
(2019) 05 DEL CK 0560

In the Delhi High Court

Case No : Civil Writ Petition No. 6468 Of 2012

Naresh Kumar Sharma & Anr

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 02-05-2019

Acts Referred:

Citation : (2019) 05 DEL CK 0560

Hon'ble Judges : Suresh Kumar Kait, J

Bench : Single Bench

Advocate : Arun Bhardwaj, Nikhil Bhardwaj, Dr.Harsh Pathak, Siddharth Shukla

Final Decision : Disposed Of

Judgement

Suresh Kumar Kait, J

1. Vide the present petition, the petitioners seek direction as under:-

- i. The respondents to formulate guidelines/rules/procedures for effective functioning, implementation and convening of the functions, duties and obligation of the respondent No. 2;
- ii. Respondents to provide requisite infrastructure for training, preparing, boarding and lodging facilities to the athletes representing India in international events;
- iii. Respondent Nos. 1, 3 & 4 to submit the report of the action taken against the erring officials of the Respondent No. 2 for committing the overt acts of harassment against the Petitioners;
- iv. Respondents to explain the expenditure of funds being allocated to Respondent No. 2 for the Paralympics Games-2012 held in London;
- v. The respondents to reimburse/compensate the petitioners for the expenditure incurred by them towards the preparation of the Paralympics Games-2012 and also against the apathies, harassment and torture suffered by them at the hands

of the monopolistic and unfair practices by the Respondent No. 2

vi. The respondents to either form a statutory authority or a body to keep check on the functioning of the Respondent No. 2.

2. The petitioner No.1/Naresh Kumar Sharma is a sportsperson, who has represented India in more than 5 Paralympics so far and he is the only physically challenged athlete who dared to compete with the best amongst the abled bodied persons. The said petitioner has represented India in various International Shooting Championships for the Physically Handicapped. The petitioner no.2/Farman Basha who is a polio-afflicted para-athlete, has brought many laurels to the country in the last 18 years is also a veteran who has an illustrious career, having won several international medals. During the Paralympics Games-2012, total number of players, escorts and coaches selected for the special camp were 22 but the total number of officials reached at London in Paralympics Games were 33 in which few were not even related to the sports in which they were assigned.

3. The brief facts of the case are that the petitioners herein are aggrieved by the acts of omission and commission on the part of the respondents, whereby the petitioners fundamental rights have been violated and the petitioners who were expected to perform to the best of their abilities were made to run from pillar to post for no fault of theirs and ultimately leading to a miserable situation, in turn affecting their performances and missing from winning medals at 2012, Paralympics. The duty of the petitioners as athletes and representatives of the country was to forget about their disabilities but perform to the best of their abilities, instead they had to struggle for even competing in the events in which they excel. Further they were made to feel miserable by forcing them to carry the equipments on their own, which otherwise is difficult for any able bodied person, leave aside the disabled person. The said overt acts of the respondents did not stop there as they only to keep the dignitaries happy, sacrificed the medal probabilities of the country by allowing contingent officials having no experience, to represent themselves as coaches of the athletes. Apart from the above, the petitioners amongst other athletes had been duped for their hard work and dedication by the respondents who not only have lost the chance of winning medals for their country but have been discouraged from participating in any future events. The most interesting part is that the officials of the PCI despite claiming that the services rendered by them are free of cost, have indulged into misappropriation of funds and in turn making the athletes suffer for want of requisite facilities. This in turn shows the apathy of not only the athletes at the hands of the Paralympics Committee of India but also on the international level, whereby the reputation of the country has been severally prejudiced, only on account of these erring officials.

4. Despite the facts mentioned above, the petitioners being hard pressed in terms of money and only with the intention of winning medals for their country and show to the world that they despite being disabled, had spent money from

their own pocket towards preparation of the games. The said money was managed by borrowing it from known persons and also by putting each and every penny of their savings at stake. However, in return thereof, the petitioners were let down substantially by the said overt acts of the respondents and could not perform upto their standards.

5. It is further stated in the present petition that the schedule of Paralympics Games-2012 was to be inaugurated at London on 29.08.2012 and ending on 09.09.2012. However, the PCI issued the final list dated 28.08.2012 of the players/athletes, coaches & escorts and officials for London-2012 Paralympics Games which are as follows:-

PLAYERS

S.NO.

NAMES

DISCIPLINE

1.

Mr. H. N. Girisha

Athletics

2.

Mr. Jagseer Singh

Athletics

3.

Mr. Jaideep

Athletics

4.

Mr. Narendra

Athletics

5.

Mr. Amit Kumar

Athletics

6.

Mr. Farman Basha

Power-lifting

7.

Mr. Rajendra Singh

Power-lifting

8.

Mr. Sachin Chaudhary

Power-lifting

9.

Mr. Sharath M. Gayakwad

Swimming

10.

Mr. Naresh Kumar Sharma

Shooting

COACHES

S.No.

NAMES

1.

Mr. Naval Singh

2.

Mr. Satyanarayana

3.

Mr. K.S. Nizzamudin

4.

Mr. Vijay B Munishwar

5.

Mr. Sadanand Malashetti

6.

Mr. John Christopher Nirmal Kumar

ESCORTS

S.NO.

NAMES

PLAYERS

1.

K.N. Govinda

Jagseer Singh & Narender

2.

Mr. Devender

Amit Kumar

3.

Mr. Mangush Umredkar

Power lifting

4.

Mr. K N Vishwanath

Jaideep & H. N. Girisha

5.

Mrs. Antonita Farman

Farman Basha

6.

Mr. Sudhir Tomar

Naresh Kumar Sharma

6. As per the aforesaid tables, the total number of players, escorts and coaches selected for the special camp was 22, but the total number of officials reached for London Paralympics Games were 33 in which few were not even related to the sports in which they were assigned. Further stated that the acts of high handiness on the part of the PCI did not stop there as they in furtherance of their malafide design to harass and humiliate the petitioners made mess of the accreditation procedure of the coaches and the escorts. The "Accreditation" is a card being issued by the PCI to the members of the contingent representing a nation in the games. Accordingly, as per the IPC guidelines, the said card is also issued to the coaches/escorts and officials of the contingent to accompany and assist the athlete during the events. As per the guidelines, there is a quota of 60% of the total number of athletes, for the coaches/escorts and the officials have a separate quota. Since, the Indian contingent comprised of 10 athletes, accordingly, 6 people as coaches/ escorts were permitted to assist the athletes in the games. Accordingly, it was the responsibility of the PCI and the head of the contingent, known as 'Chef De Mission' to manage the accreditation of the

coaches/escorts, so as to provide the requisite comfort to the Athletes. However, the 'Chef De Mission' acting in blatant violation of the duties, obligations and responsibilities entrusted upon them, allowed the officials having no experience as coaches/escorts of the Athletes and provided them the entry, whereas the real coaches/escorts were made to stay outside the games venues, which in turn lead to downfall of the morale and confidence of the petitioners and resulted into not winning medals in their respective fields.

7. The same is evident from the fact that out of the six persons permitted as coaches/escorts, 3 persons who were officials and despite having no coaching experience, were given accreditation card as coaches/escorts, which in turn forced the real coaches to stay outside the games venues. Apart from that the list of the officials cleared by the PCI was itself doubtful as the same comprised names of the people who are handicapped and as much unable to help the athletes, which in turn casts serious doubts on the creditability of the officials of the PCI.

8. It is stated that due to non-availability of the proper support, coaches and escorts, the petitioners could not perform as per their standard and capabilities and lead to huge defeat, which defeat is solely attributable to the overt acts of the PCI and other respondents.

9. Apart from the above, the petitioners have made various allegations and given suggestions to make the system in the proper order.

10. It is pertinent to mention here that keeping in view the wider issues involved in the matter, Mr.Pravin Anand and Mr.Pradeep Dewan, Advocates were requested to assist the court. Thereafter, vide order dated 13.05.2016, Mr.Sanjay Jain, learned ASG was requested to give his suggestions on the issue raised in the present petition. Accordingly, Mr.Pravin Anand, Mr.Pradeep Dewan, Advocates and Mr.Sanjay Jain, ASG submitted their suggestions to the court.

11. Since the issue is regarding the athletes who are handicapped and suggestions have come from three corners which are filed through compilation on 25.08.2017 is taken on record.

12. Accordingly, in view of the facts and circumstances of the case and the suggestions given by the aforementioned three advocates on the issue including Mr.Sanjay Jain, ASG of India, I hereby dispose of the present petition directing respondents to sit together at the place to be suggested by respondent no.1 and consider the suggestions made by the aforesaid Advocates and come to the proper conclusion.

13. The said exercise shall be completed within six months from the receipt of this order.

14. Registry is directed to send the suggestions to the respondents made by the aforesaid counsels which are filed on 25.08.2017 along with the order passed by this court.

15. In view of above, the petition is disposed of.