
(2014) 08 DEL CK 0150

In the Delhi High Court

Case No : Writ Petition (Civil) 5378/2014 and CM No. 10709/2014

XYZ

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 26-08-2014

Acts Referred:

Citation : (2014) 08 DEL CK 0150

Hon'ble Judges : Vibhu Bakhru, J

Bench : Single Bench

Advocate : Roma Bhagat, Advocate for the Appellant; Vivek Goyal, CGSC, Rupinder Pal Singh, Ashwani Kumar Dubey, Aditya Singh, D.P. Singh and R.P. Vyas, Advocate for the Respondent

Judgement

Vibhu Bakhru, J.—The present petition has been filed by unidentified petitioners, who are stated to be squash players. The grievance of the petitioners is with regard to selection of the men's squash team for participation in the "World University Squash Championships " 2014", which are scheduled to be held in India from 01.09.2014 to 07.09.2014.

2. According to the petitioners, the information with regard to the selection trials had not been widely publicised and it was contended that the squash players were not aware of the trials for selection that were held in July 2014. The petitioners also challenged the selection of the Indian contingent on the ground that Mr. Harinder Sandhu and Mr. Ravi Dixit who are stated to have been selected, are not eligible as per the relevant rules.

3. The learned counsel for the petitioners referred to clause (i) of Para 15.1(a) of the National Sports Development Code of India, 2011, which has been framed by the Government of India, and contended that the same had been violated inasmuch as the selection criteria was not notified by respondent no.5 at least six months in advance.

4. It was further contended by the petitioner that the information with respect to

the selection trials did not reach the concerned players in time because respondent no.3 (hereinafter referred to as "AIU") had circulated the said information on 26.06.2014. It was contended that most of the universities were either closed for summer vacations or were involved in the admission process during the month of June. The learned counsel for the petitioners referred to minutes of the 25th Annual Sports Committee Meeting held on 18.03.2014 which indicated that the Committee had decided to hold the open selection trials at Chennai in the month of July 2014. It was submitted that since the decision to hold open selection trial was taken on 18.03.2014, the information regarding the same ought to have been circulated and disseminated immediately, thereafter. The learned counsel contends that the process as adopted by the respondents was not transparent and was adopted with the view to support the candidature of sportsmen who had already been pre-selected.

5. It was further contended by the petitioner that "Revised FISU Eligibility Rules for Participation of Students in National And International University Games" provides that provisional admission to a course/degree would not make a student eligible to represent the University in National/International University Games. It was submitted on behalf of the petitioner that Mr. Harinder Sandhu was not eligible to participate in the selection trials because at the material time his result of B.A. 3rd year was awaited and his admission for Masters in yoga in another University was also provisional. It was further submitted that even Mr. Ravi Dixit was also not eligible to participate in the selection trials because he was a provisional student as at the material time his results of M.A. 1st year (Previous) Economics Exam, in which he failed, had not been declared.

6. Respondent no.5 has filed a short affidavit disputing the allegations made by the petitioner. The learned counsel for respondent no.5 submitted that the present petition was an abuse of process of Court as neither the names of the petitioners were disclosed nor was the petition supported by an affidavit. He further pointed out that a Public Interest Litigation (being W.P.(C) 4956/2014) raising identical disputes, had been dismissed by a Division Bench of this Court. It was submitted that AIU had informed all members universities and Sports Council/Committees about the selection trials for ensuing tournament. Thereafter, several players had participated in the selection trials. AIU had constituted five member committee which scrutinised all documents and recommended the candidates. It has been affirmed on behalf of respondent no. 5 that the Selection Committee finalised the names of the players after trials on 06.08.2014 and the said list was sent to AIU by Mr. Cyrus Poncha (National Coach) on 10.08.2014.

7. The learned counsel appearing for AIU submitted that AIU had advised all universities about the trials that were being conducted. He further pointed out that the petitioners had not asserted that they were not aware of the selection trials and, therefore, their contention that information about the trials had not been widely circulated ought not be entertained.

8. I have heard the learned counsel for the parties at length.

9. The present petition is highly irregular inasmuch as, the identity of the petitioners is not disclosed and the particulars of petitioners as well as the affidavit supporting the petition are also stated to have been placed in a sealed cover. The learned counsel for the petitioner submitted that, although, a petition filed as Public Interest Litigation (being W.P.(C) 4956/2014) raising similar issues had been dismissed by an order dated 21.08.2014, it had been clarified that same would not prevent this Court from examining the matter at an instance of an aggrieved person. The learned counsel for the petitioners explained that the present petition has been filed by petitioner, who are squash players, in terms of the above clarification but their identity has not been disclosed because of fear of victimisation.

10. A perusal of the order dated 21.08.2014 indicates that the Division Bench of this Court had rejected the PIL filed on identical issues because the petitioner therein was not a person aggrieved. Although, it was clarified that dismissal of that PIL would not prevent this Court from examining the matter at the instance of an aggrieved person, the contention that the aggrieved players were reluctant to come forward was rejected in the following words:-

"We are unable to agree. The Courts are inundated with challenge to various selections for sport events by persons who consider themselves to have been wrongly denied an opportunity of being selected and / or to have been wrongly rejected in the trial. We therefore cannot accept the argument that the aggrieved persons if any have any disability in approaching the Court."

11. In view of the aforesaid observation, one would expect that petitioners would not have adopted this unusual manner of approaching this Court. However, in view of the urgency expressed by the petitioners, this issue was not debated and the petition was heard without opening the sealed cover.

12. Before proceeding further, it is necessary to examine whether the petitioners can raise a grievance with respect to non receipt of information about the selection trials. As pointed out by the learned counsel for AIU, the petition is bereft of any pleadings to the effect that the petitioners were not aware of the dates or venue of the selection trials or were precluded in any manner from participating in the selection process. In my view, in absence of a specific assertion that the petitioners were not aware of the selection process or were otherwise precluded from participating in the selection trials, they cannot make a grievance with respect to non circulation of information as to the selection process/trials.

13. I am also unable to accept that information about the selection process/trials had not been disseminated. The fact that a circular dated 26.06.2014 was sent to all universities is not in dispute. The contention that some of the universities were closed for vacation in the month of June or were involved in admissions would not by itself indicate that the information with regard to holding of

selection trials was not circulated. The learned counsel appearing for respondent no.5 had pointed out that the fact that the championships were being held in India was well-known. It is also stated that AIU had notified the selection trials on its website well in advance. The affidavit filed on behalf of respondent no.5 also discloses that a player from Delhi University " a University was stated to be closed and/or in midst of admissions - had applied for participating in the trials. Thus, the contention that the information in the circular was not made available to the said candidates from Delhi is also not established.

14. I also find it difficult to accept that the period of six month's advance notice as referred to in the National Sports Development Code of India, 2011 is not without exception. The opening words of para 15.1 itself indicate that guidelines provided therein represent "Ministry's broad approach on the views" which are required to be taken note of by the National Sports Federations. The petitioner's contention that the selection is vitiated only because information with respect to the said selection had not been circulated six months in advance is without merit.

15. The grievance of the petitioners that the eligibility rules had been violated also cannot be accepted. The respondents submitted that there was an issue of eligibility with respect to Harinder Sandhu who was granted a special permission subject to his clearing B.A. 3rd Year. However, it was clarified that Harinder Sandhu has not been included in the Indian Team and, therefore, the petitioner's grievance in this regard does not survive. In so far as inclusion of Mr. Ravi Dixit in the Indian Team is concerned, the submission that he had failed M.A. (Previous) exam and, therefore, was ineligible also cannot be readily accepted. Even if the petitioner's assertion that Mr. Ravi Dixit was pursuing M.A. (Economics) and on his failure to clear M.A. (Previous) , is now required to repeat that exam, is accepted as correct, it does not lead to the conclusion that Mr. Ravi Dixit was provisionally admitted to a course/degree of university and was/is not a regular student. It is also relevant to note that the petitioners have not arrayed Mr. Ravi Dixit as a party to the present petition and as he has had no opportunity to respond to the allegation regarding his eligibility or lack of it. Thus, in any view of the matter, the allegations made by the petitioners in this regard are liable to be rejected.

16. Before concluding, it is also necessary to note that although, the petitioners have challenged the selection of the players, the selected players have not been made parties to the present petition. In my view, the relief sought by the petitioners ought to be rejected on this ground alone.

17. In view of the aforesaid discussions, the petition and the accompanying application are dismissed. The parties are left to bear their own costs.