

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO.1548 OF 2025**

NIKITA  
KAILAS  
DARADE  
CHIEF CLERK  
HON. JUSTICE  
DATE: 20/03/25  
FILE NO. 1548

Sakshi Ganesh Jadhav  
aged about 24 Occ: Student,  
Plot No.55, Builder Housing Society,  
Nandanvan Colony, Aurangabad. ....Petitioner  
versus

1. State of Maharashtra, Through  
Ministry of Sports and Youth Affairs  
Mantralaya, Mumbai.

2. Deputy Director, Sports and  
Youth Department, Maharashtra State,  
Balewadi Pune-411045

3. Maharashtra State Amateur  
Aquatic Association Through Secretary  
Shri. Rajendra Yashwant Palkar, Residing  
at: 18-B/405, Ajinkya Co.Op.Hsg. Soc.,  
Bimbisar Nagar, Near Mahananda Dairy,  
Goregaon (East), Mumbai-400034

4. Swimming Federation of India,  
through Secretary Having address at 128  
Krishna Villa, Paraskunj Society-I,  
Satellite Road, Ahmedabad 380015, Gujrat.

5. Maharashtra Olympic Association,  
434, Yahvantrao Chavan Bhavan, Old Pune  
Jilha Parishad Building, 3<sup>rd</sup> Floor, Wellesly  
Road, Somwar Peth, Pune-411001.

6. Dy. Director of Sports and Youth  
Seva Chhatrapati Sambhaji Nagar  
Division, Garkheda Area Chhatrapati  
Sambhaji Nagar, 431001

....Respondents

Mr. Dilip Rai a/w Mr. Sanket Dhawan  
i/b Mr. Vasant Dhawan for the Petitioner.

Ms. D. S. Deshmukh, AGP for the State.

Adv. R. M. Nakhwa a/w Mr. Sandeep J. for Respondent No.3.

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

**DATE : 25<sup>th</sup> FEBRUARY, 2025**

**ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J)**

1. On 11<sup>th</sup> February, 2025, we had passed the following  
order:

*“1. The issue is as regards the verification of the sports certificates of the Petitioner, who is known to be State swimmer and who has participated in several events. She has been selected to be appointed as a Talathi in the State Government service.*

*2. Respondent No.2 claims that some of the documents were not received. In order to cut short the controversy, we had called upon the learned Advocate representing Respondent No.3 to prepare a compilation of the documents, which are said to have been already submitted in March, 2024 to Respondent No.2.*

*3. A compilation of 37 pages along with an index, is tendered to the Court and a copy is tendered to the learned AGP. The said compilation is marked as ‘X’ for identification. As such, we direct the learned AGP to ensure that Respondent No.2 would submit the verification report on 20<sup>th</sup> February, 2025 in the Court.*

*4. List this Petition under the caption “For Disposal” on 20<sup>th</sup> February, 2025.*

2. Leave to add The Deputy Director of Sports and Youth Services, Chhatrapati Sambhajnagar, as Respondent No.6, since the Office of the District Collector Chhatrapati Sambhajnagar has issued a communication to the Deputy Director Sports and Youth Services Maharashtra State Pune. The learned AGP causes his appearance of behalf of the added Respondent.

3. At the very outset, we have reminded ourselves that disputed facts cannot be gone into by the High Court. The Hon’ble Supreme has held in **Assistant Commissioner (CT) LTU Kakinada & Ors. Vs. M/s. Glaxo Smith Kline Consumer Health Care Limited**

(2020) 4 SCR 602, that disputed issues will not be dealt with by this Court.

4. We have heard the learned Advocates for the respective sides. Issue is as regards the future of a young girl student, who is 24 years of age, who appears to be a qualified swimmer and who has been selected as a Talathi on the basis of 5% addition of marks from the sports quota, after she appeared for a competitive examination. We have kept in mind that, if this Court was to shunt out the Petitioner on the ground of disputed facts, the Petitioner would not only suffer an irreparable harm, but, would be deprived of employment. Her selection would be in jeopardy, if her sports certificate is not validated until 14<sup>th</sup> March, 2025.

5. It is informed to the Petitioner, by communication dated 31<sup>st</sup> December, 2024 issued by the Deputy Collector Chhatrapati Sambhajinagar, Mr. Vinod Khirolkar, that she has not been issued with an appointment order since her sports certificate is yet to be validated. During the pendency of this Petition, the Deputy Director Sports and Youth Affairs, Chhatrapati Sambhjinagar, has issued a communication on 18<sup>th</sup> February, 2025 addressed to the Petitioner

that because the records do not indicate her name as a sportsperson, as on 1<sup>st</sup> July, 2016, her certificate is invalidated.

6. Therefore, we have granted leave to the Petitioner to amend the petition and assail the said order, despite the objections of the learned AGP that the Petitioner be relegated to an alternate remedy of preferring an appeal before the Joint Director Sports and Youth Affairs at Pune. The Petitioner comes from a rural background. Besides being a girl student, she is a swimmer who has received several certificates. She has passed the concerned examination and has been selected as a Talathi. If time is spent in making her run from pillar to post and if her selection gets cancelled, after 14<sup>th</sup> March, 2025, it would cause an irreparable harm and serious prejudice to her. It is in these circumstances, that we have permitted the Petitioner to amend the petition and agitate her claim before us.

7. We have perused Schedule 3 under the Bombay Public Trust Act 1950 [vide Rule 13(1)], which indicates that the Maharashtra State Amateur Aquatic Association (MSAAA), is a public trust. The election was held on 2<sup>nd</sup> November, 2014. Mr.

Sudhakar Shamrao Shanbhag, is elected as the President, Mr. Harishchandra Yashant Deshmukh is elected as the Secretary and Mr. Kishor Anant Vaidya, is elected as the Committee member. Mr Kishor Anant Vaidya is the reporting trustee. He preferred the change report No.ACC-I/5625 of 2014, before the Assistant Charity Commissioner Greater Mumbai Region, Mumbai. By a judgment dated 14<sup>th</sup> September, 2017 the learned Assistant Charity Commissioner-I accepted the change report and declared that the 19 members who are elected, be taken on record for a period of four years, since 2<sup>nd</sup> November, 2014.

8. The said association approached the Bombay City Civil Court at Bombay, in Notice of Motion No.3415 of 2017 in Suit No.215 of 2015, praying for the following reliefs:-

*“(a) Pending the hearing and final disposal of the suit this honorable court be pleased to pas a mandatory order directing the Defendant no.1 to accept the entries sent by the Plaintiff to represent the Maharashtra State Amateur Aquatic Association.*

*(b) Pending the hearing and final disposal of the suit this honorable court be pleased to pass a mandatory order directing the Defendant no.1 to treat the Plaintiff as the authorized entity to represent Maharashtra State Amateur Aquatic Association.”*

9. By an order, dated 22<sup>nd</sup> May, 2018, the learned

Principal Judge granted ad-interim relief permitting the MSAAA to conduct the trials and directed the Directorate of Swimming Federation of India (FSI), to allow the entries forwarded by the MSAAA.

10. We make it clear that we are not dealing with the issue, as to which body is the authorized committee after 2018. We are referring to the orders and documents, only to record that MSAAA was an authentic trust as in 2014 and 19 elected office bearers were declared to be the validly elected managing committee. This has reference to the sports activities of the Petitioner in 2014-15 and the issuance of the Sports Certificate by the said Association.

11. The Respondents have not placed before us any such document which would indicate that the view taken by the learned Assistant Charity Commissioner, Greater Mumbai Region, has been quashed and set aside by any Court. The order passed by the learned Judge, City Civil Court, dated 17<sup>th</sup> May, 2019 was assailed before the learned Single Judge bench of this Court in Appeal from Order (St.) No. 15087 of 2019 and by order dated 4<sup>th</sup> June, 2019, the appeal was dismissed. The Swimming Federation of India (SFI) was

the appellant.

12. In the above backdrop, we have perused the communication dated 9<sup>th</sup> March, 2016 issued by the Secretary, Mr. Deshmukh, on behalf of the MSAAA, addressed to the Commissioner of Sports and Youth Affairs, Pune. The documents accompanying the said communication, as per the learned Advocate for the Respondent No.3 MSAAA, were the documents which were tendered to the Statutory Authority. The said documents are the part of the compilation 'X', more particularly page No.8, which indicates the name of the Petitioner at Sr. No.1, in the 100 Mtrs. breast stroke, 200 Mtrs. breast stroke and 50 Mtrs. butterfly stroke, events. Her participation in the year 2014-2015, is visible from the said record.

13. Mr. Monel Chokshi, Secretary General, Respondent No.4, (SFI), has sent an E-Mail to the Respondents, dated 8<sup>th</sup> February, 2025, copy of which is placed before us by the learned AGP, which is marked as 'Y-1' for identification. The said Respondent No.4 has taken a stand that, 'the Writ Petition pertains to the grievance of the Petitioner on account of the failure to complete verification of accomplishment certificates in various



sporting events’. It is further stated that ‘none of the events in question have been conducted or none of the certificates are issued by SFI. None of the organizers of such events are affiliated with the SFI. As such, SFI has no role or jurisdiction to verify the certificates in question. It appears that the Petitioner is ill informed or under a false impression that SFI is in any manner answerable for the grievance or has any jurisdiction to redress the same. SFI has been wrongly added as a Respondent and has no reason to appear in the matter’.

14. The Petitioner has placed before us, an order dated 21<sup>st</sup> October, 2021 passed by this Court [Coram: Prasanna V. Varale (as his lordship then was) and Madhav J. Jamdar JJ.] delivered in Interim Application (St.) 20220 of 2021 in Writ Petition No.7067 of 2021. In the said matter, the Petitioners were individuals who had approached the Court praying for an opportunity to participate in the national swimming competition to be held in Bangalore in October 2021. The Petitioners had approached the SFI to permit them to participate in the National Swimming Competition. They had participated in the selection process conducted by MSAAA and were selected and were anxious to represent the State in the

## National Swimming Competition.

In Writ Petition No.5892 of 2011, this Court had directed the MSAAA to submit the list of participants for the 37<sup>th</sup> Sub-Junior, 47<sup>th</sup> Junior National Aquatic Championship 2021, and 74<sup>th</sup> Senior National Aquatic Championship, 2021 to Respondent No.4, SFI. In a detailed order, this Court has concluded in paragraph No.10 that if, SFI is a body to permit eligible candidates in various swimming events at the national level, a mechanical or hyper technical approach would only deprive candidates from participating only on the ground that there is some dispute between the two bodies, i.e MSAAA and SFI. It was then directed that SFI would permit the Petitioners to participate in the National Championship, as they were being recommended by the MSAAA. SFI, Aurangabad was further directed to permit the guide and the coach of each candidate, to enter the premises and guide the candidates.

15. The MSAAA issued a communication dated 10<sup>th</sup> March, 2024 to the Directorate of Sports and Youth Services Maharashtra State, stating therein, that MSAAA was informed by the said authority that the documents pertaining to the 32<sup>nd</sup> Sub-

junior and 42<sup>nd</sup> Junior National Aquatic Championship with regard to the team members sent by the MSAAA, were missing. Therefore, MSAAA tendered the soft copies of the documents for verification. The list of documents that were uploaded and tendered to the Directorate, contains the final results and which includes the name of the Petitioner as a Swimmer in the three events recorded above.

16. In this context, we have perused the Certificates of Merit, of the Petitioner. The date of participation is 8<sup>th</sup> June, 2015. She had stood third in the 200 Mtrs. breast stroke event. The certificate is issued by the president Mr. Sudhakar Shanbhag, the Organising Secretary, Mr. Kishor Vaidya and the Honorary Secretary, Mr. H.Y. Deshmukh. She also has certificates with regard to her participation in the competition organized by the Pune District Amateur Aquatic Association, on 3<sup>rd</sup> May, 2009. She has placed several certificates, dated 7<sup>th</sup> to 9<sup>th</sup> June, 2010, 4<sup>th</sup> to 5<sup>th</sup> June, 2011, 1<sup>st</sup> to 4<sup>th</sup> June, 2012, 2<sup>nd</sup> to 4<sup>th</sup> September, 2012 etc. before us. Dr. Babasaheb Ambedkar Marathwada University Aurangabad has also issued her certificate for having participated in the all India Inter-University Aquatics (women) Tournament, held between 6<sup>th</sup>

November 2019 to 8<sup>th</sup> November 2019 at the LP University, Jalandhar.

17. It is, thus, apparent that the Petitioner is indeed a swimmer of repute. The documents were purportedly misplaced from the file of the Sports and Youth Services, Maharashtra State. The MSAAA has also tendered the soft copies of all those documents, to the said authority, which were earlier tendered on 9<sup>th</sup> March 2016.

18. In view of the above and considering the analysis of the documents before us, we do not find that there are serious disputes or disputed issues in this case, so as to dispose off this petition by relegating the Petitioner to an alternate remedy, before the same Directorate of Sports and Youth Services Pune, whose office has misplaced the earlier documents tendered by the MSAAA, that were delivered on 9<sup>th</sup> March, 2016. In such circumstances, if the Petitioner is made to approach the Directorate, which itself is alleged to have misplaced the documents, there is every likelihood that her selection to the post of Talathi would not be protected after 14<sup>th</sup> March, 2025.

19. Taking a holistic view of the matter, especially on the analysis of the documents before us, **this Writ Petition is allowed** in terms of prayer clauses (b) and (b-1), which read as under:-

*“(b) This Hon’ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of mandamus or any other writ, order or direction under Article 226 of the constitution of India that the verification report regarding sports certificate dated 08/06/2015 be issued immediately.*

*(b-1) This Hon’ble Court be please to quash and set aside the letter dated 18<sup>th</sup> February, 2025 being Exhibit-F and letter dated 30<sup>th</sup> December, 2024 being Exhibit- F-1 annexed hereto and direct the respondents to appoint the Petitioner for the post of Talathi as per her selection.”*

20. We direct the Respondent No.6, Deputy Director of Sports and Youth Services Maharashtra State, Chhatrapati Sambhajanagar Division, to issue an order of validation of the sports Certificate of the Petitioner within a period of 7 days from today. We would appreciate if the learned AGP intimates Respondent No.6 via E-Mail, to issue such a certificate.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J)