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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: September 05, 2022*

+ W.P.(C) 12056/2022 & CM APPLN. 36017/2022

NEHA JADHAV Petitioner

Through: Mr. Abhay Kumar Bhargava &
Mr. Satyarth B. Sinha, Advocates

Versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Rajesh Kumar & Mr. Puneet
Yadav, Advocates with Mr. A.S.
Malik, DIG (Sports), BSF; Mr. Rajbir
Singh, DC (Sports), BSF, Mr.
Hemendra Singh, Deputy
Commandant (Law), Ms. Poonam,
Government Pleader

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (oral)

1. By this petition, petitioner is seeking quashing of order dated 12.08.2022 passed by the Commandant 18 BN BSF and issuance of a writ of mandamus directing the respondents to allow her to participate in the 60th Diploma Course in Sports Coaching for Session 2022-23 at Netaji Subhash National Institute of Sports, Patiala.
2. Pertinently, vide impugned order dated 12.08.2022 the petitioner was informed that permission to appear in the entrance test of one year diploma

course in sports coaching for the session 2022-23 stood cancelled vide signal dated 30.05.2022. However, since the impugned communication did not spell the reasons for cancellation of aforesaid permission, therefore, on the last date of hearing i.e. 22.08.2022 we had suspended its operation and directed the respondents to permit the petitioner to participate in the 60th Diploma Course in Sports Coaching for the session 2022-23. On the last date, counsel appearing on behalf of respondents had sought time to obtain instructions.

3. Today, learned counsel appearing on behalf of respondents submits that pursuant to last order, an affidavit has been filed but the same is not on record. A copy of the said affidavit has been placed before this Court for perusal thereof.

4. Mr.A.S. Malik, DIG (Sports), BSF is present and he submits that petitioner had applied for the subject course pursuant to guidelines dated 23.04.2022, however, thereafter the revised guidelines were issued by the Sports Authority of India and time for submitting the nominations was extended till 06.06.2022. Thereafter, one another candidate/mahila constable, who had applied for the course, was found to be a better candidate for the course and so, the petitioner has been dropped and thus, this petition deserves to be dismissed.

5. The grievance of petitioner is that she was desirous of appearing in the 60th Diploma Course in Sports Coaching for Session 2022-23 and since she was permitted to appear in the entrance test vide communication dated 20.05.2022, she appeared for the same on 28.07.2022. Thereafter, she was recommended for admission in diploma course and as such paid the fee of Rs.59,800/- for the course. However, she received the impugned

communication dated 12.08.2022 intimating her regarding cancellation of the permission granted.

6. Learned counsel for petitioner submits that after receiving of communication dated 20.05.2022, only movement order dated 30.05.2022 was received by the petitioner and no other communication was received and also that she has already paid the fee and joined the course by virtue of last order passed by this Court and so, she be permitted to continue with the course.

7. Upon hearing learned counsel for the parties and on perusal of the record of this case, we find that the Netaji Subhash National Institute of Sports, Sports Authority of India had invited online applications from eligible candidates for admission to the Diploma Course in Sports Coaching for the academic session 2022-23 with the last date of hearing as 22.05.2022. Accordingly, Training Directorate (Sports Cell), FHQ, BSF sought nominations of willing and eligible sports persons on 04.05.2022. In response thereto, petitioner applied for 60th Diploma Course in Sports Coaching for Session 2022-23 on 18.05.2022 and vide communication dated 20.05.2022, she along with short listed candidates of different disciplines were informed that she was found eligible for the course. However, thereafter selection criteria was revised and the date for submission of online application form was also extended upto 06.06.2020 and for this reason, the competent authority vide signal dated 20.05.2022 cancelled the permission granted and invited fresh nominations of willing and eligible candidates on 31.05.2022. The competent authority had considered applications of all the candidates who had applied earlier in response to communication dated 04.05.2022; those 05 candidates who

were found eligible vide signal dated 20.05.2022 as well as fresh nominations pursuant to signal dated 31.05.2022.

8. The stand of respondents is that fair opportunity was granted to all the candidates including the petitioner to apply for the course, but another Mahila Constable was found more meritorious than the petitioner and therefore, she was selected for sending her nominations. While making the aforesaid plea, the respondents have lost sight of the fact that initially when the nominations were invited for the course, only petitioner was found eligible as per the criteria specified under the then prevalent guidelines, pursuant to which she was granted permission to appear in the entrance test. The petitioner had qualified the test and after her name appeared in the provisional merit list, she paid the fee on 28.07.2022. Thereafter, vide impugned order dated 12.08.2022, petitioner was informed that by virtue of signal dated 30.05.2022 her permission to appear in the entrance test stood cancelled. A bare perusal of signal dated 30.05.2022 shows that it is a movement order and it nowhere speaks of cancellation of permission granted qua the course.

9. Further, in Para-8 of their counter affidavit, respondents have stated that by virtue of revised guidelines, with an intent to give wide publicity and chance to more candidates, the age limit was enhanced from 35 years to 45 years. We find that the new candidate had never applied under the old guidelines despite the fact that she was very much eligible. The petitioner's case was considered under both the guidelines but her nomination was rejected under the revised guidelines. However, since petitioner had applied prior to coming into force of the revised guidelines and was found eligible under the old guidelines and after passing the entrance test, had been

selected in the provisional merit list, she cannot be denied to undertake the course after coming into force of the revised guidelines. Needless to say, if there is any new meritorious and deserving candidate under the revised guidelines, her/his candidature can be considered for future nominations as per rules.

10. In view of aforesaid observations, the impugned order dated 12.08.2022 passed by the Commandant 18 BN BSF is set aside. Pursuant to directions of this Court, petitioner has already joined the online classes w.e.f. 18.08.2022 for the course. We are informed that classes with physical appearance for the course shall commence from 19.09.2022 at Patiala. Accordingly, respondents are directed to grant permission in writing to the petitioner within three days of receipt of this order for attending physical classes w.e.f. 19.09.2022.

11. With aforesaid directions, the present petition and pending application are disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

SEPTEMBER 05, 2022

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