

(2015) 06 KL CK 0020

High Court Of Kerala

Case No: W.A. No. 2118 of 2012

Anju Arown Ross and Others

APPELLANT

Vs

Kerala State Sports Council and
Others

RESPONDENT

Date of Decision: June 1, 2015

Citation: (2015) 5 KHC 29

Hon'ble Judges: Antony Dominic and S.P. Chaly, JJ.

Bench: Division Bench

Advocate: V.V. Asokan, Senior Advocate, P.P. Ramachandran, Advocate, for the Appellant;
Rose Michael Advocate Government Pleader and Latha Krishnan, Standing Counsel, for the
Respondent

Final Decision: Allowed

Judgement

S.P. Chaly, J.

This writ appeal is filed by the petitioners in W.P.(C) No. 15515 of 2012. The learned Single Judge has dismissed the writ petition holding that the appellants are not entitled to the awards declared by the respondents to the sportsmen as covered by Ext. P3 and Exts. R1(a) and R1(b). The learned Single Judge, after evaluating the contentions raised in the Writ Petition and the counter-affidavit filed by the 1st respondent, came to the conclusion that the awards are granted to winners of Asian Games/Common Wealth Games/Olympics/Official World Championship/SAF Games/National Games/Sub Junior International Championship/Junior International Championships/Special Awards to junior, senior and sub junior for National Championships and they are only entitled to get cash awards while securing first, second and third places in the events referred above. The learned Single Judge has also taken note of the fact that the appellants have participated in Common Wealth Power Lifting Championship, which is one conducted by the Power Lifting Federation of India for the said discipline only. The learned Single Judge has taken note of Ext. R1(b) scheme providing for special awards, wherein, the events like the

one participated by the appellants are not specified as an eligible category. In that background, it was held by the learned Single Judge that the claim raised by the appellants that they are eligible for cash awards cannot be sustained and accordingly, the writ petition was dismissed. The petitioners have filed the writ appeal, contending that while they were in Class-XI and B.Com. II Year, respectively, in St. Joseph Anglo Indian Higher Secondary School, Calicut and Guruvayurappan College, Calicut, have participated in the Common Wealth Power Lifting Championship, 2009 and they were sponsored by the Indian Power Lifting Federation constituted by the State Units. In pursuance of the direction issued by the Power Lifting Federation, each of the appellants had to contribute Rs. 45,000/- as participation fee in the Common Wealth Power Lifting Championship, 2009 held at Pune.

2. Pursuant to the contribution made, the appellants have participated in the said event and have secured first place in the 48 Kg. weight class of Sub Junior and 75 Kg. weight class of Sub Junior, respectively, which are evidenced by Exts. P1 and P2 certificates issued by the Common Wealth Power Lifting Federation. The grievance that was voiced in the writ petition was on the basis of Ext. P4 news item appeared in a newspaper dated 27/06/2012, by which it was declared that the then Chief Minister will distribute cash awards to eligible sports persons and accordingly, though they were also eligible to receive the cash award, they were not considered by the respondents.

3. The 1st respondent has filed a counter-affidavit mainly contending that the appellants are not eligible to be awarded with cash prizes since they will not come under the criteria prescribed under Exts. R1(a) and R1(b). Ext. R1(a) is a notification issued by the General Education Department dated 04/04/2007 by which the cash awards to the winners in National and International competitions was enhanced with retrospective effect from 01/01/2007. In fact, by the said order the cash prizes specified in Ext. P3, which is a relevant portion of the Sports Council Manual, were enhanced.

4. To the counter-affidavit filed by the 1st respondent, the appellants have filed a reply, refuting the statements contained in the counter-affidavit. They have also produced Exts. P6 and P7 documents issued by the Indian Power Lifting Federation dated 12/09/2009 and a correspondence issued by the Kerala State Sports Council dated 19/05/2010, addressed to the 1st petitioner. It is evident from Ext. P6 that the appellants have participated in the Championship, conducted by the Commonwealth Power Lifting Federation held at Pune from 9th to 13th December, 2009. Ext. P7 would show that an amount of Rs. 6,000/- was granted by the 1st respondent to the appellant as Kit Allowance for participating in the Commonwealth Power Lifting Championship, December, 2009.

5. As per the direction in the writ appeal, the 1st respondent has filed a statement dated 30/10/2013 and they have produced Annexure-A1, an order of the General

Education Department dated 31/10/1997, issued in supersession of all previous and existing orders in the subject-matter, by which the Government have brought forth and accorded administrative sanction for the implementation for special scheme of cash awards attached as Annexure to the said order.

6. We have gone through the Annexures along with Annexure-A1 produced in the writ appeal. As pointed out by the learned counsel for the appellants, we find that the eligibility criteria fixed for award of cash awards is contained in Clause 3 of the said Annexure, which is corresponding to Annexure-R1(b), which are as follows:

"3. Eligibility.

1. Should represent State of Kerala in National Championship/National Games of the specified Game and winning Medals (1st, 2nd, 3rd positions).

2. Those Keralites who are winning Medals in International Competitions (Olympics, Asian Games, Commonwealth Games, World Competitions/Championships and SAF Games)."

7. Going by the said eligibility criteria, it can be seen that the petitioners may not come under the said criteria. But, under Clause 4, the eligible sports disciplines are mentioned. They are:

"(i) All the competitive disciplines - At Olympics Summer & Winter.

(ii) All the disciplines at Asian Games.

(iii) All the disciplines at Commonwealth Games.

(iv) All the disciplines at SAF Games.

(v) World Competition/Championship approved by Sports & Youth Affairs Department of Government of India.

(vi) Asian Competition/Championships approved by Sports & Youth Affairs Department of Government of India."

8. The learned counsel for the appellants has brought to our attention to Clauses 4(i), 4(ii), 4(v) and 4(vi) and contended that they are entitled to get the cash award as per anyone of the criteria fixed, since they have participated in the Commonwealth Weight Lifting Championship, which is an international event and which is approved by the Sports & Youth Affairs Department, Government of India, which is discernible from Ext. P6 letter dated 12/09/2009.

9. On going through the contentions raised in the writ appeal, the pleadings in the writ petition, the documents produced and the counter-affidavit, we see that instead of making representations to the respondents, the appellants have come before this Court against the action of the respondents in excluding them from the list of recipients of the cash awards in spite of their meritorious victory as evidenced by

Exts. P1 and P2 certificates. On an anxious consideration of the contentions raised by the counsel for the appellants and hearing the arguments of the learned counsel for the respondents, we feel that the claim made by the appellants are to be considered by the respondents by taking into account the respective claims raised by them pursuant to their participation in the Commonwealth Power Lifting Championship held by Commonwealth Power Lifting Federation at Pune from 9th to 13th December, 2009.

10. We also feel that the awards and cash prizes are instituted by the Government to encourage participation of more young and talented persons in sports activities. It is also a fact that the sports and games activities in National and International levels will strengthen and improve the relationship among the States in the National level and the countries in the International level. So, these sportsmen in effect act as catalysts to strengthen the relationship of intrastate relationship as well as inter-country and inter-continental relationship. So, as far as possible, the State and Central Governments are duty bound to see that the eligible sportsmen are conferred with the awards and cash incentives instituted by the State and Central Governments. The said attitude of the Governments will attract more people to the games and sports activities and such competitions will improve the standard of sportsmen of our country. In that view of the matter, we feel that it is only just and appropriate that the claim of the appellants are considered by the respondents.

11. In our considered opinion, the learned Single Judge instead of dismissing the writ petition, should have relegated the appellants to raise their claim before the respondents who are the competent authorities with an order to consider such claims in terms of Ext. P3, Exts. R1(a) and R1(b) as also Annexure-A1. In that background, we set aside the judgment of the learned Single Judge and dispose of the writ appeal allowing the appellants an opportunity to file appropriate applications to the 1st respondent, Kerala State Sports Council, with all relevant documents that are required to consider their claims. Accordingly, the appellants are directed to file their respective applications along with all necessary documents, within 15 days from the date of receipt of a copy of the judgment, before the 1st respondent and the 1st respondent is directed to consider the claims of the appellants within a period of 45 days thereafter, taking into account all relevant documents and the rules in force regarding conferment of awards and cash incentives to eligible sportsmen. If the appellants are found to be eligible for the receipt of the award and the cash prize, the first respondent should see that the same is distributed to them in a befitting manner.

Therefore, the appeal stands allowed to the extent indicated above.