
(2018) 05 MP CK 0092
In the Madhya Pradesh High Court
Case No : W.P. No. 17222 OF 2017

Rajveer Singh Parashar	Vs	APPELLANT
State Of Madhya pradesh & Another		RESPONDENT

Date of Decision : 14-05-2018

Acts Referred:

Citation : (2018) 05 MP CK 0092

Hon'ble Judges : VIVEK RUSIA, J

Bench : Single Bench

Advocate : Manoj Manav, Swati Ukhale, V.P. Khare

Final Decision : Dismissed

Judgement

The petitioner has filed the present petition being aggrieved by order dated 15.9.2017 and 28.9.2017 by which his candidature has been cancelled for

want of necessary qualification for the post of Sports Officer.

2. The M.P. Public service Commission issued the advertisement dated 7.2.2017 inviting applications for the post of Sports Officer. As per Clause 3

of the advertisement, the candidate must have following educational qualifications:

â??Graduation along with M.P.Ed./M.P.E. and Representation in National Games or AuthorisedÂ Â SeniorÂ Â National Championship.â??

3. The petitioner applied for the said post on the basis of his educational qualification. Along with the application, the petitioner filed the certificate of participation in Fourth Annual NCC Games â?" 2001 at Jorhat (Assam). The respondent has examined the certificate and found that the petitioner has

not participated in the National Games and the said certificate cannot be treated to be a certificate in respect of participation in the National Games

and accordingly vide order dated 28.9.2017 & 15.9.2017 rejected the candidature of the petitioner.

4. The sole controversy involved in this petition is, whether the "National Games" organised by NCC can be termed as "National Games".

5. One Dr. Divya Darshan Sharma had filed writ petition before this Court being aggrieved by the rejection of his candidature in pursuant to the same

advertisement dated 7.2.2017. In the said writ petition, he filed the certification relating to his participation in Inter-University Championship. The

Division Bench of this Court in W.A. No.345/2018 (State of M.P. V/s. Dr. Divya Darshan Sharma & others) vide order dated 23.3.2018 has held that

participation in zonal or the inter-university competitions cannot be treated to be a representation in the National Level Games or the recognized senior

national championship. The decision of the experts in respect of eligibility of the candidates cannot be interfered with by the High Court in the absence

of any allegation of mala-fide. Relevant observation made in the aforesaid order is reproduced below:

15.The participation in the Zonal or the Inter University Competition cannot be treated to be a representation in the National Level Games or the

recognized Senior National Championship. The All India Inter University Championship is open to only University students, therefore, it cannot be

treated to be a National Games or recognized Senior National Championship. A candidate qualified in Inter University Competition may further

participate in National Games but mere participation in Inter University Competition will not make his representation in the National Games.

16.Still further, as to whether a candidate satisfies the eligibility criteria is for the experts to decide. In Dr. K. Sivasubramaniyan's case(supra), the

Court held as under:18. The contention of the respondent No.1 that the short-listing of the candidates was done by few professors bypassing the

Director and the Chairman does not appear to be correct. From perusal of the documents available on record it appears that short-listing of the

candidates was done by the Director in consultation with the Chairman and also senior Professors. Further it appears that the Committee constituted

for the purpose of selection consists of eminent Scientists, Professor of Economic Studies and Planning and other members. The integrity of these

members of the Committee has not been doubted by the respondent-writ petitioner. It is well settled that the decision of the Academic Authorities

about the suitability of a candidate to be appointed as Associate Professor in a research institute cannot normally be examined by the High Court

under its writ jurisdiction. Having regard to the fact that the candidates so selected possessed all requisite qualifications and experience and, therefore,

their appointment cannot be questioned on the ground of lack of qualification and experience. The High Court ought not to have interfered with the

decision of the Institute in appointing respondent Nos.2 to 4 on the post of Associate Professor.â??

17. A Division Bench of this Court in W.A. No.223/2017 (Shani Kumar Bhatt vs. The State of M.P. and another) decided on 06.12.2017 held as

under:-

â??19. Bachelorâ??sÂ° EngineeringÂ° degreeÂ° in Information Technology is not qualification of Computer. Both are separate degree and

courses are also different and the degree is also given separately. Notification/ advertisementÂ° published by the MPPSC, U.P. for the post of

Assistant Conservator of Forest Examination, 2013 cannot be applicable in the State of Madhya Pradesh because publication of notification for the

post of Assistant Conservator of Forest Examination 2013 by the PSC in U.P. isÂ° based as per their rules for the post in question.

20. Learned Senior Counsel for the appellant has also placed on the decision of the Apex Court in the case of Mohd. Sohrab Khan vs. Aligarh Muslim

University & others reported in 2009(4) SCC 555.

21. It is well settled that in the field of education, a Court of law cannot act as an expert. Normally, therefore, whether or not a candidate possesses

requisite qualifications, should better be left to the expert committee. Learned Writ Court in our opinion has therefore, rightly dismissed the writ

petition.â??

18. Some search from the internet shows that the National Games of India comprises various disciplines in which sportsmen from different states of

India participate against each other. The earliest National Game was held in 1924 at Lahore then called as Olympic Games. The National Games are

organized on the lines of Olympic. The first National Games were held in 1985 in New Delhi and are held at the interval of three years. The

35th National Game was held in the year 2015 in Thiruvananthapuram whereas 36th National Games are proposed to be held in the month of

November, 2018 in Goa. A Single Bench of Delhi High Court in a judgment reported as 2017 SCC OnLine Del 9744 (Arpit Singhmar v. University of

Delhi) while considering the case of Sportsperson wherein, the candidate has participated in All India Junior Badminton Tournament and All India

Junior Ranking Badminton Tournament, the candidature of the petitioner for admission in the sports quota for M.Com (Hons) course was rejected for

the reason that his certificates do not fulfill the criteria which was necessary for admission to Postgraduate course. The criteria for admission was as

under:-

“Position and Participation in Individual Event/Team Event/s in Senior/Junior National/National Games/Federation Cup/Championship/Other

Tournaments at the National Level recognized by IOA, Subject to the candidates secured I, II, III position in Inter College tournament(s).”

“In view of the certificates obtained by the writ petitioners in the said case and the conditions for admission, it was held that the “Certificate

Marking Criteria” are the certificates which are issued by Indian Olympic Association or the 2 junior level championships i.e. Inter State -Inter Zonal

& Junior National Badminton Championship or Sub Junior National Badminton Championship. Therefore, the writ petition for admission against the

sports quota was dismissed.

19. On the other hand, the judgment of Rajasthan High Court referred to by the learned counsel for the writ petitioners has no applicability to the facts

of the present case as the qualification advertised was Bachelor of Physical Education or certificate or diploma in Physical Education (recognized by

the National Council for Teacher Education). Still further, the Rajasthan Educational Subordinate Service Rules, 1971 has Schedule-II which

contemplates award of marks on the basis of certificate of participation and position gained in Sports Competition. Such Schedule describes what is

District Level, State Level, National Level and International Level tournaments. The said judgment would not be applicable to the facts of the present

case as there is no statutory Rule or Instructions supplementing the Rules as to what is meant by representation in the National Games or recognized

Senior National Championship. In the absence of any definition in the statute, the test to be applied is as to what is understood by a common citizen of

the expression representations in the National Games or recognized Senior

National Championship. Such expression can never include the Inter University Competitions as they are not representative tournaments at the National Level where that sports person irrespective of any condition as to be a student of University or otherwise is able to participate. Such Inter University sports event are meant only for the Student of the University which are not open to all sports persons of the country. Such tournaments are not same as the National Level tournaments.

20. The candidature of the petitioners has been rejected by the Public Service Commission presumably on the basis of opinion of experts. Generally speaking such decision of the experts cannot be interfered with in the writ petition as in exercise of power of judicial review, this Court does not sit as a court of appeal but only examines the decision making process. The decision making process cannot be said to be wanting in any manner except that the reasons for rejection have not been communicated.

21. Therefore, while setting aside the judgment of the learned Single Bench and allowing the present appeals we direct the respondents to communicate reasons as to why the writ petitioners are not eligible for appointment to the post of District Sports Officer.

22. The writ appeals stand disposed of in the above terms.â??

6. In the present case also, the petitioner has not participated in the National Games conducted by Sports Authorities of India or any Federation recognized by the Sports Authority of India. The National Games conducted by National Cadet Corps (NCC) cannot be termed as National Games.

Hence, no relief can be granted.

7. Accordingly, this petition fails and is hereby dismissed.

No order as to costs.