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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

+ **W.P.(C) 12484/2024 & CM APPL 51915/2024**

Between: -

PIYUSH DAHIYA UNDER THE GUARDIANSHIP
OF HIS FATHER SH. PREM DAS.
R/O 140, VILLAGE & P.O. NAHARA,
DISTRICT SONEPAT, HARYANA-131103

.....PETITIONER

*(Through: Mr. Pushkar Sood, Ms. Monika Saini
and Ms. Shikha Sood, Advs.)*

AND

DELHI SPORTS SCHOOL,
THROUGH ITS PRINCIPAL,
LUDLOW CASTLE SPORTS COMPLEX,
4, SHAMNATH MARG,
DELHI-110054

.....RESPONDENT NO.1

DELHI SPORTS UNIVERSITY
THROUGH ITS VICE CHANCELLOR,
LUDLOW CASTLE SPORTS COMPLEX,
4, SHAMNATH MARG,
DELHI-110054

.....RESPONDENT NO.2

GOVT. OFNCT OF DELHI
THROUGH ITS CHIEF SECRETARY
3RD LEVEL, DELHI SECRETARIAT,
I.P. ESTATE,
NEW DELHI-110002

.....RESPONDENT NO.3

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Signing Date: 13.12.2024
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By: PURUSHAINDRA
KUMAR KAURAV

*(Through: Mr. Karn Bhardwaj, ASC with
Mr. Shubham Singh, Mr. Rajat Gaba and
Mr. Saurabh Dahiya, Advs for respondent/ GNCTD.)*

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Reserved on: 24.10.2024

Pronounced on: 10.12.2024

J U D G M E N T

The petitioner, in the instant writ petition, seeks to challenge the final merit list published by respondent no.1, Delhi Sports School, *vide* Circular dated 01.08.2024. Additionally, the petitioner prays for directions to revise the merit list in line with the grounds raised herein.

2. The factual matrix indicates that the petitioner, a minor aged approximately 11 years, has approached this Court through his father, who is also his natural guardian. The petitioner seeks admission to Class VI at the Delhi Sports School, specifically in the field of Archery, aspiring to explore potential career opportunities in sports. The respondent institution, Delhi Sports School, operates under the aegis of Delhi Sports University, which has been established under the Delhi Sports University Act, 2019. The Delhi Sports University is governed by the Government of the National Capital Territory of Delhi pursuant to the Delhi Sports University, Delhi [First] Statutes, 2021 Act. The Government of the National Capital Territory of Delhi controls the functioning of both the Delhi Sports School and Delhi Sports University.

3. According to the petitioner, *vide* Circular dated 14.02.2024, the Delhi Sports School has invited online applications for the Academic

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KUMAR RAURAV

Year 2024-25, offering admissions to Class VI and for filling up vacant seats in Classes VII, VIII, and IX. Being intent on joining Class VI, the petitioner indicated Archery as his preferred sport for specialization.

4. Admission to Archery, a sport falling under the generic sports entry method, was, according to the prospectus, structured into three levels, i.e., Level-1 [Talent Scouting], Level-2 [Selection Trial], and Level-3 [Medical Examination of shortlisted candidates, followed by final admission]. The petitioner, conscious of his abilities, applied for the same and successfully progressed through Levels 1 and 2, securing the 4th position with a score of 50.48 out of 100.

5. However, to his dismay, the respondents, *vide* Circular dated 28.06.2024, contrary to the initial prospectus, introduced, introduced additional selection criteria in Level-3, specifically ‘sports-specific trials’ and a ‘sports science test’. The petitioner, while raising grievances over this sudden change, submitted a formal complaint *vide* email dated 04.07.2024, which went unanswered. Compelled by circumstances, the petitioner proceeded with the selection process and later discovered in the final result that he had been ranked at serial number 9, while the candidates ranked at serial numbers 16 and 5 had been elevated to merit positions numbers 3 and 2, respectively. The petitioner contends that this mid-process alteration to the selection criteria is patently arbitrary and legally unsustainable.

Submissions on behalf of the petitioner

6. Mr. Pushkar Sood, learned counsel appearing on behalf of the petitioner, submits that the prospectus issued by the respondents on 14.02.2024, in accordance with circular F.

No.7/DSU/DSS/Registration/2024/183-192, confined Stage-3 strictly to the extent of conducting a medical examination. However, he asserts that on 28.06.2024, the respondents introduced additional criteria in the middle of the selection process, thereby modifying the process in a manner, which according to him is arbitrary, unlawful, and impermissible. Learned counsel submits that the petitioner, unprepared for the newly introduced tests, was consequently disadvantaged in demonstrating his full potential. Had these tests been prescribed in the initial prospectus, the petitioner would have been better equipped to perform. He further argued that such arbitrary alterations gave undue latitude to the selection authorities, inviting potential bias, a circumstance that, in his view, ought to have been avoided. Furthermore, according to him, while the initial assessments were conducted by an independent external agency, the final tests were overseen by in-house teachers, thereby compounding the irregularities in the entire selection procedure.

7. Learned counsel placed reliance on the decision of the Supreme Court in the case of *Anil Kishore Pandit v. State of Bihar*¹ to contend that it is impermissible in law to alter the qualifications stipulated in an advertisement for selection mid-process. He submits that the conduct of the respondents in introducing additional requirements at the third stage of selection contradicts established legal principles, which bar any modification to the criteria once the selection process has commenced.

8. Following his initial grievance raised *vide* email dated 04.07.2024, which went unacknowledged, learned counsel submits that the petitioner, left with no response from the respondents,

¹2024 SCC OnLine SC 332

proceeded to file a query under the Right to Information Act, 2005 [RTI]. Through this RTI query, he sought clarity on the decision-making process surrounding the newly introduced tests and to ascertain whether the additional criteria were indeed authorized and necessary. Attention of the Court has been drawn to the response of the RTI application, he submits that whereas the amended Level-3 tests were conducted on 16.07.2024 and 17.07.2024, the decision ratifying the conduction of these tests was only taken on 23.07.2024. He contends that, if physical testing was deemed necessary, any decision to this effect ought to have been taken in advance rather than retroactively. This *post facto* decision, according to the learned counsel, raises concern with respect to the entire integrity and transparency of the admission procedure and indicates a possible cover-up of improper conduct on the part of the respondents. While learned counsel refrains from alleging actual malice due to limited material, he asserts that the situation clearly implicates the principle of malice in law, which condemns arbitrary acts even when there is an absence of any specific intent to cause harm.

9. The submissions advanced by the learned counsel for the petitioner are vehemently opposed by learned counsel appearing for respondent nos. 1 and 2.

10. According to their counter affidavit, learned counsel seeks to delineate a distinction between 'Levels' and 'Stages' within the selection process, as mentioned in the brochure, contending that this differentiation is material to understand the admission procedure.

Submissions on behalf of the respondents

11. Mr. Karn Bhardwaj, learned counsel who appears on behalf of the respondent, submits that the Delhi Sports University's prospectus for the year 2023-24 clearly outlined three stages, Stage-1 as talent scouting camps, Stage-2 as selection trials, and Stage-3 as medical examination. Drawing the attention of this Court to paragraphs nos. 9 and 10 of the counter affidavit, he emphasizes that the petitioner participated in the entire selection process with full knowledge of the selection process and criteria. Thus, his primary contention is that the petitioner is precluded from challenging the selection criteria after the results have been declared.

12. Learned counsel further contends that, apart from expressing his grievance with respect to any alleged alteration in the admission procedure by sending a solitary email, the petitioner made no hard and concerted efforts to advance his grievance. At this stage, when admissions have already been concluded, he submits that judicial intervention would be unwarranted. According to learned counsel, neither the selection process was altered, nor any new benchmarks were imposed. Instead, the process was merely refined within the scope of the prospectus to increase the precision of identifying the talent and skill of the aspiring candidates. Such an exercise was deemed essential for identifying and cultivating high-caliber talent suited to represent and partake in national and international sporting platforms. He maintains that even under the refined selection procedure, all candidates were assessed under uniform conditions, which effectively dispels any notion of prejudice against the petitioner.

13. In support of his submissions, learned counsel places reliance on the decision of the Supreme Court in the cases of *Dhananjay*

*Malik and Ors. v. State of Uttaraanchal and Ors*², *Manish Kumar Shahi v. State of Bihar and Ors*³ and *Anupal Singh and Ors. v. State of U.P.*⁴ He further distinguishes the controversy involved in the present matter from the cases cited by the learned counsel for the petitioner, contending that the issues in the current case do not align with those in the authorities relied upon by the petitioner.

Rejoinder Submissions

14. In rejoinder, learned counsel for the petitioner submits that the respondents are attempting to obscure their position by selectively interpreting terms used in the earlier issued prospectus. He argues that the lack of clarity surrounding Stages 1, 2, and 3 has led to inconsistencies. According to him, Levels 1, 2, and 3 are unambiguously detailed in a flowchart provided in the prospectus, thereby binding the respondents to adhere to it as described. He further asserts that the compliance of the petitioner with the selection process does not preclude him from challenging the respondents' arbitrary and inequitable actions, even at this stage. In support of this contention, he placed reliance on a decision in the case of *N.T. Bevin Katti v. Karnataka Public Service Commission and Ors*⁵.

Analysis

15. I have duly considered the submissions made by learned counsel appearing on behalf of the parties and have carefully perused the record. The inquiry involved in the present matter is three-fold:

²(2008) 4 SCC 171

³(2010) 12 SCC 576

⁴(2020) 2 SCC 173

⁵AIR 1990 SCC 1233

firstly, whether the respondent has altered the admission criteria in the middle of the process; *secondly*, whether the said act was impermissible for being violative of the principles of arbitrariness and fairness; and *thirdly*, whether the said act has led to the infringement of the fundamental rights of the petitioner herein. The issues are intertwined and shall be considered as a part of a common discussion.

16. The Delhi Sports School operates under the ambit of the Delhi Sports University Act, 2019, and thus falls within the definition of “State” as outlined in Article 12 of the Constitution of India, 1950 [Constitution]. Consequently, any action taken by the respondent must conform to the highest standards of fairness and reasonableness. Even the faintest appearance of arbitrariness, unreasonableness, or inequality in its conduct, inconsistent with Part III of the Constitution, is unacceptable, as State actions are fundamentally bound to uphold fairness and equality. Article 14 of the Constitution enshrines this principle, which forms the cornerstone of equal treatment and fair administration.

17. The jurisprudence on this principle has been well established by the Supreme Court in landmark cases, including *Ajay Hasia v. Khalid Mujib Sehravardi*⁶, *Central Inland Water Transport Corpn. v. Brojo Nath Ganguly*⁷, *State of W.B. v. Anwar Ali Sarkar*⁸. In a plethora of decisions, including the cases referred to above, the Supreme Court has emphatically held that any State action must pass the test of non-arbitrariness and fairness.

⁶ (1981) 1 SCC 722

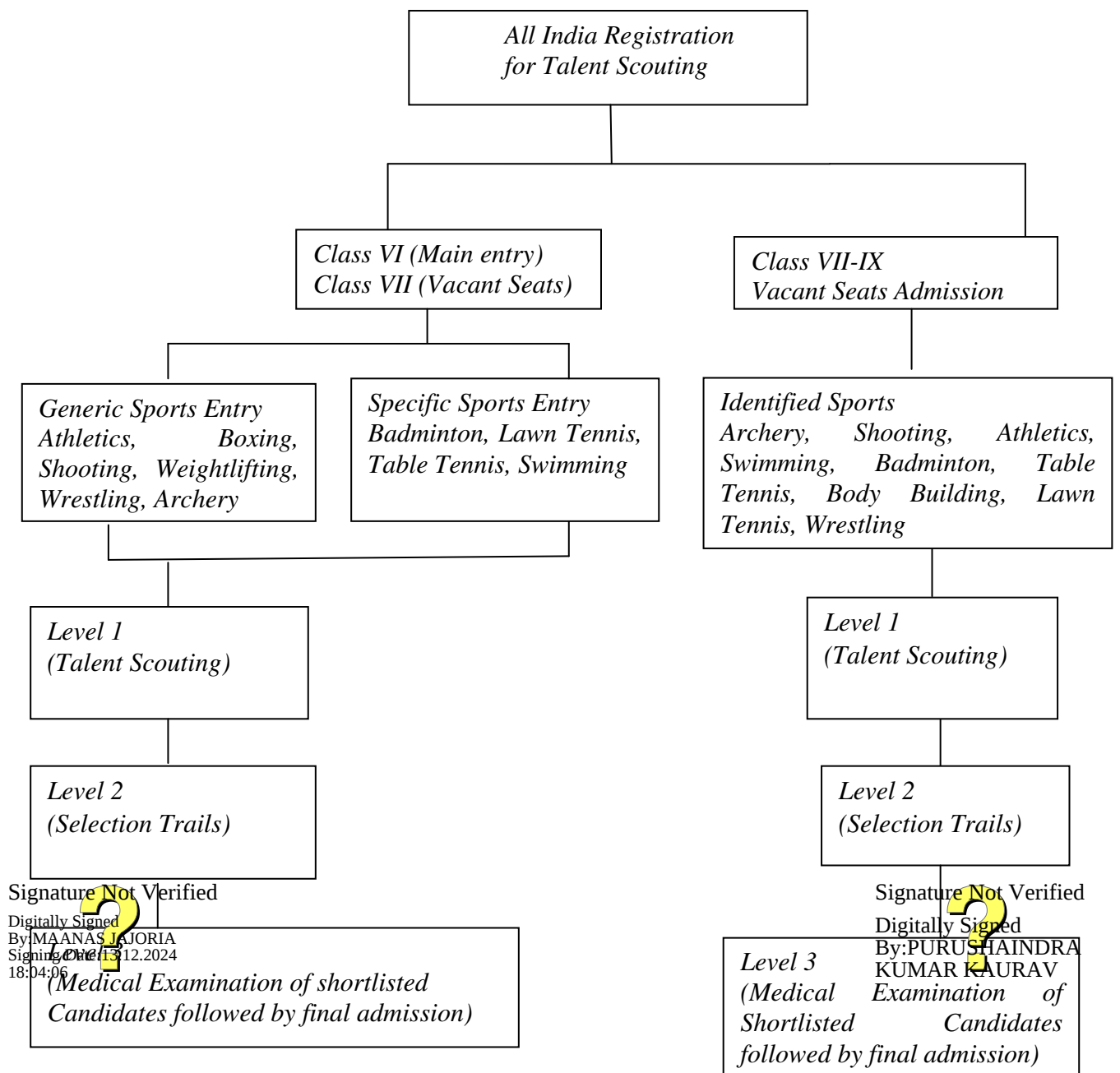
⁷ (1986) 3 SCC 156

⁸ (1952) 1 SCC 1

18. Guided by these principles, the Court now turns to the matter at hand to examine whether the respondent institution has adhered to these fundamental principles of fairness and equality. The front page of the prospectus issued for an all-India registration for talent scouting by Delhi Sports University explicitly delineates the three-stage selection process, specified as follows:-

- Stage-1: Talent Scouting Camp
- Stage-2: Selection Trials
- Stage-3: Medical Examination

Elaborating further, the admission process is outlined through a flowchart, which is extracted below for clarity and reference:-



19. It could be inferred from the prospectus that aside from the admission process outlined in the flowchart, the same offers no additional instructions or clarifications. The prospectus neither provides any further details of the stages 1 to 3 nor any supplementary guidelines to guide the selection process. From the perspective of a candidate, the registration for the selection procedure was based solely on the information published in the public domain, and as per the flowchart, the only formal source throwing light on the admission process, entry for sports such as athletics, boxing, shooting, weightlifting, wrestling, and archery necessitated progression through Level-1 [talent scouting] and Level-2 [selection trials]. Following this, Level-3 was clearly delineated as involving a medical examination of shortlisted candidates, culminating in final admission.

20. Consequently, the scope for confusion regarding the admission process is minimal. The respondents' argument that Stages 1, 2, and 3 differ from Levels 1, 2, and 3 is unconvincing. Notably, the front page of the prospectus displays a structure with three "*Stages*", while the flowchart on the following page utilizes three "*Levels*". However, the descriptions of both are identical and mirror images of one another. This parallel presentation, especially when juxtaposed, strongly suggests that there is no meaningful distinction between "*Stages*" and "*Levels*" and that, as outlined in the initial prospectus, these terms are synonymous, interchangeable, and aligned in purpose. The respondent has attempted to create an artificial distinction between the two terminologies without being able to justify the inescapable conclusion that the substance of both layouts is the same. If any differentiation was indeed intended, it would have been incumbent upon the

of each stage. As things stand, relocating the medical examination from Level-3 to another stage and adding additional layers to the selection procedure, without explicit instructions to this effect in the prospectus, is untenable and cannot be justified by any reasonable standard of administrative fairness.

21. The Court also takes note of the Circular dated 14.02.2024, through which the prospectus was issued and registrations were invited. This circular explicitly states that the salient features of the School, including eligibility criteria, details of games, and the admission process, are outlined in the prospectus and additionally available on the DSU/DSS website.

22. It is, thus, evident that as of 14.02.2024, no other admission process was available or explained more clearly than the one presented in the flow chart. The relevant portion of the Circular dated 14.02.2024, inviting registrations, is reproduced as follows:-

"F.No.17/DSU/DSS/Registration/2024/163-192 Date 14/02/2024

CIRCULAR

SUBJECT: *OPENING OF ONLINE PAN INDIA REGISTRATION FOR THE ACADEMIC SESSION 2024-25 IN DELHI SPORTS SCHOOL FOR CLASS VI AND VACANT SEATS IN CLASSES VII, VIII & IX-FIRST OF ITS KIND RESIDENTIAL SCHOOL FOR THE TALENTED SPORTS STUDENTS.*

In order to conduct the Pan India talent scouting process for admission in the Delhi Sports School being developed and managed by Delhi Sports University situated at Sham Nath Marg, Delhi, all the talented sports oriented students are informed that online registration for Academic session 2024-25 will start from 15.02.2024 to 10.03.2024 by Delhi Sport School on the below mentioned link:

<https://dss.dsu.acin/registration>

School has commenced it's functioning with the motto of "KhelhiPadhaihai" and majority of the activities including evaluation are sports oriented. The School is from class VI to XII and is affiliated with Delhi Board of School Education. However,

during the academic session 2024-25, admission will be open for class VI and vacant seats in classes VII, VIII & IX only.

There are 10 identified sports i.e. Archery, Athletics, Badminton, Boxing, Swimming, Shooting, Table Tennis, Lawn Tennis, Weightlifting, & Wrestling for which talent scouting will be conducted. The admitted students will be provided sports coaching as well as academic enrichment under the guidance of well-trained coaches and qualified teachers.

Delhi Sports School will provide ample opportunities to the students to excel in sports at various platforms depending upon the sports performance. The students of the school will be considered as Feeder Cadre for Delhi Sports University based on their performance in the chosen sport.

The interested talented students who feel that they have potential to excel in above mentioned sports, shall get themselves registered on the link described above by the last date for a career changing opportunity. The Salient Features of the school, details of the eligibility criteria, details of the game, admission-process etc. are attached and are also available on the website of DSU/DSS. After the registration, all the applicants whose applications are complete and are eligible as per eligibility criteria will be called for Talent Scouting and the said information will be sent at the communication details made available by the student at the time of registration.

For more details, contact may be made at registrations@dsu.ac.in

This issue with prior approval of Competent Authority.

23. Following the original Circular, which contained the prospectus and flow chart outlining the admission process, the tests for the initial two levels/stages were conducted, and the results were due for release. *Vide* Circular dated 28.06.2024, the results of the talent scouting camp for Level-1 and Level-2 admissions to Delhi Sports School for the academic year 2024-25 were formally announced. It is at this stage, nearly four months after the issuance of the initial Circular of February and after the completion of the selection procedures for Levels 1 and 2, that the Circular dated 28.06.2024 unexpectedly introduced additional parameters for Level-3. These new criteria encompassed sports-specific trials and sports science tests, in addition

to the originally specified medical examination, thereby altering the final stage of the admission process. The Circular dated 28.06.2024 redefined Level-3 as a more comprehensive evaluation stage, where shortlisted students were to be called for further assessment in July 2024 based on their Level-1 and Level-2 performance and seat availability. The Circular dated 28.06.2024 reads as under:-

"F.No. 06/DSU/TS/2024/542-45

Date 28/06/2024

CIRCULAR

SUBJECT: RESULT OF TALENT SCOUTING CAMP (LEVEL-I & LEVEL-II) FOR ADMISSION IN DELHI SPORTS SCHOOL IN 2024-25

Initial phase (Level-I and Level-II) of the Talent Scouting process for admission in Class VI and vacant seats in classes, VII, VIII & IX in Delhi Sports School was conducted by Delhi Sports University for which tremendous response was received from the students of various states who have sports inclination.

The selection process involved a comprehensive evaluation of the students performance in various stages of assessment including Level-I, Level-II, Level-III which includes sports specific trials and sports science tests and Medical Examination.

Delhi Sports University is pleased to announce the result of Talent Scouting (Level-I & Level-II) Camp. It extends gratitude to all the students who participated in this process. Each candidate showcased dedication and passion for their respective sports, making the selection highly competitive and challenging.

Delhi Sports University will not be conducting Level-III tests in Delhi during the month of July 2024 and shortlisted students will be called on the basis of order of merit based on their performance in Level-I & Level-II depending upon available vacant seats for which separate information will be sent to all such candidates on their registered mail I.Ds. Through mail, in due course, all eligible candidates will be informed about the date of Level-III tests and venue of Testing.

This issues with the prior approval of the Hon'ble Vice Chancellor, Delhi Sports University.

24. From the record, it appears that 19 candidates participated in Levels 1 and 2 of the Archery selection process for Class VI [May], with the petitioner achieving a merit position of No. 4, scoring 9 out of 30 in Level-1 and 41.48 out of 70 in Level-2, amounting to a total

of 50.48 out of 100. The Archery program reportedly has five available seats, with three admissions already being granted. One seat has been kept vacant as directed by this Court *vide* order dated 06.09.2024, and the learned counsel for the respondent has indicated that the vacant seat will be carried forward to the next academic year for admission to a different standard. On 04.07.2024, the petitioner raised an objection to the additional criteria introduced at Level 3, seeking clarification through an email, which reads as follows:-

“Respected Sir,

Today i visited the Delhi Sports School regarding the next level. I met the guards at the gate and asked them whom to meet regarding my queries. At the same time one sir was passing from there and they asked me to meet him.

He informed me that around 15-20 students for each game will be called for Level II tests. He also informed me that a team of experts from Bangalore will take the tests of Level III.

While going through the website of Delhi Sports School there is no such mention. On your portal it is mentioned that Level III is a medical test only followed by the final admission.

Request you to please clarify this and if there you are going to conduct any other tests other than medical test, please let me know about the Level III tests.

Thanks & regards,”

25. It appears that the petitioner did not receive a response to his email seeking clarification on the newly introduced criteria. However, given that the respondent is a State University, a prompt clarification would have been prudent, especially considering the legitimate concerns raised by the parents of the student. Subsequently, on 05.07.2024, another Circular was issued, summoning students for additional sports-specific trials and sports science assessments, alongside the medical examination initially specified.

26. On 01.08.2024, the final combined results were announced. The petitioner, who initially held a strong position, ultimately ranked 9th.

Interestingly, one *Master Harshit*, initially ranked 5th, advanced to 2nd place, while one *Master Gaurav Chaudhary*, previously ranked 16th, ascended to 3rd rank. In the revised assessment, the performance of the petitioner in Levels 1 and 2 was recalibrated from the original scale of 100 points to a scale of 10 points.

27. Initially, the petitioner had secured a combined score of 50.48 points out of 100 points across Levels 1 and 2. However, following this recalibration, his score was adjusted to 5.05 out of 10. Additionally, in the newly introduced sports science test, the petitioner scored 9.27 out of a possible 25 points. In the sports-specific trial, which was also part of the newly introduced criteria, he achieved 13.20 out of 60. These recalculated scores resulted in a final aggregate of 27.52 out of 100 points for the petitioner.

28. The recalibration method applied to the scores of the candidates was not disclosed publicly until after the results were declared. An examination of the response to the RTI application received by the petitioner, dated 09.10.2024, along with the Minutes recorded on 23.07.2024 [annexed to the RTI reply], substantiates the petitioner's primary argument that Stages/Levels 1, 2, and 3 were presumed to consist of the initial two tests alone followed by a medical examination. If this assumption was indeed incorrect, there would have been no need for a subsequent meeting, and the resulting decision recorded in the Minutes dated 23.07.2024, which reads as follows:-

*"To,
The Section Officer
Delhi Sports University,
Government of National Capital Territory of Delhi,
Ludlow Castle Sport Complex,
4 Shamnath Marg, Delhi-110054.*

Respected Sir,

Signature Not Verified
Digitally Signed
By:MAANAS JAJORIA
Signing Date:13.12.2024
18:04:06

Signature Not Verified
Digitally Signed
By:PURUSHAINDR
KUMAR KAURAV

I am pleased to inform you that the final results and merit list for the Talent Identification Development program organized by Delhi Sports University have been successfully compiled.

We have meticulously followed the scoring methodologies approved by the DSU, including evaluations through Level 3 sports science tests & sports trials, Level 1 and Level 2 assessments, and consideration of previous achievements. The final scores have been calculated using the composite index with the specified weightages:

*60% for Sports Trials/Heats scores,
25% for Sports Science assessment scores,
10% for Level 1 and Level 2 scores.
5% for previous achievements.*

Enclosed with this letter, you will find:

- 1. Final Results: Detailed scores for each candidate, incorporating all the aforementioned components.*
- 2. Merit List: A ranked list of candidates based on their composite scores, indicating the top performers and those recommended for further development.*

These documents have been prepared with the utmost accuracy and care to ensure fair and comprehensive evaluation of all participants. We are confident that these results reflect the true potential and capabilities of the candidates.

We kindly request you to review the enclosed final results and merit list and forward them to the relevant authorities at Delhi Sports University for their consideration and further action.

Thank you for your continued support and assistance throughout this process. We look forward to your feedback and further instructions.

*Yours sincerely,
Sd-
Antony Chacko*

“Report on proposed Merit Scheme for Talent Scouting for admission in Delhi Sports School

The purpose of this report is to present recommendations from the Admission Committee of Delhi Sports School concerning the merit scheme for evaluating students who have participated in the Talent Scouting program for admission in Delhi Sports School for the academic session 2024-25. The proposed scheme by the agency engaged by Delhi Sports University employs a weightage system that incorporates various components including 1-1 & 1-2 Testing, Sports Achievements, Sports Science aspects of 1-3 Testing, and Sports Specific Trials. A Thorough review of the same has been made by the Committee keeping in mind the weightage distribution to better align with the goal of identifying a

athletic talent. Further apart from this, the agency has also proposed that there should be minimum benchmark for to qualify for admission in Delhi Sports School.

The observations of the Committee on the various aspects of the proposal submitted by the agency is as under:

- 1. Proposed Weightage Scheme for preparation of merit list by the agency*
The proposed merit evaluation system allocates weightage of different phases/ components of the Talent Scouting Process as follows:
 - a. L-1 & L-2 Testing : 10%*
 - b. Sports Achievements: 5%*
 - c. Sports Science Aspect of L-3 Testing: 25%*
 - d. Sports Specific Trials: 60%*

Observations

- a. L-1 & L-2 Testing: The L-1 & L-2 Testing primarily evaluates basic sports science concepts while these tests are fundamental in assessing a student's initial understanding of sports science, the role in the comprehensive evaluation of athletic potential assigned to these tests is less than the weightage given to sports Science test of 1-3 which appears to be just and rationale as these tests are more specific and relevant indicators of athletic ability.*
- b. Sports Achievement: The weightage assigned to past sports achievements reflects the student's history and consistency in their respective sports. However, this component is lesser predictive of future potential compared to practical performance assessments and specific sports science evaluations. Accordingly, the weightage given to the students is found to be reasonable and fair as the previous achievements need to be taken into account to identify the potential talent, however, the present weightage is as such that it will not create huge differentiation on the basis of marks assigned to the students.*
- c. Sports Science Aspect of L-3 Testing: L-3 Testing delves deeper into specialized sports science, providing a more nuanced understanding of a student's potential. Given the complexity and specificity of those tests, they play a crucial role in predicting future athletic success. The current weightage of 25% fully acknowledge the importance of this aspect. Also together with L-1 & L-2 weightage, the total weightage of Sports Science in identification of potential talent is aggregated to 35% which is realistic, reasonable and Fair.*
- d. Sports Specific Trials: The sports specific trials assess a student's practical skills and their ability to perform under realistic conditions. This component has been assigned the highest weightage of 60%, which is justified given that actual performance is the most reliable indicator of athletic capability and it accurately reflects the importance of practical performance in evaluating athletic potential.*

2. Weightage to the test carried out during the Sports Science Aspect of L-3.

3. The agency has proposed the following weightage for the different sets of Sports Science Tests conducted during the Level-3 testing.

Sport	Body Composition	Balance	Force Production	Anaerobic Capacity	Aerobic Capacity	Sensory Feedback	Neural Feedback	Total
Athletics	15	10	15	25	25	5	5	100
Archery	10	10	10	10	15	15	30	100
Badminton	15	15	20	15	15	10	10	100
Boxing	15	5	25	20	20	7	8	100
Shooting	5	15	5	10	10	25	30	100
Swimming	20	5	20	20	25	5	5	100
Lawn Tennis	10	10	20	20	20	10	10	100
Table Tennis	10	15	15	15	15	15	15	100
Weightlifting	15	6.67	30	20	15	6.66	6.67	100
Wrestling	20	5	25	20	20	5	5	100

The suggested weightage proposed by the agency includes a detailed weightage scheme for various sports, highlighting the need for different evaluations based on the unique demands of each sport. For instance, athletics emphasizes anaerobic and aerobic capacity due to the need for explosive power and endurance, while archery and shooting prioritize sensory and neural feedback for precision and control. This targeted approach ensures that relevant attributes are measures for each sport, facilitating the identification of individuals with the optimal characteristics to excel.

3. Minimum Benchmark for Qualification

After thorough discussions, Committee is of the view that setting a minimum benchmark of 60% as suggested by the agency will help the authorities to ensure that only students who achieve a higher level of proficiency across all evaluation components will qualify. This approach will help in identifying individuals who consistently perform well not just in specific trials, but also in the broader context of sports science and overall assessment. It is particularly important in cases where some sports trials might have had lower participation, which could affect the results and process of the Talent Scouting, if not properly controlled. A standardized benchmark mitigates this risk by ensuring that qualification is based on a comprehensive evaluation of skills and potential, rather than anomalies in participation or competition levels. Consequently, this measure will enhance the credibility of the selection process, ensuring that

the most promising and well-rounded athletes are chosen for further development at Delhi Sports School.

Conclusion

The suggested and proposed different parameters of the weightage scheme aim to change the accuracy of identifying potential athletic talent by aligning evaluation criteria with the goal of recognizing future sports excellence. The proposed weightage ensures a more balanced and effective assessment process. Also, the weightage given for the different sets of Sports Science tests also aligns properly with the requirements of each game. Additionally, the introduction of a minimum benchmark qualification of 60% is also found to be reasonable and realistic. This benchmark will serve as a filter to ensure that only those students who exhibit above-average skills and potential are considered for further evaluation. By setting this standard, the School can better distinguish between genuinely promising athletes and those who might have benefited from less competitive conditions. This criterion will enhance the credibility and fairness of the selection process, ensuring that the most capable and well-rounded students are identified for development.

Together, the proposed weightage of the different level of testing & Sports Science Test Weightage and the introduction of the qualification benchmark will refine the talent scouting process, making it more robust and indicative of future sports success. The Admission Committee believes that the weightage given as well as other steps taken for identification of the potential, which will apply to the students uniformly, will significantly improve the quality of the candidates selected, better serving the mission of Delhi Sports School to nurture and develop outstanding athletes.

Report is prepared by the Committee after the detailed discussion among the committee members and obtaining inputs from the concerned game coaches which are based on their actual ground experience,

ADMISSION COMMITTEE”

29. The Minutes of this Meeting clearly indicate that the respondents resolved to conduct the additional tests and later sought *ex-post facto* approval for these decisions. Such an after-the-fact validation ought not to have been resorted to without precise instructions in the prospectus or accompanying brochures and appears to have been conducted as an eye-wash for justifying the altered admission procedure, which raises concerns regarding procedural transparency and adherence to the originally published guidelines.

30. If examined on the touchstone of Article 14 of the Constitution, the respondent's admission process fails to meet the basic standard of

fairness, transparency, and non-arbitrariness. In clear absence of the additional criteria in the prospectus, despite there being an elaborate procedure, could have only meant that the additional stages were not in contemplation at the time of seeking registrations from the candidates. The introduction of the additional criteria, without any prior notice or consultation, was not consistent with the foundational principle of fairness, especially when the additional criteria caused immense prejudice to the candidates such as the petitioner herein. In a selection process, the prospectus or other guidelines available at the time of registration give rise to a legitimate expectation amongst the candidates as regards the future course of the process and it could not be altered in an unpredictable manner.

31. The inconsistencies in the submissions advanced on behalf of the respondent, particularly as outlined in paragraphs 9 to 12, stand as a stark affront to the basic principles of transparency and consistency. Paragraph 9 of the written submissions and the explanation offered by learned counsel, with respect to the distinction between “Stage” and “Level,” indicates no meaningful distinction between Stage-3 and Level-3, suggesting that these terms are effectively interchangeable. However, in paragraph 12, the respondent-University describes Stage-1 as encompassing both Level-1 and Level-2, contradicting its earlier stance in paragraph 9, where it implies Stage-2 is equivalent to Level-3. Such a contradictory approach, if not entirely misleading the Court, creates unnecessary confusion and instability in the admission process.

32. Recently, the Supreme Court in its decision in ***Tej Prakash Pathak v. Rajasthan High Court***⁹, emphasized the oft-quoted legal principle that “*the rules of the game must not be changed mid-way, or*

⁹2024 INSC 847

after the game has been played.” This decision arose from a reference against the decision in ***Tej Prakash Pathak v. Rajasthan High Court***¹⁰, as the 2013 judgment had not considered the precedent set in ***State of Haryana v. Subash Chander Marwaha***¹¹. The controversy in the said decision pertained to recruitment criteria for the post of translators, which were altered after the selection process had commenced. Specifically, the imposition of a 75 percent minimum marks requirement, introduced by the Chief Justice of the Rajasthan High Court, which was not mentioned in the original recruitment notice, resulted in the selection of only three candidates, with others disqualified under the new criterion. While relying on the aforementioned decision along with ***K. Manjusree v. State of A.P***¹², the Court has rendered the following findings:-

“CONCLUSIONS

42. We, therefore, answer the reference in the following terms:

(1) *Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;*

(2) Eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

3) *The decision in K. Manjusree (supra) lays down good law and is not in conflict with the decision in Subash Chander Marwaha (supra). Subash Chander Marwaha (supra) deals with the right to be appointed from the Select List whereas K. Manjusree (supra) deals with the right to be placed in the Select*

¹⁰(2013) 4 SCC 540

¹¹(1974) 3 SCC 220

¹²(2008) 3 SCC 512

List. The two cases therefore deal with altogether different issues;

(4) Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/ nonarbitrary and has a rational nexus to the object sought to be achieved.

(5) Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the Rules are non-existent, or silent, administrative instructions may fill in the gaps;

(6) Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list.”

33. Juxtaposing the decision therein with the controversy in the instant case, the inconsistent stance of the respondent on the interpretation of “Stage” versus “Level” similarly risks destabilizing the admission process by shifting interpretations mid-way, striking at the root of the legal principle that *“the rules of the game must not be changed mid-way, or after the game has been played.”*

34. The Court finds this lack of clarity unacceptable, amounting to a deviation from the stipulated terms in the prospectus. Therefore, the Court holds that the admission process employed by the respondent diverges unjustifiably from the originally published prospectus, rendering it procedurally flawed. Given the status of the respondent as a State-affiliated institution, it bears a heightened duty to ensure utmost caution and precision in its approach. The responsibility to maintain absolute transparency in matters as crucial as admission brochures and their stipulated conditions is particularly significant, as any deviation in these documents profoundly affects the legitimate expectations and aspirations of prospective students.

35. This Court, in *Devadarsini Umapathy v. Medical Counselling Committee*¹³, observed the adverse effects of ambiguity employed by State counselling authorities in the admission process, which has led to undue hardship for young, aspiring, and talented students. The principles articulated in that case resonate with the issues at hand and the adverse observations drawn against the authorities therein are equally applicable to the respondent authorities in this matter. It is incumbent upon the authorities to exercise their best efforts to ensure clarity and transparency in the admission process, avoiding unnecessary obstacles that may impact the future of meritorious candidates.

36. Having established that the admission process employed was marred by a clear lack of transparency and underwent a mid-process change of criteria, the next critical question before this Court is whether the entire admission process warrants annulment or revisit?

37. The petitioner, alleging irregularities in the admission procedure, asserts that the respondents' actions have created a prejudiced outcome that has affected all applicants uniformly. The Court, while agreeing with the petitioner that the admission process was altered without lawful authority, notes that the petitioner limits his allegations to "malice in law" rather than "malice in fact". Upon review, the Court finds that this procedural misstep indeed constituted an impermissible exercise by the respondents but it has impacted all candidates in a general manner rather than targeting the petitioner specifically. "Malice in law" pertains to actions taken without lawful excuse, done wilfully and wrongfully, *albeit* without personal spite or ill-feeling. Such actions are considered deliberate but are characterized

¹³ 2024 SCC OnLine Del 7229

by a disregard for lawful procedure rather than any direct malice towards an individual. [Reference can be made to *W.B. SEB v. Dilip Kumar Ray*¹⁴; *S.R. Venkataraman v. Union of India*¹⁵; *Regional Manager v. Pawan Kumar Dubey*¹⁶].

38. Examining the aforesaid aspect, the Court notes that, upon the declaration of results, it was indicated that the Level-3 test would involve sports-specific trials and sports science assessments. Although these elements were not initially included as part of Level-3, candidates, including the petitioner, were informed prior to undergoing this stage that such assessments would be required. Both the petitioner and other candidates participated in the Level-3 process with this understanding and awaited the results. When the outcome proved unfavourable for the petitioner, he initiated the present writ petition. Consequently, this Court, *vide* order dated 06.09.2024, issued a notice and directed that one seat be kept vacant pending further adjudication. The respondents have subsequently indicated that should the petitioner not fill this seat, the same would be allocated to another candidate who has secured a higher rank than the petitioner.

39. In this context, it is also pertinent to note the settled position of law that any individual, having consciously participated in the selection process, due to an unfavourable outcome, cannot turn around and challenge the selection process. Although, the petitioner, along with other candidates, engaged in the Level-3 assessments, including the newly introduced sports-specific trials and sports science evaluations, however, it was not without raising any objection/protest

¹⁴ (2007) 14 SCC 568

¹⁵ (1979) 2 SCC 491

¹⁶ (1976) 3 SCC 334

prior to results. It transpires from the record that immediately after the notification of the additional criteria on 28.06.2024, the petitioner addressed an e-mail to the respondent on 04.07.2024, raising objections against the addition of additional criteria. Although, this petition was preferred only after the declaration of final results, however, this rule could not be enforced in an unduly harsh manner specifically when a protest was raised by the petitioner at the earliest opportunity and violations of the accepted standards have been found on the part of the respondent. It would not be reasonable to expect the petitioner to have taken the risk of not participating in the remaining process and he cannot be faulted for doing so under protest.

40. Having said that, it needs to be noted that the formulation of relief is at times a delicate task when it comes to undoing an act and the Court must be mindful of the prevailing situation and exigencies while doing so. Given that all candidates underwent the same process in Level-3, the Court deems it impractical at this stage to direct that the Level-3 test be repeated with only the medical examination component or to mandate the respondents to restart the entire selection process. Notably, admissions to three candidates have already been granted, and disturbing the admissions of these candidates, who are blameless in this situation, would be unjust. Furthermore, awarding the petitioner admission without reassessing the merit of the candidates who ranked higher would be inequitable and discriminatory towards those candidates.

41. However, at present, it is clear that two seats out of the available five seats remain unfilled. It is not consistent with the objectives of the respondents or the students desirous of taking admission to the respondents to leave the vacancies unfilled due to an

administrative lapse. In light of the above discussion, holding the action of the respondent as impermissible and arbitrary, this Court deems it fit to direct as follows:-

- i. The respondents shall prepare a fresh merit list for filling the two vacant seats by following the originally notified admission criteria inclusive of three levels, the third level being the medical examination as originally contemplated. Since medical examination has already been conducted and the results of the first two levels were already declared when the controversy arose, this direction would not cause any excessive inconvenience or prejudice to any person as the respective scores of the candidates for all three levels are available with the respondent;
- ii. The fresh merit list shall be prepared only on the basis of recalculation of marks of the three levels [originally notified] by striking out the additional criteria from the zone of consideration. No fresh examination of any candidate shall be carried out;
- iii. The fresh merit list against the two unfilled vacancies shall be notified and admission shall be offered to those candidates who qualify in the merit list;
- iv. If the petitioner succeeds in finding a place in the fresh merit list, needless to observe, he shall be granted admission;
- v. In case the petitioner does not find a place in the merit list and the selected candidates are no longer desirous of taking admission, the respondent shall proceed in accordance with their rules, either to call the candidate immediately next after the last selected candidate or to carry forward the vacancies,

as the case may be, subject to the rules pertaining to waiting list, carry forward, etc., and the same shall be notified to the petitioner herein;

- vi. The respondent shall comply with these directions within four weeks from the date of this judgment.

42. In terms of the above directions, the petition stands disposed of, alongwith pending applications. No costs.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

DECEMBER 10, 2024
p'ma