

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14185 OF 2024

Miss Nita Gopalrao Dalvi,
Aged 30 Years, Occ: at present Nil
R/o. Kurunda- TQ- Basmat,
Tal: Basmat, Dist: Hingoli- 431512 ... Petitioner

Versus

- 1] The State of Maharashtra.
High Court Mumbai – 01,
Through School Education & Sports
Department.
- 2] The Director of Sports and Youth Services
Baner Mahalunge Road, National Games
Park, Mahalunge, Pune 411 045.
- 3] The Deputy Director Sports & Youth
Services, Amravati Region,
Divisional Sport Complex Morshi Road,
Amravati 444 603.
- 4] The Commissioner (Education),
State of Maharashtra,
First Floor, Central Building,
Dr. Annie Besant Rd. Agarkar Nagar,
Pune 411 001.
- 5] The Chief Executive Officer,
Zilla Parishad Buldhana,
Near Jaistambh Chowk,
Chaitanyawadi, Buldhana 443 001
- 6] The Education Officer (Primary)
Zilla Parishad Buldhana,
Near Jaistambh Chowk,
Chaitanyawadi, Buldhana – 443 001 ... Respondents

Mr.Satyajeet A.Rajeshirke with Mr.Gautam R. Kulkarni and Mr.Shubham R. Vasekar for the Petitioner.

Mr. P.P.Kakade, Addl.GP with Mr.A.K.Naik, AGP for Respondent Nos.1 to 4, State.

Mr.Niranjan Jadhao for Respondent Nos. 5 and 6- Zilla Parishad.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 26th February, 2025

ORAL JUDGMENT (Per : Ravindra V. Ghuge, J.)

1. **Rule.** Rule made returnable forthwith and heard finally with the consent of the parties.

2. On 20th February, 2025, in the backdrop of the order dated 29th January, 2025, we had passed the following order :

“1. We had passed an order on 16th October, 2024 and issued notice. For the last four months, the State has not filed any reply though we had initially granted time till 12th November, 2024.

2. Respondent No.2 has filed an affidavit on a limited point of invalidation of the Petitioner’s sports certificate. The aspect that the Petitioner has scored 107 marks and is already in the select list from the general category and, therefore, she has been appointed by the

*Buldhana Zilla Parishad because the cutoff marks for appointment with the said Zilla Parishad is 104, has not been dealt with. No reply has been filed by the State on this point despite the fact that this Court has delivered a judgment in **Vijay Appaso Dhavale v/s. State of Maharashtra and Ors**¹.*

*3. In Vijay Appaso (supra), reliance was placed on the judgment of the Hon'ble Supreme Court in **Saurav Yadav v/s. State of Uttar Pradesh**², more particularly, the observation of the Hon'ble Supreme Court that reservations, both vertical and horizontal, are methods of ensuring representation in public services. These are not to be seen as rigid slots, where a candidate's merit, which otherwise entitles her to be shown in the open general category, is foreclosed, as the consequence would be, if the State's argument is accepted.*

4. Today, the State orally contends that the Petitioner cannot be appointed, though the Petitioner has scored 107 marks and is in the merit list from the general category, ignoring that she is a sportsperson and she had a validated sports certificate, which was subsequently invalidated after her appointment with the Buldhana Zilla Parishad.

5. In view of the above, since the State is not filing a reply and the hearing in this matter is truncated, one last chance is granted and at the request of the learned AGP, office to accept the reply since it is being filed tomorrow, i.e., 21st February, 2025.

6. List this Petition, on the supplementary board, on 26th February, 2025, for further

1 2021 SCC OnLine Bom. 6071

2 (2021) 4 SCC 542

hearing and dictating order.

7. The ad-interim relief would continue until further orders.”.

3. The view taken by this Court in ***Vijay Appaso Dhavale*** (*supra*) has been sustained by the Hon’ble Supreme Court while dismissing SLP (Civil) Appeal No. 2367 of 2022, vide order dated 21st February, 2022. The law has, thus, crystallized.

4. The State has preferred an additional affidavit-in-reply, dated 21st February, 2025, through Mr.Sandeep Sangave, the Deputy Director of Education, Mumbai Region, Mumbai. It is stated in the said affidavit that the Petitioner is otherwise qualified for being appointed. The recruitment of teachers was initiated through the Pavitra Portal and the Teacher Aptitude and Intelligence Test (TAIT) examination was conducted. Those who are successful were considered for appointment. In addition, the Petitioner had a sports certificate, which was invalidated pursuant to her selection on the basis of the marks (107) scored by her. She is apparently in the merit list from the general category.

5. In paragraph 16 of the affidavit, it is stated that the Petitioner was recommended for the post of Teacher in general

sports category. However, later on, her validated sports certificate, was invalidated. In paragraph 17 of the affidavit, it is stated that the list was published on 25th February, 2024 by the Buldhana Zilla Parishad and the cut off marks in general category is 130 and in general women category, the cut off marks for TAIT is 122. It is, then, stated that after recommending 11085 candidates in the general merit list, dated 25th February, 2024, the Respondent converted the parallel categories into social categories, except, ex-servicemen parallel category and again sought preferences from the candidates and published a second general merit list (converted round), on 25th June, 2024. The cut off marks for the general category in this converted round is 104 and all 28 posts are filled in.

6. The learned Advocate for the Petitioner clarifies that the Petitioner has scored 107 marks from the general merit list (converted category) and the Petitioner is not included in these 28 posts that are filled in. However, he hastens to clarify that, the sports category post, which was allotted to the Petitioner due to the validation of a sports certificate, is still vacant as it is allotted to her. The Petitioner has participated in the power weight lifting event, in 2010. Her sports validity certificate was issued on 9th April, 2018

considering that she had participated in the said event as in 2010. Hence, her sports certificate was validated.

7. Subsequently, the Government issued a Resolution (GR), dated 1st July, 2016 vide which, the power weight lifting game has been deleted from the sports category and based on this GR, after the Petitioner was selected and granted the post with the Buldhana Zilla Parishad, the Deputy Director of Sports and Youth Services, Amravati Region passed the order dated 23rd August, 2022 invalidating the sports certificate of the Petitioner.

8. In the light of the above, though the Petitioner's case is strongly supported by the judgment delivered by the Hon'ble Supreme Court in ***Saurav Yadav*** (*supra*), vide which she can be considered for appointment on the basis of the general merit list, the fact remains that a sports certificate is issued to a sportsperson for having participated in the sports event/ activity on a particular date. The certificate is in relation to that sporting event. The grace marks of 5% are awarded for that sports event. Power lifting was a sport activity which was recognised by the State in 2010. Hence, in 2024, it cannot be said that the sports certificate of the Petitioner is

insignificant since, the State delisted the said sport subsequently in 2016. Though the certificate was issued on 9th April, 2018, it relates back to 2010, when the Petitioner had participated in the said sport which was then recognised by the State.

9. The Petitioner had participated in the said sporting event in 2010. It is undisputed that the Competent Authority of the Sports and Youth Services Department validated the sports certificate of the Petitioner and it is on the basis of such validated certificate that the Petitioner was granted the appointment by the Buldhana Zilla Parishad. On the basis of the GR subsequently issued delisting a particular sporting event like power weight lifting, cannot disqualify the Petitioner. Had she participated in that sporting event after the GR dated 1st July 2016 was introduced, the certificate could not have been validated. However, her certificate pertains to the 2010 sporting event and, therefore, her certificate relates back to 2010 when she was a sportswoman participating in the power weight lifting event.

10. The learned Advocate for the Zilla Parishad has relied upon the affidavit-in-reply and contended that the Zilla Parishad, by

itself, cannot convert the Petitioner's category from the sports quota to the general category. This discretion is not available with the Zilla Parishad. If this Court is convinced and issues any direction, the Zilla Parishad would be bound to obey the direction.

11. The learned Advocate for the Zilla Parishad sought a pass-over to take instructions as regards the statement made by the learned Advocate for the Petitioner that the post allotted to the Petitioner through the sports quota, is still available. After taking instructions, he submits that the said post on which the Petitioner was to be appointed, is not available. However, he clarifies that the Petitioner would be granted the same post at a different location under the same Zilla Parishad, Buldhana, in the light of this order.

12. The learned Advocate for the Petitioner submits, on instructions, that the Petitioner is willing to work on such a post, wherever the Chief Executive Officer, Zilla Parishad, Buldhana, would post her.

13. Considering the above and in the light of the law laid down by the Hon'ble Supreme Court in ***Saurav Yadav*** (*supra*)

which was followed by this Court in ***Vijay Appaso Dhavale*** (*supra*), **this Writ Petition is allowed** in terms of prayer clause (d) which reads as under :

“d) This Hon Court may after considering the legality validity and propriety of the re-verification list published (EXHIBIT M) by Respondent no 2 and the decision therein to the extent of the Petitioner thereby invalidating the Verification Certificate dated 9/04/2018 issued by Respondent no 3 as well as Certificate issued to the Petitioner in respect of securing third position in the Juniors State Power lifting Championship for women in 56 Kg Class held at Nagpur during 27/11/2010 to 28/11/2010 be pleased to quash and set aside re-verification list published (EXHIBIT M) by Respondent no 2 and decision therein to the extent of the Petitioner”

14. Needless to state, the impugned order invalidating the sports certificate of the Petitioner is quashed and set aside and the validation of her certificate dated 9th April, 2018 is sustained. The Buldhana Zilla Parishad shall permit the Petitioner to report for duties with effect from 15th March, 2025, without waiting for this order to be uploaded.

15. Rule is made partly absolute in the above terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)