

(2023) 08 BOM CK 0065
In the Bombay High Court
Case No : Writ Petition No.9292 Of 2023

Kalyanee Arun Joshi

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 24-08-2023

Acts Referred:

Constitution Of India, 1950 — Article 14, 31

Citation : (2023) 08 BOM CK 0065

Hon'ble Judges : Sunil B. Shukre, J;Firdosh P. Pooniwalla, J

Bench : Division Bench

Advocate : A.V. Anturkar, S.C. Wakankar, S.B. Kalel, Navnath Phadtare

Final Decision : Disposed Of

Judgement

Sunil B. Shukre, J

1. RULE. Rule is made returnable forthwith. Heard finally, by consent of learned counsel for the respective parties.
2. The name of the petitioner for conferring "Shivchhatrapati Sports Awards" has not been considered, as rightly submitted by learned Senior Advocate for the petitioner, on erroneous grounds.
3. On going through the reasons stated for rejection of the claim of the petitioner, we find that the first reason is perverse and the second reason misinterprets the meaning of "Wushu Championship".
4. The first reason given by the Award Selection Committee for rejecting the claim of the petitioner is that, out of the two Federation Events, one event was an international event, in which the petitioner did not participate as representative of the Maharashtra State. The reason so stated is patently perverse, as the certificates available on record, which are at pages 112 and 113, clearly show that participation of the petitioner was as a representative of the Maharashtra State. Therefore, the Award Selection Committee ought not to

have rejected the claim of the petitioner on this ground. The Award Selection Committee now would have to consider the claim of the petitioner by taking into consideration appropriately both these certificates showing representation of the petitioner for the Maharashtra State.

5. As regards the second reason, we find that there is some non-application of mind on the part of the Award Selection Committee, as, broadly speaking, the issue seems to be of a sport which has been taken to be denoting any such sporting event as KUNG FU, TAIQUAN, TAOLU, NANDAO, JIANSU, BGUAZHANG and so on. Out of these so many sporting events, the petitioner has admittedly taken part in 27th World Senior Wushu Championship in such sporting events as KUNG FU. There seems to be a similar case as that of the petitioner and it is of one Mitali Milind Wani, Pune, who had taken part not in 27th Senior National Wushu Championship, but in 28th Senior National Wushu Championship. The documents placed on record at page nos.228 to 239 indicate that she had taken part in such sporting events in this 28th Senior National Wushu Championship as (i) "KUNG-FU : TAJIQUAN", page no.230 (sr.no.131); (ii) "KUNG-FU : INDV. SINGLE WEAPAN – WOMENS", page no.230 (sr.no.161); (iii) "KUNG-FU : TAJIQUAN – WOMENS", page 231 (sr.no.7); and (iv) "KUNG-FU : TAIJI FAN/QIANG–WOMENS", page 231 (sr.no.38). Though "Wushu" as a sport appears in page 239, the details of participation of Mitali do not show her taking part in any event known as "Wushu" but still she has been found eligible Shivchhatrapati State Sports Awards. This shows that eligibility of Mitali Milind Wani has been found upon consideration of her participation in such events as Kung-Fu, Taiji etc. and not in the sport called "Wushu".

6. The discussion made here-in-above indicates that the Award Selection Committee had considered participation in such sporting events as "KUNG-FU" and so on in National Wushu Championship as sufficient for a sports person to qualify for receipt of the award during the earlier process and if that is so, we see no reason why similar criteria be not applied to the aspiring sports persons for this year as well. If a different criteria is adopted by the Award Selection Committee for conferment of sports awards, it may be a case of arbitrariness, unreasonableness and discrimination against the eligible sports persons, all in violation of Articles 14 and 31 of the Constitution of India.

7. In the result, we find that rejection of the claim of the petitioner by the Award Selection Committee is perverse and is the result of non-application of mind and also arbitrary and, therefore, the same deserves to be quashed and set aside. Accordingly, we pass the following order :-

(i) The petition is allowed. The communications dated 23rd June 2023 and 31st May 2023, both, are hereby quashed and set aside.

(ii) The matter is remanded back to the Award Selection Committee constituted in terms of the Government Resolution dated 14th December 2022 for fresh consideration of the claim of the petitioner in accordance with law, applicable

Government Resolution, rules, guidelines and also in the light of the observations made here-in-above.

(iii) The Award Selection Committee shall take its decision at the earliest, after giving appropriate opportunity of hearing to the petitioner.

(iv) The petitioner shall appear before the Award Selection Committee tomorrow i.e. 25th August 2023 at 2:00 p.m., which shall be specially convened for reconsideration of the issues arising from this order and also from the other orders that have been passed in similar matters today and on 24th August 2023.

(v) The decision shall be rendered by the Award Selection Committee latest by the evening of 26th August 2023 and its copy shall be furnished to all of the petitioners, who would be given hearing on that date by the committee.

8. Rule is made absolute in the above terms. No costs. Petition is disposed of.