
(2008) 11 AHC CK 0145
In the Allahabad High Court
Case No : Writ Petition No. 168 (S/B) of 2008

Shayam Singh Yadav

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 12-11-2008

Acts Referred:

Citation : (2008) 11 AHC CK 0145

Hon'ble Judges : U.k.Dhaon, J and V.D.Chaturvedi, J

Final Decision : Disposed Of

Judgement

U.K. Dhaon and V.D. Chaturvedi, JJ.—Admit.

2. Heard Sri Nirmal Kumar Seth, Senior Advocate, assisted by Sri Hari Prasad Gupta, learned Counsel for the petitioner and Sri Jaideep Narain Mathur, learned Additional Advocate General assisted by Sri D.K. Upadhyay, learned Chief Standing Counsel for the opposite parties. The learned Counsel for the petitioner submits that while the petitioner was posted as Additional District Magistrate (Land Acquisition), Ghaziabad he was selected by the Government of India to participate in the 9th Asian Shooting Championship Competition scheduled to be held at Malaysia but the permission was not accorded to the petitioner to participate in the event and he filed a writ petition which was registered as Writ Petition No. 297 (M/B) of 2000 and this Hon''ble Court was pleased to direct the Secretary (Appointment) to allow the petitioner to participate in the 9th Asian Shooting Championship Competition and in compliance of the said order passed by this Hon''ble Court the State of U.P. permitted the petitioner to participate in the 9th Asian Shooting Championship Competition at Malaysia. He further submits that by the Government Order dated 20.6.2005, the petitioner was transferred as Municipal Commissioner, Agra where he joined on 23.6.2005 and thereafter the petitioner was again transferred from the post of Municipal Commissioner, Agra and was kept in waiting and the said action of the Government was challenged by the petitioner before this Hon''ble Court at Allahabad by way of Writ Petition which was registered as Writ Petition No. 15072

of 2006 in which the transfer order was stayed. He further submits that although in compliance of the order dated 28.3.2006, the petitioner was permitted to joined by the State Government but by the order dated 15.9.2006 the State Government withdrew the financial powers of the petitioner and directed the District Manager, Agra to take and execute the financial powers of the Municipal Commissioner. Learned Counsel for the petitioner further submits that by another order dated 22.9.2006, the petitioner was placed under suspension by the State Government and the orders dated 15.9.2006 and 22.9.2006 were stayed by this Hon''ble Court at Allahabad in Writ Petition No. 53943 of 2006 and the said writ petition is still pending. He further submits that for Indian Contingent of 15th Asian Games which was scheduled to be held at Doha from 1.12.2005 to 15.12.2005, the petitioner was appointed as Coach of the players of National Shooting Team as the permission was not accorded to the petitioner to participate in the event, the petitioner preferred a writ petition in this Hon''ble Court at Allahabad which was registered as Writ Petition No. 63320 of 2006 and in the said writ petition in national interest, a direction was issued by this Hon''ble Court to take immediate steps to allow the petitioner to proceed as Coach for the Asian Games Players of National Shooting Team and in compliance of the said order passed by this Hon''ble Court, permission was granted to the petitioner to participate as Coach for Indian Shooting Team in the Asian Games, 2006. He further submits that again the petitioner was nominated as Coach of Indian Shooting Team vide order dated 1.6.2007 in the World Cup (Shot Gun) to be held at Lonato in Italy from 6.6.2007 to 15.6.2007 and the permission was granted to the petitioner by the State Government. He further submits that permission was also granted by the State Government to participate in Singapore and Germany Open Championship Games in the year 2005. Learned Counsel for the petitioner further submits that the Ministry of Youth Affairs and Sports, Government of India nominated the petitioner as a Coach of the Indian Shooting Team at Nicosia (Cyprus) which was held from 1.9.2007 to 10.9.2007 but the permission was not given by the State Government and thereafter the petitioner was compelled to file a Writ Petition before this Hon''ble Court at Allahabad which was registered as Writ Petition No. 41437 of 2007 and a direction was issued by this Hon''ble Court to the opposite parties to grant permission to the petitioner to leave India for Cyprus and in compliance of the order passed by this Hon''ble Court permission was granted by the State Government. He further submits that Ministry of Youth Affairs and Sports, Government of India again appointed the petitioner as Coach for Indian Shooting Team for Asian Shooting Championship to be held at Kuwait from 1.12.2007 to 13.12.2007 for which the permission was granted by the State Government to participate in the event. He further submits that again the petitioner was nominated as a Coach of Indian Shooting Team for ISSF World Cup at Kerville, USA but no permission was granted by the State Government and the petitioner was compelled to file a Writ Petition in this Hon''ble Court at Allahabad which was registered as Writ Petition No. 22483 of 2008 which was finally disposed of and the opposite parties were directed to grant leave to the petitioner to participate in the event. He further submits that

just to harass the petitioner, he was placed under suspension vide order dated 7.7.2008 which was challenged by the petitioner before this Hon''ble Court at Allahabad in Writ Petition No. 34193 of 2008. The said writ petition was allowed by the judgment and order dated 21.8.2008 against which a Special Leave Petition was preferred by the opposite parties which is pending before Hon''ble the Supreme Court. He further submits that vide letter dated 10.6.2008 the National Rifle Association of India, New Delhi communicated to the petitioner that he has nominated as a Coach to accompany the Indian Shooting Team for Olympic Games at Beijing to be held from 8.8.2008 to 18.8.2008 but in spite of various representations and reminders sent by different authorities the permission was refused by the State Government by the order dated 24.7.2008. The petitioner was again compelled to file Writ Petition in this Hon''ble Court at Allahabad which was registered as Civil Misc. Writ Petition No. 38123 of 2008. The said Writ Petition was disposed of by this Hon''ble Court and the petitioner was directed to convince the competent authorities. He further submits that in the spite of the letter of Senior VicePresident dated 1.8.2008 and the letter of the President of Indian Olympic Association dated 13.8.2008 addressed to Hon''ble the Chief Minister, the permission was not granted to the petitioner and in the interest of nation he proceeded to Beijing to participate in the event on 9.8.2008. He further submits that Gold Medal was awarded to the participant Sri Abhinav Bindra and the work and conduct of the petitioner was appreciated by the authorities at Beijing, a copy of which has been filed as Annexure No. 38 to the writ petition. He further submits that the petitioner with great success returned to the country on 17.8.2008. Thereafter by the impugned order dated 22.1.2008, the petitioner has been placed under suspension in a most arbitrary and illegal manner.

3. Sri Jaideep Narain Mathur learned Additional advocate General, assisted by Sri D.K. Upadhyay, learned Chief Standing Counsel appearing on behalf of the opposite parties submits that the name of the petitioner as a Coach is not mentioned in the letter dated 25.7.2008 issued by the Government of India, Ministry of Youth Affairs and Sports, New Delhi. He further submits that when the name was the petitioner was recommended by the Indian Olympic Association to participate as a Coach of the India Shooting Team for Olympic Games, 2008 at Beijing, China, for enquiries were pending against the petitioner. He further submits that as the permission was not granted to the petitioner by the State Government, it was not proper for the petitioner to attend the Olympic Games, 2008 at Beijing and there is no illegality in the impugned suspension order. He further submits that this Hon''ble Court at Allahabad has also mentioned in the order dated 3.7.2008 passed in Writ Petition No. 28123 of 2008 that disciplinary enquiry with regard to misbehaviour with the District Magistrate, Agra is pending. He further submits that while disposing of the writ petition preferred by the petitioner, this Hon''ble Court at Allahabad by the judgment and order dated 31.7.2008 held that the petitioner has not made out any good case for interference and thereafter the petitioner filed Special Leave Petition before

Hon''ble the Supreme Court in which no order was passed. He further submits that once this Hon''ble Court at Allahabad declined to grant any relief to the petitioner to go to Beijing, it was not desirable for the petitioner to attend the Olympic Games, 2008 at Beijing.

4. We have considered the submissions made by the learned Counsel for the parties and gone through the record.

5. The petitioner has alleged in the writ petition that he participated in U.P. State Asian Competition from 1989 till 2001 and won a number of medals and prizes. He has further alleged that considering the experience and ability of the petitioner, he has appointed Observer/Coach in various Games from the years 2000 to 2008, the details of which are mentioned as under:

(A) Coach, 9th Asian Shooting Championship at Langkavi, Malaysia in January, 2000.

(B) Coach, 4th Commonwealth Shooting Championship held at Bisley, England, 2002.

(C) Coach, 10th Asian Shooting Championship held at Kulalampur, Malaysia in February, 2004.

(D) Jury, SAP Games Islamabad (Pakistan) in March, 2004.

(E) Coach, World Cup Shotgun Belgrade, Yugoslavia.

(F) Coach, VI Commonwealth Shooting Federations Championship, Melbourne, Australia in March, 2005.

(G) Coach, World Cup, Kerrville, U.S.A. May, 2006.

(H) Coach, World Cup, Cairo, Egypt, May, 2006.

(I) Coach, Asian Games, Doha, Qatar December, 2006.

(J) Coach, World Cup, Lonato, Italy September, 2007.

(K) Coach, World Cup, Cyprus, September, 2007.

(L) Coach, Asian Shooting Championship, Kuwait, 2007.

(M) Coach World Cup, Kerrville, U.S.A. May, 2008.

(N) Coach, Beijing Olympic Games, August, 2008.

6. The petitioner has also alleged that he had been the Treasurer of National Rifle Association and President of U.P. State Rifle Association and while he was posted as Additional District Magistrate (Land Acquisition), Ghaziabad, he was selected by the Government of India to participate in the 9th Asian Shooting Championship scheduled to held at Angkawi, Malaysia but the permission was not granted by the State Government and thereafter, on intereferene by this Court, a direction was issued to the Secretary (Appointment) to allow the

petitioner to participate in the 9th Asian Shooting Championship Competition. The Petitioner has further alleged that Indian contingent of 5th Asian Games was scheduled to be held at Doha from 1.12.2005 to 15.12.2005, wherein the petitioner was appointed as Coach of the players of National Shooting Team and the permission was not granted by the State Government to participate in the event and thereafter the petitioner preferred a writ petition in this Hon'ble Court at Allahabad which was registered as Writ Petition No. 63320 of 2006 in which a direction was issued to the State Government to take immediate steps to allow the petitioner to proceed for the Asian Games in the national interest and in compliance of the order passed by this Court, permission was granted to the petitioner to participate as a Coach for Indian Shooting Team in the Asian Games, 2006. The petitioner has also alleged that permission to participate in Singapore Open Championship Games as a Coach at Munic, Germany was granted by the State Government vide order dated 22.8.2005. The petitioner was against nominated as a Coach for Indian Shooting Team vide order dated 1.6.2007 to participate in the World Cup (Shot Gun) event at Lonato in Italy. The petitioner has also alleged that the Ministry of Youth Affairs and Sports, Government of India nominated the petitioner as a Coach of the Indian Shooting Team at Nicosia (Cyprus) which has held from 1.9.2007 to 10.9.2007 but no permission was granted to the petitioner by the State Government and thereafter the petitioner was compelled to file Writ Petition No. 41437 of 2007 in this Court at Allahabad and a direction was issued by this Court to the opposite parties to grant permission to the petitioner to leave India for Cyprus and in compliance of the order passed by this Court the permission was granted by the State Government. The petitioner was also alleged that the Ministry of Youth Affairs and Sports, Government of India again appointed the petitioner as a Coach for Indian Shooting Team for Asian Shooting Championship to be held at Kuwait in the month of December, 2007 for which the permission was granted by the State Government. The petitioner was nominated as Coach by National Rifle Association and thereafter the participated as a Coach of Indian Shooting Team in ISSF World Cup at Kerville, USA in May, 2008 only after a direction was issued by this Court at Allahabad in Writ Petition No. 22483 of 2008 by the judgment and order dated 2.5.2008. The petitioner was placed under suspension vide order dated 7.7.2008 on the ground that during rainy season 2008 there was water logging on the roads. The said suspension order was quashed by this Court at Allahabad by the judgment and order dated 21.8.2008 and a liberty was granted to the State Government to proceed with the enquiry against the petitioner. The petitioner has further alleged that vide letter dated 10.6.2008, the National Rifle Association of India, New Delhi communicated to the petitioner that he has been nominated as a Coach to accompany the Indian Shooting Team for Olympic Games at Beijing to be held from 8.8.2008 to 18.8.2008. A copy of the said letter was also sent to the Secretary (Appointment), Government of U.P. Lucknow with a request to spare the services of the petitioner from 1.8.2008 to 21.8.2008. As the permission was not granted by the State Government, the petitioner preferred a writ petition in this Court at Allahabad which was

registered as Civil Misc. Writ Petition No. 38123 of 2008 which was disposed of by the judgment and order dated 31.7.2008 and the petitioner was directed to approach to the State Government but in spite of the representation of the petitioner no permission was granted by the State Government and the petitioner on his own proceeded to Beijing to participate in the 9th Olympic Games at Beijing. It is also relevant to mention here that on 1.8.2008 Senior VicePresident, National Rifle Association of India sent a communication to the Secretary (Appointment), State of U.P. Lucknow which is as under:

"TRG/BEIJING/477/08

August 1,2008

The Secretary (Appointments),

Govt. of U.P.,

Lucknow.

Dear Sir,

Kindly refer to the correspondence vide our letters dated 10th June, 2008 and 24th July, 2008 requesting you to spare the services of Shri Shyam Singh Yadav, Municipal Commissioner of Agra for Beijing Olympic Games.

We wish to inform you that participation in all Games like Olympic Games. Asian Games Commonwealth Games and AfroAsian Games rests with Indian Olympic Association (IOA) and they are the nodal organization with whom Ministry of Youth Affairs and Sports, Government of India deals. All the expenses towards the participation are reimbursed to IOA by MOYAS. Since Shri Shyam Singh Yadav is closely associated with the preparation of shooters for Olympic Games his absence during the Games would adversely affect the performance of the shooters. Previously also he has been being sent for various International Competitions as Coach of 1.97 "the Indian Shooting Team by Govt. by India". As pride and prestige of the country is involved during the Games. You are requested to spare the services of Shri Shyam Shyam Singh Yadav for Beijing Olympic Games as a Coach of the Indian Shooting Team.

Thanking You,

Yours faithfully,

Avtar Singh,

Senior Vice President."

7. Similar request was also made by the Indian Olympic Association on 13.8.2008 to Hon"ble the Chief Minister, Uttar Pradesh, Lucknow. The petitioner has also annexed the letter dated 10.7.2008 of the Indian Olympic Association with reveals that the petitioner was appointed as a Coach for 29th Olympic Games at Beijing along with three other persons whose names are mentioned in

the letter dated 25.8.2008, a copy of which was placed by the learned Additional Advocate General before this Court. It is admitted case of the parties that Gold Medal was awarded in the Olympic Games at Beijing to Sri Abhinav Bindra in Shooting event which is a matter of proud for the nation and the petitioner was team official Coach recommended by National Federation as evident from letter dated 10.7.2008 of Indian Olympic Association. The record also reveals that on several occasions permission was granted by the State Government to the petitioner to participate in various events outside the country but it appears that on account of pendency of some proceedings, the permission was not granted by the State Government to the petitioner to participate at 29th Olympic Games at Beijing. The petitioner has also stated in the writ petition that permission has been granted by the State Government to Sri K.D. Ram Shri Shyam Mohan Mishra, Sri Tanveer Zaffer Ali, Sri Sita Ram Yadav, Smt. Bhawana Srivastava, Sri Rajesh Kumar Singh and Sri Sanjai Krishna against whom disciplinary proceedings vigilance enquiry are pending. The petitioner has also annexed a copy of the letter issued by the President of the International Olympic Committee which has appreciated the work of the petitioner. The petitioner left for Beijing only on 9th August, 2008 in anticipation that permission will be granted by the State Government as it was granted in the past on several occasions. In spite of the letters of request issued by the Olympic Association of India as well as the National Rifle Association of India, New Delhi, the permission was not granted by the State Government to the petitioner to participate in the Beijing Olympic, 2008. The petitioner has also annexed a copy of the letter sent by the Senior VicePresident to the Secretary (Appointment), Government of U.P., Lucknow as Annexure41 to the writ petition, which reveals that the letter dated 8.8.2008 by which permission was refused was received in the office of the National Rifle Association of India on 20.8.2008. From the letter it is also evident that the State Government never spends any money whenever the petitioner is sent as a Coach of Indian Shooting Team for International event.

8. We, therefore, stay the further operation of the impugned order dated 22.10.2008, a copy of which has been annexed as Annexure43 to the writ petition, passed by opposite party No. 1.

9. List this petition in the first week of January, 2009.

10. In the mean time, the opposite parties may file counteraffidavit.