

IN THE HIGH COURT OF MANIPUR

AT IMPHAL**W.P.(C) No.598 of 2017**

Md. Tarif Ali aged 19 years s/o Md. Manawar Ali resident of Kairang Awang Leikai, P.O Pangei P.S. Heingang, Imphal, East, Manipur.

...Petitioner

-VRS-

1. The State of Manipur, through the Commissioner Health, Government of Manipur.
2. The Director of Health Services, Government of Manipur.
3. The Director of Youths Affairs & Sports, Government of Manipur.

...Respondents

BEFORE

HON'BLE THE ACTING CHIEF JUSTICE N. KOTISWAR SINGH

For the Petitioner	-	Mr. S. Rajeetchandra Advocate.
For the Respondents	-	Mr. N. Ibotombi, Sr. Advocate. Mr. A. Bimol, Sr. Advocate. Mr. H. Debendra, GA. Mr. Th.Rajkishore, Advocate Mr. Suraj Haobam, Advocate
Date of hearing	-	30.8.2017
Date of Judgment & Order-		30.8.2017

JUDGMENT AND ORDER**(ORAL)**

Heard Mr. S. Rajeetchandra, learned counsel for the petitioner. Heard Mr. N. Ibotombi, learned senior counsel assisted by Mr. Th. Rajkishore, learned counsel for the respondent No.5 as well as Mr. H. Debendra, learned Government Advocate for the State respondents. Heard also Mr. A. Bimol, learned senior counsel assisted by Mr. Suraj Haobam, learned counsel for the respondent No.4.

[2] This petition has been filed challenging the order dated 2nd August, 2017 issued by the Directorate of Youth Affairs & Sports, Govt. of

Manipur by which the earlier verification and attestation with signatures by the Deputy Director (T & C) and Joint Director, Directorate of Youth Affairs & Sports, Manipur made on the Participation Certificate dated 6th December, 2016 in respect of the petitioner in the All India Karate-Do Federation (AIKF) has been withdrawn *ab-initio* on the ground that the organiser i.e. All India Karate-Do Federation (AIKF) which organised the competition was found not to have been recognised by the Ministry of Youth Affairs & Sports, Government of India vide their order dated 28.10.2016.

[3] The petitioner claims that once the attestation and verification of the certificate of the petitioner stands withdrawn by the impugned order dated 02.8.2017, the nomination of the petitioner for admission to undergo MBBS & BDS course under the Meritorious Sportspersons quota, on the basis of which the petitioner has been already admitted in the Jawaharlal Nehru Institute of Medical Sciences, Imphal (JNIMS) will be adversely affected. Mr. Rajeetchandra, learned counsel for the petitioner submits that it is a fact that the petitioner had participated in the 28th AIKF National Karate Championship held at Jaipur from 4.12.2016 to 6.12.2016 organised by the All India Karate-Do Federation (AIKF) and the Directorate of Youth Affairs & Sports, Govt. of Manipur had verified the Certificate issued by the All India Karate-Do Federation (AIKF), on the basis of which the petitioner was nominated for admission to undergo MBBS/BDS course under the quota for Meritorious Sportspersons.

[4] It has been submitted by Mr. Rajeetchandra that the verification process had been undertaken twice by the authorities concerned and accordingly, the Medical Directorate, after being satisfied with the said verification process, nominated the petitioner for undergoing the MBBS/BDS course in the JNIMS under the meritorious sportspersons quota.

[5] This writ petition has been resisted by the respondents by filing their respective affidavits-in-opposition. The respondents No.1 and 2 filed their affidavit-in-opposition on 22nd August, 2017, the respondent No.3 on 24th August, 2017 and the respondent No.5 on 21st August, 2017. The common plea taken by the respondents, both official and private respondents is that under the relevant Rules for nomination as a meritorious sportsperson under the sportspersons quota, it requires participation of the candidate in any championship on the basis of which a

candidate seeks nomination which must be organised by a sports body which is recognised by the Ministry of Youth Affairs & Sports, Government of India as provided under Rule 2(f) of the Manipur MBBS/BDS Entrance Examination (Selection of Candidates for Nominations) Rules, 2004 as amended in the year 2011. It has been submitted on behalf of the respondents that if the petitioner had taken part in a Championship organised by a sports body which is not recognised by the Ministry of Youth Affairs & Sports, Government of India, such candidate cannot avail the benefit under the Meritorious Sportspersons quota for admission to undergo MBBS/BDS course. Accordingly, if the Directorate of Youth Affairs & Sports, Govt. of Manipur had withdrawn their earlier verification and attestation of the Certificate of the petitioner on the ground that the sports body which organised the competition in which the petitioner had participated in 2016 was not recognised by the Ministry of Youth Affairs & Sports, Government of India, there is nothing wrong with the same and as such, the petition is liable to be dismissed.

[6] Mr. Rajeetchandra, however, has raised another issue that two State seats are earmarked for Meritorious Sportspersons for admission to MBBS/BDS course against one of which, the petitioner has been nominated and another candidate namely, Km. Joshi Aheibam had been nominated against the other seat. Mr. Rajeetchandra submits that though Km. Joshi Aheibam also does not fulfil the requirements, the authorities had resorted to pick and choose method by targeting only the petitioner for cancelling his nomination and accordingly, filed a Misc. Case for impleading the said Km. Joshi Aheibam also as a respondent in this case.

[7] Heard the learned counsel for the parties.

This petition has been taken up on priority basis considering the urgency involved in this case as all the parties agree that the last date for admission to MBBS/BDS course is 31.8.2017 i.e. tomorrow and if a definitive decision is not taken by this Court regarding the nomination against the Meritorious Sportspersons quota and in the event the petitioner is ultimately found not to be successful in the writ petition, a very precious medical seat will go waste in view of the decision rendered by the Hon'ble Supreme Court that any belated admission is not permissible. Accordingly, this matter has been taken up out of turn for disposal at this stage.

[8] Having heard the learned counsel for the parties and also on the basis of the pleadings, it is observed that the issue essentially centres round the question as to whether the petitioner is eligible to be nominated against the Meritorious Sportspersons quota and whether after having already been nominated, will it be permissible at this stage to cancel such a nomination.

Before we examine the issues raised, it may be appropriate to refer to the relevant rules regarding nomination of candidates under the Meritorious Sportspersons quota for admission to MBBS/BDS course, more particularly the eligibility criteria of the candidate. Rule 2(f) of the Manipur MBBS/BDS Entrance Examination (Selection of Candidates for Nominations) Rules, 2004, as amended in the year 2011 defines who a Meritorious Sportsperson is. The aforesaid expression "Meritorious Sportsperson" as defined in the amended Rule 2(f) is reproduced hereinbelow :-

"2(f) "Meritorious Sportsperson" means a candidate who had represented the State of Manipur as competitor in the National Sports Championship of Sub-Junior Cadet, Junior cadet, Junior and Senior Level conducted under the auspices of the National Sports Federations recognised by the Ministry of Youth Affairs & Sports, Government of India or All India School Championship under the auspices of the School Games Federation of India or who had represented India as a competitor at the International Sports Championship as selected/deputed by the concerned National Sports Federation recognised by the Ministry of Youth Affairs & Sports, Govt. of India only for the Sports disciplines mentioned in Annexure-IV"

In view of the above definition of Meritorious Sportspersons, any candidate claiming to be a meritorious sportsperson and seeks the benefit of the quota reserved for meritorious sportspersons must fulfil the following conditions :

- i) he must be a candidate who had represented the State of Manipur as a competitor,
- ii) he must have competed in a National Sports Championship at Sub-Junior Cadet, Junior Cadet, Junior and Senior Level,
- iii) such a Championship must have been conducted under the auspices of a National Sports Federation,
- iv) such a National Sports Federation must be recognised by the Ministry of Youth Affairs & Sports, Government of India.

As regards other components of the definition relating to All India School Championship, the same is not referred to as it is not relevant in the present case.

Therefore, in order to avail the benefit of being nominated to undergo MBBS/BDS course under the Meritorious Sportspersons quota, a candidate must have fulfilled all the conditions mentioned in the definition clause under Rule 2 (f) as referred to above to claim as a Meritorious Sportsperson.

[9] In this case, there does not seem to be any serious dispute relating to various aspects of the definition except as to whether the sports federation which had organised the Championship in which the petitioner took part in 2016 was recognised by the Ministry of Youth Affairs & Sports, Government of India. Therefore, the dispute essentially zeroes down to this issue as to whether the All India Karate-Do Federation (AIKF) which organised the 20th AIKF National Championship at Jaipur from 14.12.2016 to 16.12.2016 in which the petitioner participated was recognised by the Ministry of Youth Affairs & Sports, Government of India. This is the core issue to be decided in this petition.

[10] The petitioner claims that the All India Karate-Do Federation (AIKF) which organised the said Championship, had been recognised by the Ministry of Youth Affairs & Sports, Government of India as the proper National Sports Federation for the Karate sports in India since 1987 upto 2013. This has not been disputed by anybody. However, subsequently because of certain internal differences amongst the office bearers and others, the said Federation has been involved in various litigations. Mr. Rajeetchandra submits that the Federation, however, continues to function and organises various Championships and events and once the dispute is settled and there is every possibility that the dispute shall be settled very soon and the Federation would again regain its pre-eminent status which it was enjoying from 1987 to 2013 and would be recognised by the Ministry of Youth Affairs & Sports, Government of India. In that event, the recognition of the Federation can be given with retrospective effect and resultantly, all the conditions required under Rule 2(f) will be fulfilled and there would be no need to withdraw the nomination of the petitioner for admission under the Meritorious Sportsperson quota for undergoing MBBS/BDS Course.

[11] He submits that the case is pending before the Hon'ble Delhi High Court and once it is disposed of, and as there is every likelihood that the Federation will come out successful, in that event, the nomination made in favour of the petitioner on the strength of the certificate issued by the Federation cannot be disturbed. He submits that the fact remains that as far as the genuineness of the Certificate is concerned, it cannot be doubted. But the issue which remains to be settled is about to the recognition given by the Ministry of Youth Affairs & Sports, Government of India. He submits that it is not the case of anybody that the certificate relied on by the petitioner is fictitious or that the All the India Karate-Do Federation is a non-existent body. He submits that it is a body which had been in existence since 1987 and still functioning. Mr. Rajeetchandra submits that the fact also remains that the Directorate of Youth Affairs & Sports, Govt. of Manipur had verified the genuineness of the Certificate twice and on the basis of that, the Medical Department had nominated the petitioner on 22.7.2017 and the petitioner, on being nominated, had already taken admission on 24th July, 2017 in the JNIMS and as such, at this stage, if the said nomination is cancelled, the petitioner would suffer great loss and injury.

[12] On the other hand, it has been submitted by all the counsel for the respondents that the issue is whether the petitioner can validly claim to be a Meritorious Sportsperson as defined under the Rules. If he is not covered under the aforesaid definition of the Meritorious Sportsperson under clause 2(f), he cannot avail the benefit under the quota which is earmarked only for the Meritorious Sportspersons.

[13] It has been submitted by the learned counsel for the respondents that the issue whether the aforesaid All India Karate-Do Federation (AIKF) is recognised by the Ministry of Youth Affairs & Sports, Government of India has been already settled as clearly evident from the order dated 28.10.2016 issued by the Ministry of Youth Affairs & Sports, Government of India, a copy of which is annexed as Annexure-C/13 to the affidavit-in-opposition filed by the respondent No.5. In the said order dated 28.10.2016 issued by the Ministry of Youth Affairs & Sports, Government of India, it has dealt in detail the history of the dispute of the two federations namely, All India Karate-Do Federation (AIKF) and Karate Association of India. The order shows that the All India Karate-Do Federation (AIKF) had filed a writ petition before the High Court of Delhi in W.P(C) No.789 of 2015 seeking for a direction to the Ministry of Youth

Affairs & Sports, Government of India for restoring the recognition to the All India Karate-Do Federation (AIKF). The said writ petition was disposed on 14.10.2015 with the direction to the All India Karate-Do Federation (AIKF) to submit a detailed representation to the Ministry for claiming their recognition as a National Sports Federation for the sports of Karate in India for the year 2016, which was to be considered by the Ministry of Youth Affairs & Sports, Government of India by giving opportunities to all the parties and thereafter take a decision. Pursuant to the said order of the Delhi High Court, the Ministry, after hearing all the parties, made a speaking order which is contained in the said order dated 28.10.2016 which discloses that there were disputes amongst the various factions of the management of the federation of All India Karate-Do Federation (AIKF) and there were many Court cases by different persons of the All India Karate-Do Federation (AIKF) in various Courts of the country because of which the Ministry did not provide any financial assistance to the All India Karate-Do Federation (AIKF) since 2011 and after the annual recognition of the Karate Association of India ended on 31.12.2013, the same was not renewed thereafter.

It is also mentioned in the said order dated 28.10.2016 that there is another association, namely, Karate Association of India, which also applied for grant of recognition in 2014, and it was found that the Karate Association of India was recognised by the World Karate Federation and the said Karate Association of India had been functioning and conducting national championships and was given recognition in the year 2014 and thereafter, had been organising various events. Accordingly, taking into consideration all the relevant facts and circumstances, the Ministry came to the conclusion that there was no reason to review the decision not to recognise the All India Karate-Do Federation (AIKF) but to continue to recognise the Karate Association of India as the National Sports Federation for the year 2016. The aforesaid order dated 28.10.2016, therefore, clearly shows that the All India Karate-Do Federation (AIKF) was not a recognised National Sports Federation in the year 2016 when the petitioner had participated in the 28th AIKF National Karate Championship at Jaipur which was organised by the said federation, All India Karate-Do Federation (AIKF). Therefore, the fact remains that in the year 2016, which is the relevant year, as the Certificate relied on by the petitioner was issued in the year 2016 for participating in a championship held in 2016, the All India Karate-Do Federation (AIKF) was not recognised by the Ministry of Youth Affairs &

Sports, Government of India. In that view of the matter, it will be difficult on the part of this Court to hold that the petitioner is a Meritorious Sportsperson within the definition of Rule 2(f) of the Manipur MBBS/BDS Entrance Examination (Selection of Candidates for Nominations) Rules, 2004 as amended in the year 2011. If the petitioner does not come within the aforesaid definition, this Court finds it difficult to hold that the petitioner would be entitled to be nominated against the quota reserved for meritorious sportspersons.

[14] Having held that All India Karate-Do Federation (AIKF) is not recognised by the Ministry of Youth Affairs & Sports, Government of India, in the year 2016, the issue which arises is about its effect on the decision contained in the impugned order dated 2.8.2017. Perusal of the impugned order dated 2.8.2017 would show that the Directorate had made further enquiry and made verification in this regard and it was found that the All India Karate-Do Federation (AIKF) was not found to have been recognised by the Ministry of Youth Affairs & Sports, Government of India in terms of their order dated 28.10.2016. The finding and conclusion of the Directorate of Youth Affairs & Sports, Government of Manipur is based on the aforesaid Ministry's order dated 28.10.2016 which has not been controverted by the petitioner. Accordingly, by the impugned order of the Directorate of Youth Affairs & Sports, Govt. of Manipur withdrew the earlier verification and attestation made in favour of the petitioner earlier. This Court is accordingly, of the view that if the Directorate of Youth Affairs & Sports, Govt. of Manipur reviewed a decision wrongly taken earlier, on the basis of a fresh material and evidence, which has not been controverted, such a review cannot be faulted with.

[15] It is unfortunate that because of the mistake on the part of Directorate of Youth Affairs & Sports, Govt. of Manipur, the petitioner was nominated and has been admitted, but the fact also remains that a person who is entitled to be nominated as a meritorious sportsperson must fulfil the criteria laid under the Rules. Therefore, even if this order dated 2.8.2017 is found to be not valid as the petitioner would contend, that also cannot be a reason to allow nomination of a person against the quota reserved for the meritorious sportsperson, who is not otherwise eligible under the Rules. This issue of nomination of the petitioner would not have arisen had the Directorate of Youth Affairs had done the necessary verification properly earlier. The order relating to non conferment of recognition to the All India Karate-Do Federation (AIKF) was issued by the

Ministry of Youth Affairs & Sports, Government of India on 28.10.2016 i.e. prior to the initial verification process by the Directorate of Youth Affairs & Sports. Therefore, the Directorate of Youth Affairs & Sports, Govt. of Manipur ought to have taken note of this very important document. Hence, because of the negligence on the part of the Directorate of Youth Affairs & Sports, Govt. of Manipur for not verifying properly credentials of the petitioner, the present problem has arisen, which had led to the wrong nomination and admission of the petitioner leading to the filing of the present writ petition.

Since, it has led to a very unfortunate situation where the petitioner who is already admitted to MBBS/BDS course, may have to forfeit the nomination under the meritorious sports quota, this Court has no hesitation but to impose a sum of Rs.50,000/- as cost to the Directorate of Youth Affairs & Sports, Govt. of Manipur to be paid to the petitioner for the problem created because of the negligence on their part by not taking up the process of verification properly and diligently.

[16] Under the facts and circumstances as stated above, this Court would hold that though this Court is not inclined to entertain this writ petition, and to quash the impugned order 2.8.2017, as it is based on the factual position that the All India Karate-Do Federation (AIKF) is not recognised by the Ministry of Youth Affairs & Sports Federation, Government of India.

[17] As regards the issue raised by the petitioner that the nomination of the other candidate, namely Km. Joshi Aheibam is doubtful, and accordingly, she should be impleaded as a respondent and her nomination should be scrutinised by this Court, this Court is of the view that the aforesaid exercise will not be necessary as any result thereof will not affect the decision in this case as even if she is also found to be wrongly nominated, it would not help the petitioner, as the petitioner has to stand on his own legs whether he fulfils the qualifications to claim to be a meritorious sportsperson which this Court has held to have not been fulfilled. Furthermore, since the other candidate is not before this Court and impleading her as a respondent at this stage will only delay the matter and also will not help the cause of the petitioner, it may not be appropriate for this Court to make any observation which may adversely affect her interest. However, it is for the Respondent authorities to make necessary Verification to ensure that anyone who is not otherwise eligible,

is not nominated for admission to undergo MBBS/BDS Course under the quota reserved for Meritorious Sportspersons.

[18] With the above observations and directions, this writ petition stands dismissed.

Earlier interim order stands merged with this order.

ACTING CHIEF JUSTICE

FR/NFR

Opendro(rt)