

(2018) 09 DEL CK 0348

In the Delhi High Court

Case No : Letter Petent Appeal No. 553 Of 2018 & Cm Nos.39958, 39960 Of 2018

Sandeep Kalra & Anr

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 27-09-2018

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2018) 09 DEL CK 0348

Hon'ble Judges : Rajendra Menon, CJ;V. Kameswar Rao, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rajendra Menon, CJ (Oral)

C.M.No.39959/2018 (exemptions)

1. Allowed, subject to all just exceptions.

LPA 553/2018

2. Seeking exception to orders dated 4th September, 2018 and 12th September, 2018 passed by the learned writ Court in W.P.(C) No.9292/2018. This

appeal has been filed under Clause 10 of the Letters Patent. The writ petition was filed by the Appellants impugning an order dated 30th August,

2018 passed by the Secretary, Ministry of Youth Affairs and Sports, Government of India by which the claim of the appellants to include them in the

Indian contingent to participate in the Para Asian Games, 2018 to be held in Indonesia from 6th October, 2018 to 13th October, 2018 has been

rejected.

3. Even though various grounds are raised in the writ petition and before us also

it was argued that in an arbitrary manner contrary to the guidelines dated 10th March, 2015 and ignoring the recommendations of the Table Tennis Federation of India (TTFI), the Appellants' candidature has been rejected, we find that on the basis of an order passed by this Court in an earlier writ petition filed by the petitioners being W.P.(C) No.8811/2018 on 24th August, 2018, the matter was remitted for consideration to the Secretary of the Sports Ministry and the said Secretary rejected the claim of the Appellants as is evident from the communication made by the Secretary in his order dated 30th August, 2018. The Secretary in the order goes on to hold that since the Paralympic Committee of India (PCI) has included 9th and 10th rank players to compensate lack of foreign exposure, he did not find any reason to make any indulgence into the matter. In fact in para-5 of the order impugned passed by the Secretary on 30th August, 2018 after evaluating various factual aspects, he has indicated the reasons for rejected the claim and the same reads as under:-

5. In light of the above, I decide the following:

- i. Based on the contention of the TTFI that the Para TT players have not been able to achieve rankings laid down by this Ministry in absence of International exposure, I restrict my decision on only those players who were recommended by the TTFI but not considered by the PCI.
- ii. There also does not appear any reason to interfere with the final list sent by the PCI, especially since the PCI has also included 9th and 10th ranked players, which, it is felt compensates for the lack of foreign exposure.
- iii. However, if any other player recommended by the TTFI happens to rank upto 10th in Asian rankings shall be included in the final contingent by PCI. Similarly, if any player of higher class of disability has defeated a player of lower class of disability, as has been done in the case of Mr. Sandeep Dangi, such player shall also be included in the final contingent by PCI.

4. All these aspects have been considered by the learned writ court and the learned writ Court found that the aforesaid decision cannot be termed as arbitrary and the impugned decision cannot be interfered with by the learned writ Court. In doing so, the learned writ Court as relied upon a decision of co-ordinate Bench of this Court rendered on 18th April, 2018 in LPA208/2018, Paralympic Committee of India vs. Naresh Kumar Sharma and has

found that in such matters indulgence of writ Court cannot be made.

5. We see no reason to take a different view from the one taken by the learned writ Court with regard to the selection of sports persons to participate

in an international event. It is the experts in the field of sports who have to take a decision and a writ Court exercising jurisdiction under Article 226

would normally not substitute its decision to that of the expert authorities until and unless arbitrariness or violation of statutory rules or provisions are

found or the same amounts to curtailing the fundamental rights available to a person. In the present case, if we evaluate the reasons that weighed

with the authorities as is detailed hereinabove, we find that a reasonable decision based on due consideration of various factors have been taken and

we see no reason to interfere in to the matter.

6. The appeal is, therefore, dismissed along with other pending applications.