

CWP-24136-2023(O&M)

2023:PHHC:138012

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

CWP-24136-2023(O&M)

Date of Decision : October 26, 2023

Sarita Mor and another

.....Petitioners

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Raghav Sharma, Advocate
for the petitioners.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Narinder Singh, Advocate
for respondent No.2.

KULDEEP TIWARI, J.

1. The petitioners have approached this Court for the issuance of a mandamus upon respondent(s) concerned to decide their representation dated 13.10.2023 (Annexure P-3) and further to declare the result of the trials, as conducted on 14.10.2023 by respondent No.2, for selection of women wrestlers to represent the State of Haryana in the 37th National Games of India, as illegal and void. The petitioners have also sought the issuance of directions to declare the petitioners as “selected candidates”, in view of the result of the trials, as conducted on 9/10.10.2023, for thereby enabling them to participate in the 37th National Games of India.

FACTUAL MATRIX

2. The Wrestling Federation of India, through a circular issued

on 05.10.2023, invited all the units concerned, who were desirous of participating in the 37th National Games, scheduled at Goa w.e.f. 25.10.2023 to 9.11.2023, to send their entries by names to the representative(s) of the State Olympic Association, with an endorsement to the W.F.I., latest by 15.10.2023. Pursuant to the issuance of the circular (supra), respondent No.2 also issued a circular dated 28.9.2023 (Annexure P-1), thereby issuing the schedule for selection trials and accordingly, invited all eligible wrestlers to participate in the selection trials scheduled to be held, on 9.10.2023 and 10.10.2023, at Baba Peer Akhara Silana (Jhajjar). Both the petitioners, who hold meritorious records in the field of wrestling, participated in the trials held on 09.10.2023 and 10.10.2023. Petitioner No.1 participated in the category of 57 kgs, while petitioner No.2 participated in the category of 53 kgs. Both the petitioners performed outstandingly in the selection trials (supra) and secured first ranks in their respective categories. Thereafter, on 13.10.2023, both the petitioners received a telephonic communication from respondent No.2, thereby making an intimation to them that they have to again undergo a selection trial to be held on 14.10.2023. The intimation (supra), thereby calling the petitioners to re-appear in the selection trials, caused grievance to the petitioners and led them to make a representation before the respondent(s) concerned on 13.10.2023, thereby raising objections, on the ground, that no such procedure was earlier conveyed to them, therefore, there is no such need to conduct a fresh trial, as they have already been declared winner(s) in the earlier rounds of trial. However, the representation (supra) stood un-responded, thereby aggravating the

grievance of the petitioners and compelling them to approach this Court through the instant petition.

3. This Court vide order dated 23.10.2023, had issued notice to all the respondents. Upon notice, Mr. Kirpal Singh Thakur, AAG, Haryana caused appearance on behalf of the State of Haryana, whereas, Mr. Narinder Singh, Advocate caused appearance on behalf of respondent No.2.

SUBMISSIONS ON BEHALF OF THE COUNSEL FOR THE PARTIES

4. Learned counsel for the petitioners has submitted that respondent No.2 has conducted an unfair and biased selection process. He has also drawn attention of this Court towards the circular dated 28.9.2023 (Annexure P-1), issued by respondent No.2, wherein, the schedule for trials stands mentioned. The relevant extract of the circular (supra) reads as under:-

“Therefore, all the players and officials are requested and advised not to get confused and Selection Trial of the 37th National Games will be held at Baba Peer Akhara Silana (Jhajjar) from 09th October & 10th October-2023 in which all are advised to attend on time as per the circular dt. 29/09/2023 circulated by Haryana Amateur Wrestling Association”.

5. Referring to the circular (supra), learned counsel for the petitioners has submitted that ensuant to the issuance of the circular (supra), the petitioners appeared for selection trials on 9 and 10.10.2023, whereupon, they were declared successful and were accordingly selected in the trials. Therefore, there arose no occasion with the respondent(s) concerned to direct the petitioners to re-appear for selection trials on

14.10.2023. Moreover, he has further submitted that the intimation in the above regard was conveyed only on 13.10.2023, when the petitioner No.1 was down with fever, consequently, she could not participate in the fresh selection trial. Insofar as the petitioner No.2 is concerned, she could not participate in the fresh selection trial owing to the confusion that she had to appear in another trial scheduled on 14.10.2023 by the Haryana Wrestling Association.

6. On the other hand, the learned counsel for the respondent No.2 has placed on record certain documents, which are taken on record. By referring to the circular dated 5.10.2023, as issued by the Wrestling Federation of India, he submits that the names of the selected participants have to be submitted to ad-hoc committee for W.F.I. latest by 15.10.2023. He has further submitted that the result of selection trials held on 09/10.10.2023 (Annexure P-2), upon which the petitioners have relied upon, was not the final result. By referring to the actual result sheet, he submits that there is a note given below the trial result, which clearly stipulates that the candidate(s) who achieved first position in the trials, shall further participate in a trial with the player(s), who has gone for Asian Games, 2023. The same note also finds appended in the result sheet of respondent No.2. He has further submitted that the result, which was declared on 9.10.2023, was not the final result, rather both the petitioners were indeed required to further give trials on 14.10.2023 by competing with those players, who had gone to participate in the Asian Games and accordingly, the moment those players came back to India after playing Asian Games, they submitted their applications for

conducting the trials. Consequently, on 13.10.2023, both the petitioners were informed about the trial date. However, instead of appearing and competing in the trial, both the petitioners submitted their representation(s) dated 13.10.2023 (Annexure P-3). Since both the petitioners opted not to participate in the trial held on 14.10.2023, therefore, their names were not recommended for participation in the National Games.

ANALYSIS

7. I have considered the entire record, including the documents, which have been produced on record by the respondent(s) concerned and have also considered the submissions made by the learned counsels appearing for the parties.

8. A perusal of the result of selection trials, as held on 9.10.2023 and 10.10.2023, clearly shows that there is a note appended underneath below the result sheet, clearly mentioning that those candidates who secured first positions, shall have to undertake another trial with those players, who are participating in Asian Games, 2023, in China. It is not under dispute that the petitioners were aware about the trial to be conducted on 14.10.2023 with those players, who participated in Asian Games in China. However, despite that, the petitioners had opted not to appear in the said trial. Therefore, this Court cannot pass the asked for mandamus upon the respondent(s) concerned to recommend the names of the petitioners to participate in the National Games, based upon the affirmative result of trials, as held on 09.10.2023 and 10.10.2023.

9. The next contention, as raised by the learned counsel for the

petitioners, relates to *vis major*, as the petitioner allegedly fell ill, thereby resulting in her being incapacitated to participate in the trial scheduled for 14.10.2023. To corroborate the factum qua illness of petitioner No.1, the learned counsel for the petitioners has relied upon Annexure P-4, which is a prescription slip issued by a private doctor. However, this Court, at this stage, is not inclined to place any reliance upon such prescription slip to hold that the petitioner No.1 was ill during the relevant period, for the reason, that the representation moved by the petitioner No.1, on 13.10.2023, evidently did not carry the above factum of her illness, which allegedly constituted an impediment for her to participate in the trial on 14.10.2023. In fact, through the representation (*supra*), the petitioner No.1 had merely raised her objection against the re-trial scheduled on 14.10.2023. The relevant extract of the representation (*supra*) is extracted hereunder:-

“It is a request that I, Sarita Mor 57 kg Women Wrestler, have secured the first position in 57 kg in the selection process of National Games conducted by HAWA which was held on 9.10.2023 at Peer Baba Akhara Silani.

Now that I have come first, I am being told through call and message on 13.10.2023 that your trials will be held again on 14.10.2023, information about which is neither given by your association nor in the circular of trials. Nor was I informed during the selection process.

In the selection process, 14 female wrestlers had participated in my weight category, whom I defeated and came first and now I am being told by call and message on 13.10.2023 that you have trials again on 14.10.2023. If you had to take the trials on 14.10.2023 then I want to ask you why you took my trials on 9.10.2023.

I am attaching a copy of the circular, draw sheet and results of the trials issued by you.

I have come first in my category in 57 kg, so please send my name to the National Games on behalf of Haryana.”

10. A perusal of the above extracted portion of the representation leads us to draw an inference that, in case, the petitioner No.1 was actually suffering from illness during the relevant period, she could not have omitted to mention such an important fact in her representation. It appears that the prescription slip (Annexure P-4) has been procured at a subsequent stage, with a malafide intention, merely to build a ground for her non appearance in the trials held on 14.10.2023.

11. Nonetheless, the learned counsel for the respondent No.2 has apprised this Court that the National Games have already commenced and the air tickets of the selected candidates have also been issued. Moreover, the factum of commencement of the National Games remains undisputed by the learned counsel for the petitioners. Therefore, at this belated stage, this Court deems it appropriate not to interfere in the matter and refrains from passing the asked for mandamus upon the respondent(s) concerned. Consequently, present writ petition, being devoid of merits, is hereby dismissed.

12. All the pending applications, if any, stand disposed of accordingly.

(KULDEEP TIWARI)
JUDGE

October 26, 2023
ajay-1/devinder

Whether speaking/reasoned. : Yes/No
Whether Reportable : Yes/No