SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

S. Arul Vs. Sports Development Authority of Tamil Nadu, Represented by the Member Secretary, Nehru Park, Chennai and Others

S. Arul Vs. Sports Development Authority of Tamil Nadu, Represented by the Member Secretary, Nehru Park, Chennai and Others

SooperKanoon Citation : sooperkanoon.com/1186004

Court : Chennai

Decided On : Jan-18-2017

Judge : B. Rajendran

Appeal No. : WP. No. 944 of 2017 & WMP. No. 947 of 2017

Appellant : S. Arul

Respondent : Sports Development Authority of Tamil Nadu, Represented by the Member Secretary, Nehru Park, Chennai and Others

Judgement :

(Prayer: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to issue suitable instructions to the 3rd respondent to issue the Certificate and Medals to the petitioner's son Master Jenil, a Skater with Regn.No.Kc.S.04234-13 with the 4th respondent and Chest No.721 in respect of two Events viz., Road Elimination (21 k.m.) and Elimination (20 k.m.) participated by him in the 26th Tamil Nadu Roller Skating Championship Events, 2016, considering the representation of the petitioner dated 02.01.2017 within a reasonable time.)

1. When the matter came up for admission on 11.01.2017, this Court ordered notice to the respondents returnable on 12.01.2017.

2. On 12.01.2017, when the matter was taken up for consideration, the learned counsel appearing for the third respondent submitted that the final list has been prepared as early as on 21.12.2016 itself and it has been intimated to the second respondent, who in turn, has drawn fixtures already and sent the same by mail on 21.12.2016. Therefore, at this stage, the names of other persons could not be included.

3. Secondly, according to him, the petitioner and his son made some remarks and they, later on, tendered apology and on disciplinary ground also, his case was not considered for selection to the participants in the National Level Skater Competition from 18.01.2017 to 23.01.2017.

4. Thirdly, the marks secured by the petitioner's son in the events is much less than those who have been selected.

5. In that view of the matter, the matter was adjourned to 17.01.2017, directing the third respondent to file counter affidavit as to whether the petitioner's son has participated in the National Events and won two gold medals, whether he has got 10 marks and though the 3rd event was cancelled in the middle, in the 4th event, he has got silver medal and thus, in total, he has got 13 marks, but the persons who have got less than 13 marks have been selected and also the lacks merit on the part of the petitioner's son.

6. When the matter was directed to be listed on 17.01.2017, since that day was declared as a holiday, the matter is posted today i.e., on 18.01.2017. On 18.01.2017, when the matter reached at about 12.30 p.m., since the learned counsel appearing for the third respondent stated in the counter affidavit that the petitioner who got two medals one gold medal and one silver medal in the events which are conducted for the selection at the National Level Competition. One of the gold medals has been withdrawn due to false representation made by him in the selection or in the winning in the second event and that order was passed as early as on 21.11.2016. After verifying with the school that there was no practical examination conducted on 08.11.2016. According to him, in the counter statement in which it is stated that the petitioner's father gave a false information that there was a practical exam. Therefore, he could not participate on the relevant time viz.,

7.00 am. To participate in the practical class, event was postponed by two hours when other participants were made to wait whereas subsequently, he came and joined and succeeded and got gold medal. That time limit was given only because of false information made for the practical exam and after ascertaining with the school, withdrew the gold medal which was given to him. Thus, the petitioner's son had obtained only 8 points. These points are that of a gold medal and a silver medal which is 5 + 3 points.

7. The petitioner has participated in four events selected viz., (i) Rink VI (1000 mts.), (ii) Point to Point (15 km), (iii) Elimination (20 k.m) and (iv) road Elimination (21 k.m.) Out of the total 8 individual events. He came first in two events, viz., (i) Rink VI(1000 mts.) and (ii) Point to Point (15 k.m.) and won 2 gold medals with 10 points and for coming second in Road Elimination (20 k.m.) he won a silver medal with 3 points. Next other third race event was cancelled from the Tamil Nadu Roller Skating Champaionship 2016 Medal list i) K.R.Aravind has 18 points, ii) V.Anandkumar has 11 points iii) A.Mohamed harris has 10 points and S.Kishore Venkatesh has 9 points. Therefore, point No.8 is not eligible.

8. This Court has directed the respondent to produce the letter or the acknowledgement card from the School which states that there was no exam.

9. The learned counsel on instructions, represented that records have been sent for the events and due to prolonged holiday, he could not produce the same.

10. Contra, the petitioner's father was present in the Court and he categorically stated that there was an examination and he stood on his stand.

11. Therefore, this Court directed the Registrar General of this Court to contact the Kendriya Vidyalaya, Meenambakkam and verify as to whether there was a practical examination on that particular day viz., 08.11.2016 or not and whether any letter was given to the third respondent Association that there was no such examination based on which, gold medal has been withdrawn.

12. When the Registrar General of this Court contacted the school, though somebody picked up the phone call, there was no proper response. The

concerned officer was not present to respond the phone call. At around 3.00 p.m., call was made from the School, again Mr.Dhanush Kumar, Data Entry operator has picked the call and he stated that the school is over at 2.40 p.m. and the staff have left the school. Again at around 3.20 p.m., the Registrar General called over the phone and one Ms.Y.Padma, Senior Secretary Assistant attended the call and confirmed the receipt of the E-mail and said that she will take it to the knowledge of her superiors. The report filed by the Registrar General will form part and parcel of the record. Now the situation is whether the boy, who according to him, has won two gold medals and one silver medal and he is entitled to 13 marks for selection of National Level participating in the Skating Championship, 2017 should be allowed to participate in the event though it commenced today i.e. 18.01.2017.

13. According to the petitioner, his particular events will start only from 20.01.2017. Though, this Court would agree that disciplinary action whenever necessary is to be taken in any matter including specifically in a sports matter but it has to be taken in a manner known to law. The alleged disciplinary action against the petitioner for withdrawing the gold medal was taken without even an inquiry or giving any opportunity to the petitioner to prove the case at all. The petitioner's father states that there was a practical examination, according to him, in the counter and as the order copy which is now produced in the typed set of paper for withdrawing the gold medal even though the order has been passed on 12.11.2016 till date it has not been communicated. The order reads as follows:

Found that no exam was held for Jenil on 08.11.2016 in the morning at Kendriya Vidhyala School. Committee has decided to disqualify Jenil Racer Number 721 and revoke his medal for Rink VI.

It is also recommended that suitable action on skater Jenil by T.N.R.S.A. For the fraudulent letter submitted.

1. Sd.xxx (S.Raju, Chief Referee)

2. Sd.xxx (K.P.Unnikrishnan STC)

3. Sd.xxx (M.Manohar STC)

4. Sd.xxx(D.Ramanathan)

This action is allowed to be taken based on the alleged complaint by the father of two other participants that a false statement has been made by the father of the petitioner that there was an examination. Based on that complaint summarily the gold medal given to the petitioner has been withdrawn, but totally denied by the petitioner and he has also stated one important point that that it is even though, the order is dated 12.11.2016 it has not been communicated to him till date nor this order was passed after giving notice to the petitioner or any representation made to school or authority concerned.

14. Fairly, the learned counsel for the third respondent has stated that the communication was not given to the petitioner. Admittedly, the gold medal is still in the custody of the petitioner, the gold medal is a criteria for selection if it is in his custody, then he is rightly eligible to have the same. In this connection, it has to be clearly pointed out that according to the petitioner, his son got two gold medals and one silver, that means to 13 points or 13 marks. Whereas, the four persons who have now been selected, one has got 16 marks and other three have got 11,10 and 9 respectively. Only to deprive the petitioner from participating, the third respondent is bringing a story that one gold medal has been withdrawn on the basis of the complaint given by co-students or co-participants. As we have already noted that the withdrawal of the gold medal till date has not been communicated to the petitioner's son , on record the gold medal exist only with the petitioner's son till date, that means, he has got 13 marks. Therefore, he would be No.2 in the selection list after the persons who got 16 marks. In this background, when we analyse, first of all, whether the false statement has been given by the petitioner's father has been verified by the authority concerned is to be taken note off. Though in the order nothing is stated whether they got a confirmation in writing from the school or in any other manner, the order for withdrawal only says that due to false information. Secondly, this Court attempted to get information from the school, but they have not responded till 4.30 p.m. Any way, they will bring it to the notice of this Court in the subsequent hearing. Even otherwise, the petitioner's son was not given an opportunity before the withdrawal of the gold medal. Therefore, under law, the petitioner's son would be entitled to have 13 marks that means, he can

definitely participate in the National Level Competition which should not be deprived off. Hence, the petitioner's son should be definitely an eligible candidate who has to be selected and participated in the National Level Competition. Especially, this being the last year, as he is studying in XII Std. Further, he will cross the age limit of 16 years, if he is not allowed to participate at this point of time. Moreover, he has got 13 marks/points in respect of the medals received by him, whereas, the other three persons have got only less marks/points. Since already names of the four persons have been submitted by the said Tamil Nadu Association, it is made clear that if the petitioner's son should also be treated as a candidate. He should be treated as a selected candidate from the Tamil Nadu Association to participate in the National Level Competition.

15. It is further brought to the notice of this Court that fixtures would have been already made and therefore, this Court specifically directs the petitioner's son will report before the concerned authority tomorrow i.e., on 19.01.2017 and the second respondent/authority will include the name of the petitioner's son for his events on 20.01.2017 and draw fixtures.

16. It is also made clear that the order passed is subject to the condition taken into account, the petitioner's statement in regard to the fact that there was an examination on 08.11.2016 and later, if the same is proved to be wrong, the petitioner and his son will be taken to task or severe punishment by this Court.

17. There shall be a direction to the second respondent to permit the petitioner's son viz., Master Arul Jenil to participate as if he has been selected from the Tamil Nadu in the age group of 12 and 16 in the Rolling Competition viz., in Road Elimination Race, point to point, Rink Race -VI QF and SF, and Elimination Race to be held on 20.01.2017 or any other dates at the 54th National Roller Speed Skating Championship, Bengaluru. Necessary fixtures should be drawn by the second respondent for the inclusion of the petitioner's son in the events.

18. It is made clear that the petitioner's son is to be treated as 5th candidate from the Tamil Nadu along with the other four candidates viz., K.R.Aravind, V.Anand Kumar, A.Mohamad Arish and S.Kishore Venkatesh. The petitioner's son will report before the concerned Authority on 19.01.2017 morning itself. The third

respondent is also directed to confirm the second respondent about his eligibility to participate in the said National Roller Speed Skating Championship in all the four events as he has obtained 13 points/marks in the selection process.

19. In view of the above, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

List the matter 'for compliance' on 30.01.2017.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com