reportedly well aware of the scoring system and based on the points scored, the ranking has been done in each weight category and the same kept on improving in adding sparring during ABB. A satisfactory report with respect to the system of selection and its transparency and fairness to all boxers had been submitted by the Committee on 30.06.2023. He thus contends that the selection process comprised of persons of eminence in sports during the process of evaluation and selection as per the mandate contained in the Code of 2011. The respondents having scored better than the petitioners, and which such scoring pattern was also followed while making selection for the World Championships, only establishes that the evaluation process was fair, transparent and impartial. He further argues that the petitioners having subjected themselves to the selection criteria/guidelines, that were made known to all participants cannot turn back and raise a challenge to the said criteria after an unsuccessful participation. It would thus be unfair and improper on the part of the petitioners to contend that they have been prejudiced on account of such change. The evaluation is based on multiple parameters and yardsticks and not just on any individual centric performance of a player. All these parameters show the agility, force, the perseverance, the persistence, skill and endurance required to be kept in mind by the evaluation committee. The evaluation form being in public domain way back since February 2023 was fully known and has never been subject matter of any challenge.

While responding to the argument of the petitioners that even on the above said selection criteria, the marks of weight have wrongly been given to the respondents and that the weight of petitioner is 53.1 kg. whereas the body weight of respondent No.6 has been 54.8 and that the marks given to the respondents at par with the petitioner are thus inappropriate and only to give an undue benefit to the said respondent, he submits that the above argument is based on misinterpretation of the criteria and the documents. The body weight relied upon by the petitioners and available on page 67 of the writ petition No.14491 of 2023 is weight at the time of CMJ test. It is submitted that the said test is a Counter Movement Jump Test on Hawkin Dynamics Force Plates. It is contended that as a part of the athlete training and readiness assessment protocol, the aforesaid test is conducted on Hawkin Dynamics Force Plates as an indicator of an athletes readiness and fatigue level, allowing the coaches to adjust their training regimen. The CMJ is a measure of lower body power and plays a pivotal role in everyday evaluation. The Hawkin Dynamics Force Plates capture the athlete's body weight before every jump during the stabilization period of one second. The data is critical in calculation of every jump and provides comprehensive understanding of the athlete's performance. The said body weight as assessed in CMJ test is not the same as the official boxing weigh-in protocols required for evaluation in the Asian Games. In the official weigh-in, the athlete is empty stomach while in CMJ test the athletes wear their full training attire, including gym gear, shoes, tracksuits, and various gym support equipment like wrist supporters, etc. The circumstances surrounding the CMJ test differ significantly from

the conditions of an official weigh-in. Athletes may have consumed meals, hydrated themselves adequately and taken pre-workout supplements and diet prior to the Strength and Conditioning session. In some instances, Athletes may have eaten more to compensate for the expected weight loss during the session. Thus, the body weight as recorded during CMJ test should not be confused with the weight as an official weigh-in for the sporting event. He further submits that during the training sessions, these weigh-ins are required for formulating a personalized training schedule and that the weight may vary. In his support, he has referred to the evaluation forms that have been appended with the misc. application to contend that the weight management-cum-compliance marks given to all the candidates is equal i.e. 10 marks each have been granted. Each evaluator has granted full marks to all athletes in the weight management category. Consequently, there was no element of any arbitrary discrimination or prejudice, rather, the same was in accordance with the evaluation criteria itself and was having no bearing on the final weigh-in for the international event. The contention of the petitioner that any unfair marking for evaluation benefit has been given to the respondents is inappropriate and is based on selective reading of the evaluation criteria and without disclosing the actual nature, import and effect of such evaluation.

A reference is also made to the relaxation clause 16 as per the National Sports Development Code of India, 2011, which is reproduced as under:-

“16. Relaxation Clause of the Sports Code 2011: Government shall have the power to relax any of the provisions of the National Sports Development Code of India, 2011 and other

instructions issued with regard to recognition of National Sports Federations (NSFs), renewal of recognition of NSFs on annual basis and governance and management of Indian Olympic Association (IOA) and NSFs, as a special exemption where considered necessary and expedient for the promotion of sports, sportspersons or to remove difficulties in giving true effect to that particular provision of the Sports Code, always being guided by and not inconsistent with the overarching spirit of good governance and ethical conduct enshrined in the Sports Code 2011. The reasons for such relaxation shall be recorded in writing. Power to relax the provision will vest with Minister In-charge of the Ministry of Youth Affairs & Sports.”

He contends that the above said relaxation clause relates to the National Sports Federation only and is not in relation to the selection of a sportsperson in any event. Hence, no benefit of relaxation/concession could have been granted in the evaluation/assessment undertaken by the aid of clause 16 of the National Sports Development Code of India, 2011.

He has further contended that so far as the addendum dated 26.05.2023 is concerned, the same was specific only for the Tokyo Olympic and that the said aspect is well reflected from the response of Sports Authority of India, dated 05.07.2023 sent to one sport enthusiast. The relevant extract thereof reads thus:-

<i>Selection criteria for Asian Games have been changed:</i> The selection criteria of participating in Coaching Camp of Asian Games-2023 were changed by publishing an addendum	<i>Selection Criteria for Asian Games have not been changed-</i> Selection criteria has not been changed. The policy for the exemption of trials for the World Championship participants
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<i>on dated 26/05/2023 and exempted the Boxer from trial who participated in world championship-2023. It is also violating Participants eligibility for Selection Trials for of Hon'ble Supreme Court "Rule of the Games cannot be changed after the Games has started". The Supreme Court has reiterated that a candidate who has participated in the selection process adopted under a specific set of rules is estopped.</i>	<i>existed since the very beginning. The addendum on dated 26/05/2023 was regarding the Inclusion of Tokyo Olympic Participants eligibility for Selection Trials for Inclusion in National Coaching Camp. As per the Hon'ble Supreme Court the criteria only the Medalist in Last Two National Championship and medalist of the Commonwealth Games 2022 and Asian Championship 2021 & 2022 were eligible for the Trails. For the National Interest BFI Included that the Tokyo Olympic participants as eligible for the Trails. It's a no brainer that Olympic Games hold much higher position in terms of the above-mentioned Championship and therefore, needed consideration for a chance at the trials for inclusion in the camp. The Change was made keeping in mind of India's Interest not any Individuals</i>
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Hence, any reference to the addendum of 26.05.2023, with respect to selection of the team for the Asian Games 2023 is misplaced.

It is argued that the petitioners have been granted a fair opportunity of evaluation on a uniform criteria and the private respondents have been ranked more meritorious. The performance of the respondents has been consistent and better as compared to the petitioners. Even though

the prayer for a fresh selection trial may sound innocuous, however, the same would rather amount to change of the rules of the games after the selection process and evaluation has already been completed and amount to introducing an additional stage.

It is argued that the Government of India, in order to improve India's performance at Olympic, had started the Target Olympic Podium Scheme (TOPS) in September 2014. It was a flagship program of the Ministry of Youth Affairs and Sports for providing financial assistance as well as to add premium to the preparation of the athletes so that they can win medals in the Olympics. It is further submitted that respondent No.6 is a part of the Core Group of TOPS. The athletes in the Core Group of TOPS are identified by the members of Mission Olympic Cell. The members of the Mission Olympic Cell are from amongst the eminent Sportspersons and Sports Administrators. The aforesaid Committee, in consultation with the National Sports Federation and on the basis of various performance parameters, selects only those athletes who have the potential to win Olympic medal(s). It is further averred that respondent No.6 could not participate in the National Championships due to a shoulder injury and he was undergoing rehabilitation under the supervision of sports and medical experts. It was thus inadvisable for respondent No.6 to compete in the National Championships. In order to prevent any further injury, the Core Group Athlete was thus exempted from the above. The petitioner Amit himself was suffering injuries and was undergoing rehabilitation and also did not take part in the National Championships. They were both included in the national coaching camp based on the selection policy and as

members of the Core Group of Athletes shortlisted by the Mission Olympic Cell.

The selection policy of the Boxing Federation of India empowered the high performance directors and coaches to pick wild card entry of any athlete whom they believed to be best suited for the National Team in any of the Olympic weight divisions. Since the respondent as well as the petitioners were already there in the Core Group of TOPS selected members, a decision was taken to include respondent No.6 for participation in the National Camp. The abovesaid power vested with the High Performance Directors was only to allow an athlete to participate in the National Coaching Camp and such athlete had to yet compete with others to make his place for the World Championship. Selection process and the evaluation was undertaken during the National Coaching Camp for participation in the World Championship. The respondent No.6 competed with the petitioner and having defeated him in the evaluation criteria earned a berth to participate in the World Championship in the Olympic weight category. The decision proved to be fruitful and respondent No.6 won a Bronze Medal at the World Boxing Championship of 2023 where he had successfully beaten the World Rank No.1 holder and medalist at the Tokyo Olympic. As a matter of fact, the existing policy uploaded on the website by the Boxing Federation of India on 06.02.2023 specifically provided for the selection criteria and the addendum dated 16.03.2023 was not an addition of any fresh condition/selection criteria but was rather only a clarificatory addendum to clarify the doubts which the boxers had. It is further averred that the selection process of the boxers to participate in the

Asian Games had not yet been finalized when they were being evaluated during the period 11.03.2023 to 22.03.2023. Hence, it is inappropriate to suggest that the selection criteria or the conditions of selection for the Asian Games were not known to the participants at that time (during selection for world championship). The final selection of the participants for the World Championship completed after the abovesaid addendum had already been issued by the respondent-National Sports Federation. It cannot thus be said that the addendum dated 16.03.2023 was published with a view to benefit any individual.

It is further pointed out that the Olympic weight category boxers were permitted to participate in the Asian Games for the reason that a boxer undergoes a lot of physical and mental stress during championship and a Medal winner has to undergo nearly 5 to 7 bouts with best rankers in the world. They require certain time to recoup their physical and mental strength to be game ready. It is further averred that the petitioner never raised a challenge to the initial decision, whereby the High Performance Directors shortlisted the petitioners as well as the respondent No.6 to participate in the National Camp, even though the respondent no.6 had also not participated in National Championships. It is further argued that the selection process has been undertaken through a transparent process which was witnessed by the independent observers nominated by the Boxing Federation of India who had due consultation with the participants of the National Coaching Camp and had reported that the selection process undertaken during the month of May 2023 was to the knowledge of all the participants. In the abovesaid evaluation camp, which was held during

19.06.2023 to 01.07.2023, the respondent No.6 had fared better compared to the petitioner on all the performance parameters. Hence, the evaluation of the participants in the Asian Games as the lead players has been through a transparent process which involves eminent sportspersons and evaluation based on multiple criteria. The petitioner thus cannot be permitted to impugn the selection only on the basis of any pointer in isolation and notwithstanding other assessment done over a period of nearly three weeks. The determination by an expert in the field of sport and the exercise having been undertaken by associating the International/National Coaches in the field of Boxing, the said decision should not be normally be interfered with by the High Court as in exercise of the powers of judicial review it should not substitute its opinion for that of the sports experts.

Reference in this regard is also made to the chronological events commencing from the date of initiation of selection process till the date of issuance of addendum, which are tabulated thus:

Sr. No.	Date	Event	Remarks
1.	10 th January 2023	Selection Committee and Selection Policy	The selection Committee was formed and they have constituted the selection policy.
2.	20 th January 2023	Elite National Coaching Camp	The Elite National Coaching Camp starts after the Nationals. - Amit got a direct entry. (Commonwealth Medal) - Deepak got a direct entry (wild card entry as per policy.
3.	24 th January 2023	Brief on the selection policy and evaluation system to all the National	The HPU (High Performance Unit) briefed all the national Campers about the selection policy. Post briefing, they were handed over the code of

		Campers.	conduct to go through and signed it.
4.	27 th January 2023	The Elite Women evaluation process for the IBA women's World Championship	3 weeks of evaluation started for selecting the Athletes for the IBA Women’s World Championship 2023.
5.	6 th February 2023	Selection Policy uploaded in Website	The Selection Policy was also presented to the Mission Olympic Cell and after that it was uploaded on the BFI’s website.
6.	18 th February 2023	Elite Women Boxers Evaluation Completed	The Rank 1 boxer after the evaluation was selected for the IBA Women’s World Championship.
7.	5 th March 2023	Elite Men Boxers Evaluation Started	The evaluation was for 3 weeks. The First Week Result Declared on 11/03/2023. The Second Week Result Declared on 18/03/2023. The Final Week Result Declared on 22/03/2023.
8.	16 th March 2023	The Addendum for Clarification of the Policy issued	The Addendum was issued just for clarification for the athletes in a simplified way. All the points in the addendum have already been mentioned in the Selection policy.
9.	22 nd March 2023	Assessment Resuts	The final team for the World Men’s Championship was declared.
10.	26 th March 2023	IBA Women's World Championship, 2023	Indian Women Boxers finished at ranked at No.1 by winning 4 Gold Medals and this is one of the best performances of India in the World Championship
11.	30 th April-14 th May 2023	IBA Men's World Championship 2023	First time in history India won 3 medals in the World Championship
12.	9 th May-11 th May 2023 (Elite Women Trial).	Trials for inclusion in National Coaching Camp (NCC) – Asian Games Camp	The winner of these trials will go forward to challenge the 2023 World Championship participant for a place at the Asian Games during the Evaluation process in the

			NCC.
13.	16 th May, 2023	Returning of Elite Men Team from World Championship	The Elite Men team returned from Uzbekistan after the Men’s World Championship.
14.	6 th -8 th June 2023 (Elite Men Trials)	Trials for inclusion in National Coaching Camp (NCC) –Asian Games Camp	The winner of these trials will go forward to challenge the 2023 World Championship participant for a place at the Asian Games during the Evaluation Process.
15.	19 th June-01 st July 2023	Elite Men & Women Boxers Evaluation for the Asian Games	The Evaluation was for 2 Weeks: -Week 1 result declared on: 24.06.2023 -Week 2 result declared on: 01.07.2023
16.	3 rd July 2023	List Sent to IOA	The List of Main and Reserve Participant for the Asian Games were sent to IOA.
17.	24 th August 2023	MYAS Published the Final List for the Asian Games	The Final List has been published by MYAS and the list submitted to Asian Games Committee.
18.	3 rd September 2023	Team left for the Training Camp and Asian Games	The Team left for the Training Camp in China prior to Asian Games.

He further submits that the Games are likely to start from 23.09.2023 i.e. within a period of three days and any radical change in the players /sportspersons is likely to have a serious impact on the mental health and ability of the participant/sportsperson.

Learned counsel for the respondents 1 and 3 submits that the selection and the evaluation of the sports persons is required to be undertaken by the Boxing Federation of India and that they had no role in such selection. They reiterate the submissions advanced by the counsel for respondents No.4 to 7.

Learned counsel for respondent No.2 –Indian Olympic Association also supports and reiterated the arguments advanced on behalf of respondents No.4 to 7.

In rejoinder, learned counsel for the petitioners argued that the respondents had in fact appointed a Government Observer for overseeing the selection process for the women's team. If the stipulation of appointment of Government observer was dispensed with there was no such occasion for appointment of the observer. It is vehemently argued that the Code of 2011 provides for determining an advanced selection criteria in a time frame of two to three years whereas in the present case, the selection criteria was changed by the respondents for three times within a very short period of February 2023 to May 2023. Such changes were tailor made to suit to the requirements of the private respondents so as to make the eligible to participate in the Camp. The evaluation undertaken by them does not conform to the stipulations contained in the Code of 2011. He further contends with vehemence that evaluating Experts were supposed to give marks/comments; on the basis whereof such an assessment has been done and that in the absence of reasons/explanation for the evaluation done, the assessment would be vitiated. He reiterated reliance on the Policy (Annexure P-5) to contend that as per the initial eligibility conditions prescribed for being eligible to participate in the National Camp, the private respondents were not eligible. Hence, there was no occasion for assessment/evaluation of the private respondents once the said respondents were not eligible to participate in the National Camp. Hence, the petitioners were prejudiced initially at that stage itself. Notwithstanding

their lack of eligibility, the private respondents were selected for the team to participate in the World Championships. He further contends that the aforesaid selection guidelines were prescribed only for short listing the high performance players to participate in the World Championships and were not to be held applicable for the Asian Games since the abovesaid guidelines itself stipulated that a Gold/Silver Medalist in the said championship would not have to undergo any further trials and would be automatically selected by the Olympic qualifier event at the Asian Games 2023. He further argued that for other categories, a selection trial was necessary. Since the respondent No.6 was not a Gold/Silver Medalist and had won a Bronze Medal only, in the World Championships, hence, he was liable to undergo the selection trials to go for the Camp. A winner of these selection trials would be a challenger to the participant of the World Championship. Since the respondent No.6 was a Bronze Medalist in the World Championships, he was required to go through the process of selection trials before the team could be selected. It is contended that the addendum dated 26.05.2023, exempting the participants of World Championship from facing the selection trials extended an undue leverage to the private respondents to steal a march and to overcome their ineligibility.

Learned counsel for the petitioners also placed reliance on the judgment of Hon'ble the Supreme Court in the matter of **“Dr. (Major) Meeta Sahai Versus State of Bihar and others”** bearing **Civil Appeal No. 9482 of 2019** to contend that mere participation in the selection process does not take away the right of an unselected candidate to challenge the

procedure where there is an apparent illegality in the selection process. The relevant extract of the same is reproduced hereinafter below:

“13. On the other hand, learned counsel for Respondents questioned the maintainability of the appellant's challenge and urged that once a candidate had participated in a recruitment process, he/she could not at a later stage challenge its correctness merely because of having failed in selection. It was contended that the appellant was taking ‘two shots’ at success, and her challenge was opposed for being opportunistic. Further it was argued by the respondents that the appellant's attempt to draw inference from the Dentist Rules has rightly not been accepted by the High Court. Moreover, the advertisement was shown as being merely clarificatory in stating that marks shall only be granted for work experience in hospitals of Government of Bihar

14-15. XXXX XXXX XXXX

16. Furthermore, before beginning analysis of the legal issues involved, it is necessary to first address the preliminary issue. The maintainability of the very challenge by the appellant has been questioned on the ground that she having partaken in the selection process cannot later challenge it due to mere failure in selection. The counsel for respondents relied upon a catena of decisions of this Court to substantiate his objection.

17. XXXX XXXX XXXX

18. However, we must differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. In a situation where a candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, the same cannot be condoned merely because a candidate has partaken in it. The constitutional scheme is sacrosanct and its violation in any

manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process.

19. XXXX XXXX XXXX

20. *The appellant has thus rightly not challenged the selection procedure but has narrowed her claim to only against the respondents' interpretation of work experience' as part of merit determination. Since interpretation of a statute or rule is the exclusive domain of Courts, and given the scope of judicial review in delineating such criteria, the appellant's challenge cannot be turned down at the threshold. However, we are not commenting specifically on the merit of appellant's case, and our determination is alien to the outcome of the selection process. It is possible post what is held hereinafter that she be selected, or not."*

He also refers to the judgment of Hon'ble the Supreme Court in the matter of **"Krishna Rai (Dead) through LRs and others Versus. Banaras Hindu University through Registrar and others"** bearing **Civil Appeal Nos. 4578-4580 of 2022** to contend that principle of acquiescence and estoppel would not apply against the law and the respondents cannot avail any benefit of binding estoppel. He further submits that a mere participation in the evaluation process should not be construed as having consented to subject to the same. The relevant extract of the same is reproduced hereinafter below:

"3. In these three Civil Appeals, this Court has been called upon to decide whether principle of estoppel and acquiescence will prevail over statutory service rules prescribing the procedure for promotion of Class-IV

employees to Class-III working in the Banaras Hindu University (BHU), Varanasi, a Central University. The learned Single Judge was of the view that the statutory rules would prevail and must be strictly adhered to, whereas, the Division Bench, although, agreeing with the reasoning of the learned Single Judge that the procedure prescribed under the rules was violated, still proceeded to set aside the judgment of the learned Single Judge applying the principle of estoppel and acquiescence over and above the eligibility conditions having statutory force laid down by the statutory rules.

4-9. XXXX XXXX XXXX XXXX

10. The learned Single Judge allowed the writ petition. It quashed the orders impugned dated 05.06.2007 and 02.07.2007 as also the appointments of respondent Nos.3 to 16 on Class- III post and further directed BHU to hold fresh selections for promotion to the post of Class III, complete the same expeditiously within three months, strictly in accordance with the Rules and in the light of observations made above. It also awarded costs quantified at Rs.50,000/-. The operative part of the judgment of learned Single Judge is reproduced hereunder:

56. In the result, the writ petition is allowed, Impugned orders dated 5.6.2007 and 2.7.2007 and appointments of respondents 3 to 16 on Class IV-posts are hereby quashed.

57. The University is directed to hold fresh selection for promotion to the post of Class III against the vacancies for which selection was held by notification dated 17.12.2005 and complete the same expeditiously and in any case, within three months from the date of production of certified copy of this order strictly in accordance with Rules and in the light of observations made above.

11. XXXX XXXX XXXX XXXX

12. *BHU as also the private respondent nos. 3 to 16 preferred intra-court Appeals registered Special Appeal No.24 of 2012 (Banaras Hindu University and another v. Sri Krishna Rai and others), Special Appeal No.9 of 2012 (Shri Sarvyjit Singh and others v. Sri Krishna Rai and others) and Special Appeal No.25 of 2012 (Ram Kishore Pandey and others v. Banaras Hindu University and others). The Division Bench vide judgment dated 29.07.2016 was of the view, as already stated above, that the appellants having appeared in the examination process as also the interview without any protest, upon being unsuccessful could not have challenged the selection process. The Division Bench relied upon a number of decisions, which we shall shortly discuss, in support of its view and accordingly allowed the Special Appeals, set aside the judgment of the learned Single Judge and dismissed the writ petition.*

13-20. XXXX XXXX XXXX XXXX

21. *What we notice is that, the Division Bench approved the reasoning of the learned Single Judge. The relevant extract of the judgment of the Division Bench is reproduced below:*

"Learned Single Judge as already noted above has rightly proceeded to observe that interview was not at all subscribed by the provisions holding the field. We are also of the same view that procedure prescribed ought to have been adhered to by the Board of Examiners. Board of Examiners on their own could not have changed the procedure already holding the field as laid down by the Executive Council."

22. *However, the Division Bench fell in error in applying the principle of estoppel that the appellants having appeared in the interview and being unsuccessful proceeded to challenge the same and on that ground alone, allowed the appeals, set aside the judgment of the learned Single Judge.*

The Division Bench having approved the reasoning of the learned Single Judge, ought not to have interfered in the judgment of the learned Single Judge on a technical plea. The Division Bench ought to have considered that the appellants were Class- IV employees working from 1977 onwards and expecting from them to have raised serious objection or protest at the stage of interview and understanding the principles of changing the Rules of the game, was too far-fetched, unreasonable and unwarranted.

23. *The case laws relied upon by the Division Bench would have no application in the facts of the present case as none of the judgments relied upon by the Division Bench laid down that principle of estoppel would be above law. It is settled principle that principle of estoppel cannot override the law. The manual duly approved by the Executive Council will prevail over any such principle of estoppel or acquiescence.*

24-30 XXXX XXXX XXXX XXXX

31. *Further in the case of Tata Chemicals Ltd. v. Commissioner of Customs (preventive), Jamnagar, 2015 (11) SCC 628, it has been laid down that there can be no estoppel against law. If the law requires something to be done in a particular manner, then it must be done in that manner, and if it is not done in that manner, then it would have no existence in the eye of the law. Paragraph 18 of the said judgment is reproduced below:*

"18 The Tribunal's judgment has proceeded on the basis that even though the samples were drawn contrary to law, the appellants would be estopped because their representative was present when the samples were drawn and they did not object immediately. This is a completely perverse finding both on fact and law. On fact, it has been more than amply proved that no representative of the appellant was, in fact, present at the time the Custom's Inspector took the

samples. Shri K.M. Jani who was allegedly present not only stated that he did not represent the Clearing Agent of the appellants in that he was not their employee but also stated that he was not present when the samples were taken. In fact, therefore, there was no representative of the appellants when the samples were taken. In law equally the Tribunal ought to have realized that there can be no estoppel against law. If the law requires that something be done in a particular manner, it must be done in that manner, and if not done in that manner has no existence in the eye of law at all. The Customs Authorities are not absolved from following the law depending upon the acts of a particular assessee. Something that is illegal cannot convert itself into something legal by the act of a third person."

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

The issue which has been brought up for adjudication before this Court requires consideration of the procedure followed for selection before concluding as to whether the same violates Code of 2011 or not. The National Sports Development India Code – 2011 has been adopted with an object of good governance practices and healthy sports development in the country. The Boxing Federation of India which is the National Sports Federation had issued a selection policy for information of the sports persons on 16.02.2022 for selection of boxers for various tournaments including Asian Games as well as Common Wealth Games of

2022. The selection trials for the Asian Games 2022 (which was postponed on account of Covid – 19 Pandemic and has been held in the year 2023) were to be held in the midst of 2022. The Selection Committee comprised of the President of the Boxing Federation of India (or his Nominee) and experts from panel of reputed veteran boxers (preferably Arjuna/Dronacharya Awardees and eminent persons of the sport).

Pursuant to the selection trials from 21.5.2022 to 22.06.2022, to select the boxers to participate in the Common Wealth Games, 2022, the petitioner No.1 as well as private respondent No.6, were selected to participate in the Common Wealth Games wherein the petitioner won the gold medal.

As the Asian Games were postponed ,the selection criteria for National Coaching Camp and the World Championships as well as the Asian Games were thereafter circulated along with Athlete Evaluation Form as “Attachment A.” As per the above selection criteria, a sports person was to fulfill the eligibility conditions mentioned therein and an Athlete was also required to meet at least one of the performance parameters to participate in the collective training before advancing to the stage of selection. The said requirements were that the an athlete should have won gold and silver at Elite National Championships of 2022; or he is a Medalist at the Male World Championship 2021 or a medalist at the Common Wealth Games 2022. The Boxing Federation of India and the High performance Directors as well as the Coaching Team could select an athlete who they believed the best suited to participate in the National Team when the quota could not be filled up from the above criteria. A

discretionary power was also vested with the High Performance Directors to pick a wild card to participate in any of the Olympic weight category at their sole discretion. The above said power is crucial since the stand of the respondents is that the High performance Directors had exercised this discretion based on objective assessment to shortlist the private respondents and exemption from National Championship was extended to both the parties.

Once the evaluation as per Attachment A was complete, all evaluations were to be submitted to the High Performance Committee comprising of Secretary General of the Boxing Federation of India, High Performance Directors and Head Coaches who were to review all evaluations and to select the Elite National Team to participate in the respective World Championships. The athletes who were not selected to the Elite National Team were to remain in the high performance pool. It was also prescribed that the athlete who achieved gold/silver at the World Championships would be automatic selection for the first Olympic qualifier at the Asian Games. Trials for the remaining weight categories (who had not achieved gold/silver medals at the 2023 World Championships) were to be held. To be eligible to participate in the trials, an athlete must have been a camper of National Coaching Camp and medalled at one of the National Championships 2021-22 or in the previous Asian Games or Common Wealth Games or World Championships. The winner of the trials so held was to challenge the world championship participants for a place at the Asian Games. An addendum to the selection criteria was issued by the respondents on 16.03.2023 prescribing the

eligibility to participate in the trials and allowing participant of World Championship, 2023, an exception from the selection trials. The winner was then to challenge the participant for a match. The addendum dated 16.03.2023 also prescribed for trials for all Olympic weight categories, for athletes other than those who participated in the Olympic Games at World Championships. Hence, the trials were confined for the weight categories for the athletes other than those who participated in the Olympic weight categories at the world championships, and not with respect to the athletes who had participated in the World Championships in the Olympic weight categories.

The Boxing Federation of India issued a further clarificatory addendum to the selection criteria for the Asian Games as approved by the Selection Committee in the meeting held on 26.02.2023 which was, in fact, reiteration of the above said addendum of 16.03.2023.

A comparison of the addendum to the selection criteria approved in the meeting held on 26.05.2023 as well as the addendum dated 16.03.2023 shows that the same are verbatim and it cannot be construed as introduction of any fresh change.

The above said exemption had been granted to all those athletes who had participated in the World Championships and was not restricted to the private respondents singly. The object of exemption from the selection trial was to grant some time to the players who had participated in the World Championships so as to recover in health, body and mind for the next championship i.e. the Asian Games. The exemption was thus based on objective considerations and was only for the selection

trial. However, they were not exempted from the evaluation at the National Coaching Camp in the Olympic weight category which was required to be undergone in terms of the pre-approved evaluation criteria. The evaluation of the boxers was carried out during the National Coaching Camp by associating the independent persons and on the basis of pre-disclosed criteria. The copy of the list of the marks given to the petitioners during the assessment has been attached. The evaluators included one Bernard Dunne who is a former Irish Professional Boxer and a European Bantam Weight Champion. The second evaluator was Dmitrij Dmitruk who is a high performance foreign coach and had been a coach for the Irish Athletic Boxing Association. The Irish player had done two world championship, silver medal in the light heavy weight category as well as a bronze medal of foreign boxer in the European Games. The 3rd evaluator was the Men's boxing head coach and is a Dronacharya awardee. Another evaluator was B.S. Yadav who is a renowned Indian boxer having won bronze medal in 1990 Asian Championship and is an Arjuna Awardee for boxing in 1991. He had represented India 19 times in International events and has a medal record of 3 silver and 7 bronze medals including the Common Wealth Games, SAF Games, Asian Championships, Common Wealth Games. He was adjudged as a promising boxer of Sixth World Championship and has numerous trophies/appreciations to his credit. All these high performance directors/independent evaluators tested the skills, agility, performance, sustenance, mental fitness, physical fitness etc. over the period from 11.03.2023 to 22.03.2023 before short listing them to participate in the World Championships and thereafter, between 24th June till 30th June,

before participation in the Asian Games. The respondent figured higher in the order of merit as compared to the petitioner Amit. The evaluations as well as the marks allotted by the respective high performance directors show that there were different performance parameters and scoring pattern made known to the players in advance. Further, the Boxing Federation of India also nominated two independent observers namely S.R. Singh and D. Chanderpal who were both Dronacharya awardee to observe the full sparring session and they reported that the system of evaluation as well as the parameters adopted were good, fair and transparent and all the boxers as well as coaches who attended the national games were fully made aware of the scoring system. They conveyed their satisfaction about the scoring system, its transparency and fairness to all the boxers as per their assessment submitted to the Boxing Federation of India on 30.06.2023.

The grievance espoused by the petitioner was that there was a change of criteria after the rules of the games had begun and that even a participant in the world championship had been granted relaxation which was in conflict with the provisions of the National Sports Development India Code – 2011. It is essential to observe here that the said addendum to the selection criteria had been published in the March 2023 when the selection of the team to participate in the world championships 2023 was under process and the trial were decided to be held only for the Olympic weight category for an athlete other than those who participated in the Olympic weight category at world championship. Hence, all athletes were fully apprised that the trial for the sports persons participating in the world championship 2023 were not to be held. The petitioner performed better at

the National Camp and was shortlisted for the world championship where he won a bronze medal and was thus already exempted from participating in the trial for attending the national selection camp for selection of team to the Asian Games. The said exemption having been extended universally to all the participants, it cannot be held to be changing the rule after the game had begun since the above said addendum had been put in place before selection of the team for world championship when even the petitioner had benefit of the said opportunity.

Even thereafter, the petitioners as well as the private respondent participated in the national coaching camp held during 24th to 30th June 2023 and was evaluated along with the private respondents herein. High Performance and Independent Directors, who were eminent sports persons, had carried out evaluation which such evaluation and assessment criteria and parameters were further reviewed by two independent observers appointed by the Boxing Federation of India and that those observers again are the Dronachayra awardees and are eminent sports persons. The respondent featured higher in merit against the petitioner and made to the national team to represent at the Asian Games in Hangzhou, China. The petitioner had extracted only some part of the result to show as if his performance parameters were better as compared to respondent No.6, however, it has been clarified by the respondents that the parameters relied upon by the petitioners for showing their merit is not a complete evaluation and is only one of the selection parameters. The complete assessment and evaluation score has been given by them for overall assessment of the inter se merit of the candidates where private

respondents are assessed better. The petitioners had availed their fair chance to participate in the coaching and subjected themselves to evaluation as per the evaluation criteria.

The challenge to the said recommendation was made for the first time after the petitioner failed to make it to the select list to participate in the ongoing Asian Games. No prejudice is apparently reflected as far as chance of participation and establishing his superiority and merit over and above the selected athlete is concerned, due opportunity was extended to the petitioner at all occasions at par with the others.

It is further evident from a perusal of the above that in so far as the Code of 2011 is concerned, the same prescribes only for selection process to be fair; transparent and impartial. The authority for determination of the criteria has been left to the respective NSF. Even otherwise, there can be no uniform assessment criteria as the selection requirement would change for each sport. The evaluation parameters for each discipline may also be different considering the past performances of the competing teams in the respective sports and also the condition of the zone where the championship or games were being held.

It is also not disputed that evaluation has been undertaken by eminent sports persons including foreign experts and Dronacharya and Arjuna awardee. Integrity and credibility of persons of such eminence is not to be impeached merely because a left out participant feels himself to be better than the one selected. Such imputations can be levelled at a drop of hat and cannot be given any undue weightage as it has the potential risk

of damaging the entire selection. A challenger is required to establish more than the supporting the allegations based on basking glory of past performance. Some prima facie evidence/material to make out a case must be brought on record before a judicial intervention in such a matter is sought.

In a world of sports, top seeded players not being able to stand up challenge is not an unknown phenomenon. The consistency and fitness regime is to be followed strictly and there can be no overnight transformation. Hence, performance of petitioner in 2022 cannot be the sole basis to reject assessment and evaluation of 2023 where the private respondent was assessed better.

It is also not in dispute that the petitioner as well as the respondent participated in the selection trials of 2023 World Championship under a Universal criteria. The said criteria has also been examined and the same is found to be multi-dimensional and exhaustive. It is also not the case of the petitioner that he has any grievance against the evaluation and assessment criteria and it has also not been argued that the same was not made known to them. Any such contention would even otherwise be confronted with the report of 02 independent observers sent by the B.F.I. The grievance about the marks awarded was only in respect of weight management, which has been well explained to be not about the weight but weight while conducting CMJ test for finalizing individual training schedule. Clearly, the argument about the weight was fallacious and not

based on correct understanding of the procedure. There was no other challenge, in so far as the awarding of marks is concerned.

The suggestion that evaluators should assign reason for awarding respective marks is not only impractical but also improper and unfeasible. The work of evaluation is complex and there are numerous aspects that weigh in mind including the potential. The same is left always to the subjective integrity and discretion of the evaluators. It must be always kept in mind that they are eminent sports persons of repute and should have such evaluating freedom to ascertain true potential, which may not always be capable of being objectivised. A shackled evaluation and assessment itself would dissuade a person of eminence to agree to evaluate and be subjected to test of integrity and capabilities. The same would rather be dishonorable and unworthy for the people doing the selection and evaluation. The argument is thus rejected.

This now leads to determine whether there has been a change of criteria to the prejudice and after the process of selection commenced.

Undisputedly, the private respondent was not per-se eligible to participate in the camp for world championship as per the criteria of 06.02.2023. The Code of 2011 and the procedure however permitted a wild card entry and the respondent was shortlisted by the most eminent sports persons in the country under the TOPS project. It was noticed that in the earlier National championship, respondent No.6 was recuperating from a shoulder injury and had thus been granted exemption. Such exemption had also been availed by petitioner himself. Hence, he never raised any

challenge to permission granted for participation in National Camp then and having availed the benefit, the said fact was concealed from this Court. Still further, the petitioner as well as the private respondent were evaluated together wherein the private respondent was shortlisted for the World Championship, 2023 in a non-discriminatory assessment. There was hence no challenge to the team selected for the World Championship 2023. The addendum of 16.03.2023 had already been issued before short-listing of the team and it was to the knowledge of all concerned. The concession from selection trial was granted only to participate in the national camp and not from evaluation and assessment. The respondent No.6 defeated the petitioner in the competition and selection to earn a berth for world championship. The said addendum of 16.03.2023 itself prescribed that selection trial for all Olympic weight category shall be held for athletes other than those who participated in the Olympic weight in the world championship. This fact was hence brought to the notice of all concerned much in advance and the participants in Olympic weight category in the championship.

Even otherwise, the decision cannot be said to be bad since the world championship was held in May 2023 while last date for sending names was 15.07.2023. The trials for National Coaching Camp began between 6th-8th June 2023. The players returning from high intensity tournament definitely require a recovery time to overcome the fatigue and injuries suffered during boxing championship.

The respondent as well as the petitioner again underwent the training and evaluation where the respondent outperformed the petitioner yet again. Hence the exemption was only from the selection trial and not from evaluation and assessment in the Camp, where the petitioners also participated, and even the said exemption is stipulated in the procedure and backed by logical reasoning rather than arbitrariness or whimsical discrimination. Once the procedure adopted is prescribed and stipulated and adopted on rationality and objectivity, it would not be appropriate to dig any further for a loose end. Such an act would amount to fishing for a lapse to undo a process. The irregularity/illegality which would affect the selection should be evident rather than drawing a picture with a coloured vision and distant inferences as per what the petitioner proposes.

Furthermore, the selection criteria itself was a subject matter of challenge in a writ petition before the Hon'ble Delhi High Court in **Writ Petition (Civil) No.2860 of 2023, titled as Meenu Vs. Boxing Federation of India and others**, the Delhi High Court did not find any unfairness, unreasonableness or lack of transparency in the selection criteria. Having failed to impugn the selection criteria before the Delhi High Court, there is no reason as to why this Court should re-visit the selection criteria, the validity of which has already been upheld by the Delhi High Court and no illegality, irrationality or unfairness has been reflected or established. A mere failure to make to the select list cannot pave way for impugning the evaluation and the assessment undertaken by the experts by a sweeping remark that evaluators had a partisan approach. The contemporaneous circumstances and documents do not suggest or establish any unfairness in

the selection process. While the claim of the petitioner is of having won a medal at the Common Wealth Games of 2023, the respondent happens to be a medalist in the world championship where the participation is indeed amongst the larger segment of the athletes from all over the world.

The circumstances of the present case also show that exemption from trial to attend National Camp was granted across board to all the participants of the world championships with an object of allowing sufficient time to the athletes, who had returned afresh from the world championships, to recoup their fitness and to avoid any fatigue/any fresh injury. Such practices are a well accepted norm in the world of sport and each athlete is required to be provided with some time for relaxation before he has to participate in another event.

In any case, the selection of the team to participate in the Asian Games was not arbitrary or is based upon the performance at the world championships. Rather the evaluation has been done afresh by the High Performance Directors wherein the respondent was ranked higher in the order of merit.

The field of sports is a field where the experts are the best judge with respect to grit, determination, skill, agility, reflexes, mental strength and capabilities of the sports persons. The experts having evaluated the petitioners as well as respondent over a training schedule of nearly 02 weeks, the High Court would be unequipped to substitute the evaluation done by the eminent sports persons and subject experts and to substitute their evaluation by its own. The said field is required to be best left to the subject experts.

The adoption of the procedure, being in conformity with the Code and based on objective, fair and transparent evaluation by a body of subject experts, would lend credence to the select list of sports persons. Any challenger and objector would be required to refer to more than a mere allegation of malicious motive.

Judicial interference, in matters of such nature, is limited in its scope and application and is more of a procedural review rather than substantive. The petitioners have failed to establish any illegality, perversity or impropriety in the procedure of selection or to establish that the said procedure was contrary to the law or violated any equality of opportunity to the athletes who participated in the camps.

The challenge raised is also highly belated and the select team having already been shortlisted, it would even otherwise be not in the fitness of things to carry out any change in the playing team as it shall have a prejudicial impact on the performance of the players who must always be kept free of uncertainty before such a major sporting event.

The present petitions are is accordingly dismissed.

Pending misc. application(s), if any, in the present batch of writ petitions shall also stand(s) disposed of accordingly.

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

September 20, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No