

Before Daya Chaudhary & Sudhir Mittal, JJ.

YASHKEERAT KAUR HAYER—*Petitioner*

versus

STATE OF PUNJAB AND OTHERS—*Respondents*

CWP No.17361 of 2019

October 22, 2019

Constitution of India, 1950—Art. 226—Admission to MBBS—Sports Gradation Certificate—Petitioner, as representative of India, obtained third position in individual event in the Commonwealth Junior & Cadet Fencing Championships—Applied under seats reserved for sports person from the State of Punjab—Bona fide residents of the State studying in Chandigarh are entitled to sports quota, provided Sports Gradation Certificate issued by UT Chandigarh is countersigned by the Director of Sports Punjab—Director issued Gradation Certificate by excluding her achievement at the international event in terms of the Sports Policy dated 10.12.1997—Challenge to—Held, the Sports Policy restricting issue of Gradation Certificate only to sports person representing the State of Punjab is arbitrary, as a sports person participating at International level cannot represent a particular State—He/she can only represent the country and such a situation has not been catered for in the Policy—State directed to issue necessary instructions to cater for such a situation.

Held that, Yet, the State policy is faulty as it does not consider a case like that of the petitioner. Even though the policy provides for issuance of Sports Gradation Certificate to those sports persons who participated in International Tournament, there is no consideration of such International Tournaments when it comes to issuance of Sports Gradation Certificate. It is obvious that a sports person participating at the International Level can not represent a particular State. He/she can represent only a country and such a situation has not been catered for in the State policy. Instead, the yardstick applied for National Championships is being extended to International Championship and such an action can not but be termed arbitrary.

(Para 8)

Gurminder Singh, Sr. Advocate with
J.S. Gill, Advocate

for the petitioner

Amit Mehta, AAG Punjab

SUDHIR MITTAL, J.

(1) The petitioner is a sports person who has excelled in the sport of Fencing. Her father is a Punjab Government employee posted in Union Territory, Chandigarh since 2006. Thus, the petitioner has qualified her senior school examination from a school situated in Chandigarh.

(2) Being an aspirant for the course of MBBS, the petitioner took the NEET (UG-2019) exam and cleared the same. She submitted her application for admission against seats reserved for sports person in the State of Punjab. Alongwith the application she was required to attach Sports Gradation Certificate issued by the Director of Sports, Punjab. This was in accordance with letter dated 11.09.2013 issued by the Punjab Government which states that sports persons who are bonafide residents of the State of Punjab in accordance with the guidelines issued vide letter dated 06.06.1996 but are studying in Union Territory, Chandigarh shall be entitled for the sports quota in the State of Punjab provided Sports Gradation Certificate issued by U.T. Chandigarh is counter signed by the Director of Sports, Punjab. Accordingly, the petitioner obtained a Sports Gradation Certificate dated 29.05.2019 from the Sports Department, Union Territory, Chandigarh, which listed her achievements at the State, National and International level. However, when she approached the Director, Sports Punjab for counter signature, a Sports Gradation Certificate was issued excluding her achievement at the international level. The petitioner felt aggrieved by this action as admissions in the sport quota were governed by the gradation achieved. A candidate possessing a gradation certificate Grade 'A' would rank higher in merit than candidate having certificate of Grade 'B'. Within the same grade, a candidate having participated/won medal at international level would rate higher than a candidate who had participated/won a medal at the national level. Thus, a representation dated 21.06.2019 was submitted to the Director of Sports, Punjab but to no avail.

(3) In reply submitted on behalf of the State of Punjab, it is stated that according to letter dated 11.09.2013, the Director of Sports Punjab is authorized to counter sign Sports Gradation Certificate issued by Union Territory, Chandigarh only if the sports person has represented the State of Punjab.

(4) Learned senior counsel for the petitioner submits that the petitioner had participated at the international level as a representative of India. She obtained third position in the individual event in the Commonwealth Junior & Cadet Fencing Championships (individual) held in Newcastle, England during the year 2018-2019. At the international level sports persons can only represent his/her country and not a particular State and, thus, the condition restricting the issuance of Gradation Certificate only to sports person who has represented the State of Punjab is arbitrary. This restriction has been incorporated in the sports policy dated 10.12.1997 and is liable to be struck down being violative of Article 14 of the Constitution of India.

(5) Learned State counsel has based his argument on the State policy. He submits that the policy bars the Director of Sports from issuing/counter signing the Sports Gradation Certificate wherein the sports person has not represented the State of Punjab.

(6) The relevant part of the sports policy dated 10.12.1997 is reproduced below:-

4. For certification, Sports Department Punjab only considers the cases which fulfill the following requesties:-

1. For Gradation Sports Department Punjab will only entertain the claim of domicile of the State who actually participated in the competitions as nominee of Punjab Team. This will leave out the Sports residents of other States, Punjab domiciles or even of Punjab and Chandigarh who do not represent Punjab any competition as Punjab nominee.

2. Claim of the resident of Union Territory of Chandigarh will only be entertained for counter signature or certificate issued by the Department of Sports, Union Territory of Chandigarh for National School Games only provided parents belong to the Punjab State Service and are posted at Chandigarh during the period of which gradation is being claimed for their wards. For Junior and Senior National Championships, they must play as nominee of the State of Punjab as is the case in PARA-1 above.

(7) From the portion extracted above it becomes clear that the State of Punjab will only consider the counter signature of Sports Gradation Certificate of those residents of U.T. Chandigarh whose parents belong to the Punjab State service and are posted at

Chandigarh during the period for which the Sports Gradation Certificate is claimed. If such sports persons participated in the national school games, their Sports Gradation Certificate would be counter signed by the State of Punjab but in the case of sports persons participating in Junior and Senior National Championship, the counter signature would be done only if the sports person has represented the State of Punjab. This stipulation does not appear to be illegal or arbitrary in any manner. The sports person taking part in the national school games would obviously represent the school in which he/she had studied. Thus, even though the school is situated in U.T. Chandigarh, the Director Sports Punjab would counter sign his/her Sports Gradation Certificate. However, in case of sports person participating in Junior/Senior National games, this benefit would be available only if he/she represents the State of Punjab and this is possible even if the sports person is studying in a school in U.T. Chandigarh.

(8) Yet, the State policy is faulty as it does not consider a case like that of the petitioner. Even though the policy provides for issuance of Sports Gradation Certificate to those sports persons who participated in International Tournament, there is no consideration of such International Tournaments when it comes to issuance of Sports Gradation Certificate. It is obvious that a sports person participating at the International Level can not represent a particular State. He/she can represent only a country and such a situation has not been catered for in the State policy. Instead, the yardstick applied for National Championships is being extended to International Championship and such an action can not but be termed arbitrary.

(9) The writ petition is, accordingly, allowed and action of the Director of Sports Punjab in refusing to recognize the international achievements of the petitioner is quashed. The State is directed to issue necessary instructions to cater for a situation as has been arisen in the present case and incorporate them in its policy.

Tribhuvan Dahiya