IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 1492 of 2020

Mayank Singh Thakur @ Mayank Singh … Petitioner

Versus

1. The State of Jharkhand
2. The Secretary, Tourism, Art Culture Sports & Youth Affairs Department, Government of Jharkhand, Ranchi
3. The Chairman, Jharkhand Public Service Commission, Ranchi
4. The President, Indian Olympic Association, New Delhi
5. Mr. Rajeev Mehta, the Secretary General, Indian Olympic Association, New Delhi
6. Jharkhand High Court through the Registrar General, Jharkhand High Court, Ranchi
7. Principal Secretary, Department of Personnel, Administrative Reforms & Rajbhasha, Government of Jharkhand, Ranchi

… Respondents

CORAM : SRI SANJAYA KUMAR MISHRA, C.J.
SRI RONGON MUKHOPADHYAY, J

For the Petitioner: Ms. Shivani Kapoor, Advocate
Amicus Curiae: Mr. Kumar Vaibhav, Advocate
For the State: Mr. Harsh Preet Singh, A.C. to G.P.-V
For the JPSC: Mr. Sanjoy Piprawall, Advocate
Mr. Rakesh Ranjan, Advocate
Mr. Prince Kumar, Advocate
For the JHC: Mr. Sudarshan Srivastava, Advocate
For the IOA: Ms. Sidhi Jalan, Advocate

C.A.V. on 27.02.2023/19.05.2023 **Pronounced on 01.11.2023**

Upon hearing the learned counsel for the parties, this Court passed the following, (Per, Sanjaya Kumar Mishra, C.J.)

ORDER

1. The petitioner in this case, an aspirant for the post of Civil Judge (Junior Division) in the State of Jharkhand has filed this writ petition seeking issuance of a writ in the nature of mandamus commanding upon the respondents, particularly respondent no.3 that horizontal quota in the sports category should be provided to him for the examination held for Civil Judge (Junior Division) in pursuance of Advertisement No. 12/2018 dated 24.12.2018. He has also prayed for issuance of writ in the nature of mandamus commanding upon the respondents to take appropriate action

with respect to his candidature for the aforesaid post in the aforesaid examination.

2. The chronological order of events may be succinctly narrated as follows:

(i) On 26.10.1998 the Indian Olympic Association granted recognition to the School Games Federation of India.

(ii) On 12.09.2007 Sports Policy was formulated by the State of Jharkhand.

(iii) The petitioner, on 13.12.2010, participated in 56th National School Games 2010-11 held between 09.12.2010 to 13.12.2010. The petitioner was a member of the team that won Soft Ball competition and secured first place.

(iv) On 12.02.2011 the Indian Olympic Association in its Annual General Assembly took a decision that there will not be any category of recognized members and only the affiliated federations and associations shall be the members of the Indian Olympic Association.

(v) In the meantime, the advertisement dated 24.12.2018 was issued by the Jharkhand Public Service Commission, Ranchi (hereinafter referred to as “JPSC” for brevity). The petitioner submitted his application under ‘Unreserved’ category and also claimed for reservation on the basis of Sports Quota.

(vi) On 27.05.2019 Preliminary Test was conducted and the results were declared on 19.07.2019. The petitioner qualified in the Preliminary Test. He also took the Main written examination. Interviews were held between 16.12.2019 to 20.01.2020.

(vii) On 11.02.2020 final results were published. The petitioner’s

name was not in the final list.

(viii) On 18.03.2020 the petitioner preferred a representation to the JPSC.

(ix) On 20.03.2020, marks statement was published by the JPSC.

Since the petitioner was aggrieved by the decision of the JPSC not to treating him as a successful candidate in the Unreserved category with horizontal reservation of Sports Quota, he filed the present writ petition.

3. The case of the petitioner is that the petitioner was provisionally selected for interview by horizontal reservation. The said marks statement contained and endorsement 'Sports Certificate not produced as per advertisement' and then therefore, he was held to be not successful in the examination. Respondent No.3, i.e., JPSC took the specific plea that 56th National School Games 2010 certificate of which was produced by the petitioner for seeking reservation under the Sports Quota was organized by the Directorate of Public Instructions, Government of Chhattisgarh under the aegis of the School Games Federation of India and not by a federation affiliated with the Indian Olympic Association and as such, the said sports certificate is not valid for extending the benefits of reservation in terms of the advertisement.

The School Games Federation of India is recognised by Ministry of Youth Affairs and Sports, Government of India and the Indian Olympic Association, and the Directorate of Public Instructions, Government of Chhattisgarh is not recognized/affiliated body to the Indian Olympic Association. Therefore, it is a specific case of the JPSC that there is difference between recognized and affiliated institutions and benefit of reservation can only be extended to the local resident of the State of Jharkhand. No recommendation was made by the JPSC against Sports

Quota as no candidate was found eligible.

4. In the rejoinder affidavit, the petitioner, *inter alia*, further raised that stipulation of benefit of reservation only can be extended to local resident of State of Jharkhand is applicable only to case based on reservation. Even the advertisement and the Sports Policy do not stipulate that benefits of reservation under the Sports Quota shall be extended only to the local residents of State of Jharkhand. The Rules of National School Games, the petitioner rejoinded, provide that the National School Games are to be organized by the affiliated units of the School Games Federation of India. The Education Departments/Sports Departments of the State are the affiliated units of School Games Federation of India. It is further stated that 56th National School Games were organized by the School Games Federation of India which is a federation, recognised by the Indian Olympic Association and thus, is a federation associated with Indian Olympic Association.

5. In course of the proceeding before the coordinate Bench of this Court vide order dated 10.09.2021 the Indian Olympic Association through its President was impleaded as party respondent to the writ petition. The Indian Olympic Association, i.e., respondent no.4 filed affidavit on 27.10.2021 and stated that the School Games Federation of India is not an affiliated unit of the Indian Olympic Association and as of August, 2018 the School Games Federation of India was not a member of the Indian Olympic Association.

6. The petitioner again filed rejoinder to the said counter affidavit filed by the Indian Olympic Association and stated that ‘affiliation’ federation to the Indian Olympic Association is different from a ‘recognized’ federation by the Indian Olympic Association, as per document dated 12.11.2014 of the Indian Olympic Association. ‘Affiliated’ associations have voting rights, but ‘recognized’ associations do not have

such voting rights. He further stated that Indian Olympic Association in its document dated 22.07.2013 has stated that the School Games Federation of India was granted recognition by the Indian Olympic Association in its Annual General meeting held on 26.10.1998 which recognition was withdrawn in its Annual General Meeting held on 12.02.2011.

7. The coordinate Bench of this Court again directed the Secretary General of the Indian Olympic Association to be impleaded as party respondent on 06.04.2022. He filed an affidavit on 05.07.2022 wherein the Secretary General stated that the constitution of the Indian Olympic Association was amended in the Annual General Assembly meeting held on 12.02.2011 whereupon a letter dated 11.07.2011 was issued by the Secretary General to the effect that only affiliated federations/associations would be the members of the Indian Olympic Association and there will not be any category of recognized members henceforth and with effect from 11.07.2011, there is no category of recognized members of the Indian Olympic Association. School Games Federation of India was one of the recognized members of the Indian Olympic Association upto July, 2011 and in terms of letter dated 11.07.2011 the Secretary General of the Indian Olympic Association would further inform the Court that there is no category of recognized members of the Indian Olympic Association as such School Games Federation of India ceased to be a recognized member of the Indian Olympic Association.

8. Respondent No.3 filed a supplementary counter affidavit on 23.09.2022 wherein the JPSC has brought on record letter No. 332 dated 24.01.2022 addressed by the Department of Personnel, Administrative Reforms and Rajbhasha to the JPSC stating that reservation for Sports Quota as per resolution dated 12.09.2007 is only applicable to the local residents of State of Jharkhand.

9. Again on 03.08.2022, the coordinate Bench of this Court directed that the High Court of Jharkhand be added as respondent to the writ petition. Accordingly, High Court of Jharkhand through the Registrar General was added as respondent no.6 and has filed counter affidavit.

10. Respondent No.3-JPSC has filed reply to the counter affidavit filed by respondent No.4 wherein the JPSC has, *inter alia,* stated that the Department of Personnel, Administrative Reforms and Rajbhasha vide its letter dated 05.09.2022 has again sent requisition to the JPSC for starting selection process of appointment of 52 Civil Judges in Junior Division.

11. A supplementary counter affidavit has been filed on behalf of respondent no.2 wherein resolution dated 10.10.2002 of the Department of Personnel, Administrative Reforms and Rajbhasha letter no. 332 dated 24.01.2022 addressed by the said department to the JPSC and Sports Policy contained in resolution dated 12.09.2007 has been brought on record. Again on 08.02.2023, Department of Personnel, Administrative Reforms and Rajbhasha through its Principal Secretary has been added as party respondent no. 7 to the writ petition.

12. On the basis of the aforesaid pleadings raised at the bar the sole issue involved in the instant writ petition is whether the petitioner is entitled to the horizontal reservation in the Sports Quota as per resolution dated 12.09.2007.

13. In course of hearing of the writ petition it also transpired that a similar case under the same advertisement bearing no. 12/2018 involving similar issue as in the instant case, i.e., the claim of horizontal reservation under the Sports Quota fell for consideration before this Court in the case of *Shilpa Dalmia Vs. Jharkhand Public Service Commission & Ors, WP(S) No. 1954 of 2020.* In the said case, the petitioner's claim for reservation under Sports Quota based, *inter alia*, on certificates issued by the School Games Federation of India was denied stating 'sports certificate not

produced as per advertisement'. A coordinate Bench of this Court as per judgment dated 18.06.2021 declined relief to the petitioner. The coordinate Bench took into consideration Clause 1(d) of the advertisement. It is appropriate to quote the same for better appreciation:

"1.(d) खेलकूद कोटा के अन्तर्गत आरक्षण के दावे की स्थिति में कला, संस्कृति, खेलकूद एवं युवा कार्य विभाग, झारखण्ड सरकार के ज्ञापांक–1709 दिनाकं–12.09.2007 द्वारा श्रेणी–II के पदों पर सीधी नियुक्ति हेतु निर्धारित निम्न मानक के अनुसार अनुमान्य होगा –

प्रतियोगिता का स्तर	उपलब्धि
(i) अन्तर्राष्ट्रीय ओलम्पिक कमिटी अथवा उनसे संबंधित फेडरेशनों द्वारा आयोजित प्रतियोगिता।	मेडल
(ii) भारतीय ओलम्पिक संघ अथवा उससे सम्बद्ध फेडरेशनों द्वारा आयोजित राष्ट्रीय चैम्पियनशीप स्तर की प्रतियोगिता।	प्रथम स्थान
(iii) राष्ट्रीय स्तर की प्रतियोगिता।	विश्व रिकार्ड

14. In interpreting this provision the coordinate Bench has held as follows:

"10. xx xx xx

It is evident from Condition No. 1(d) of the advertisement, as has been quoted and referred hereinabove, that the candidate who is claiming benefit of Horizontal Reservation under 'Sports Quota' to the extent of 3 % in the light of circular issued by Govt. of Jharkhand vide Memo No. 1709 dated 12.09.2007, is required to fulfill any of the three conditions as mentioned in the advertisement at Condition No. 1(d) i.e. either candidate has achieved 'Medal' in the competition organized by International Olympics Committee or Competition organized by Federation attached with it; OR has secured 'First Position' in the competition organized at National Level by Indian Olympic Association or Federation attached with it; OR has 'World Record' in the competition organized at National Level; meaning thereby, in either of the three situations the candidate would be given the benefit of Horizontal Reservation to the extent of 3 % under Sports Quota.

xx xx xx"

15. Holding thus, the coordinate Bench dismissed the writ petition filed by the petitioner in that case. The matter was taken to the Hon'ble Supreme Court by the petitioner therein and the Hon'ble Supreme Court

while issuing notice as per order dated 17.09.2021 in S.L.P. No. 14308 of 2021 has held as follows:

> " ……..learned senior counsel appearing for the petitioner brought to our notice that the certificate, which is placed at page 38 of the paper book, issued by the School Games Federation of India, is recognized by Indian Olympic Association. It is submitted that same is in conformity with requirement which is extracted at Page No. 45 of the paper book.
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> In that view of the matter, issue notice returnable in six weeks."

16. However, finally S.L.P. No. 14308 of 2021 was dismissed by the Hon'ble Supreme Court on 23.02.2022. Thus, it is clear that the judgment passed by the coordinate Bench headed by the then Chief Justice of this Court was challenged before the Hon'ble Supreme Court and the Hon'ble Supreme Court has refused to interfere in the matter. It is also brought to our notice that the essential qualification for appointment to a post are for the employer to decide.

17. The Hon'ble Supreme Court in the case of ***Maharashtra Public Service Commission through its Secretary Vs. Sandeep Shriram Warade and others*** *(being lead case)***, (2019) 6 SCC 362,** has held as follows:

> "9. The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being at par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the Court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement

contrary to the plain language of the same."

18. Thus, it is clear from the aforesaid discussion of facts and law that the petitioner's case is already covered by the judgment of the coordinate Bench of this Court and therefore, in due regard to the coordinate Bench of this Court, we are not inclined to hold that the petitioner is entitled to the relief he has claimed. Accordingly, this writ petition is dismissed being devoid of any merit. There shall be no orders as to costs.

19. Pending application, if any, stands disposed of.

20. Grant urgent certified copy as per the Rules.

(Sanjaya Kumar Mishra, C.J.)

I agree

(Rongon Mukhopadhyay, J.) **(Rongon Mukhopadhyay, J.)**

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Jharkhand High Court, Ranchi.
Dated – The day of 1st, Nov', 2023
N.A.F.R / VK