

Dobson Dominic Vs State of Tamil Nadu and Others

Court: Madras High Court

Date of Decision: Oct. 8, 1999

Acts Referred: Constitution of India, 1950 Article 226

Citation: AIR 2000 Mad 316 : (2000) 3 LW 121

Hon'ble Judges: P. Shanmugam, J

Bench: Single Bench

Advocate: G.S. Thambi, for the Appellant; D. Murugesan, Special Govt. Pleader, J. Srinivasan, S. Shyamala and G. Rajagopalan, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

P. Shanmugam, J.

Petitioner is candidate for admission to M.B.B.S. course under the Special Category for "Eminent Sportsmen" for the academic year 1999-2000. He claimed reservation on the basis that he is a National Level Sportsman. The Selection Committee did not consider,

the case of the petitioner, but selected respondents 4 to 6 under the category of "International Level Sportsmen". Hence, petitioner has filed the

above writ petition for a declaration to declare the selection of respondents 4, 5 and 6, as illegal and unconstitutional, and for a direction to

respondents 1 to 3 to admit the petitioner in the M.B.B.S. Course in the Government Medical College for 1999-2000 under the Special Category

for Eminent Sportsmen.

2. The counselling for admission was held on 18-8-99 and the above writ petition was filed on 19-8-99 without any delay as to the non-selection

of the petitioner and the selection of other candidates, namely respondents 4 to 6 herein, which according to the petitioner, is illegal. Notice of

motion was ordered on 20-8-99 both through Court as well as through personal notice. All the respondents were served and all of them have filed

their counter-affidavits excepting the sixth respondent, who has entered appearance.

3. Briefly stated, the facts of the case are as follows :--

Petitioner, a minor represented by his father applied for admission to M.B.B.S. course 1999-2000 in any one of the Government Medical colleges

run by the State of Tamil Nadu in the three seats reserved under the category meant for ""Eminent Sports-men"". According to the petitioner, he

had participated in eight National Level Badminton Championships Sponsored by the State Body and ten State Level Badminton Championships

sponsored by the Tamil Nadu Badminton Association and the Tamil Nadu Government, besides participating in the District and Zonal Level

Games conducted by the State Government. The petitioner has been sponsored by the Tamil Nadu. Badminton Association, which is a registered

body and affiliated to the Badminton Association of India. He was selected to represent Tamil Nadu in the following National Tournaments:

(1) XI Mini and Sub-Junior National Bad-minion Championship-November 1997 at Guwahati, Assam.

(2) X Mini National Badminton Championship-October 1996 at Tiruchur.

(3) IX Mini National Badminton Championship 1995-96 at Vishakapatnam.

(4) VIII Mini National Badminton Championship-October 1994 at Vijayawada.

(5) VI Mini National Badminton Championship, 1992, at Jamshedpur.

(6) All India Junior Badminton Tourn a ment Khaitan Memorial, Madras-July 1997.

(7) All India Junior Badminton Tournament-July 1996.

(8) All India Junior Badminton Tournament-July 1993.

Thus, it could be seen that the petitioner satisfies the requirement of the second category, namely that having been sponsored by a State Body, he

represented in eight National Tournaments. Besides, he had participated in ten State Level Tournaments and won medals. Therefore, insofar as the

petitioner is concerned, he fully qualifies and satisfies the requirement of participation in the national tournament. Petitioner had also secured 182.50

marks out of 200 in the academic subjects and 63.75 in the entrance examination conducted for the professional courses, totalling 246-25 marks.

With the certificates establishing his eminence in sports and marks, petitioner was hoping to be selected. However, the results of the selection were

notified in the board by the Selection Committee on 10-8-99 and to his great surprise, petitioner was not selected, whereas respondents 4 to 6

were provisionally selected. Petitioner has therefore filed this writ petition immediately after the counselling on 18-8-99.

4. The case of the petitioner is that the selection of respondents 4 to 6 under the category of participation in the international level tournament

sponsored by a national body is ex facie illegal. According to his information, none of the respondents 4 to 6 were sponsored by National body

and they did not participate in any recognised international level sports event. According to him, the selection Committee neither applied their mind

as to the genuineness of their claim for they scrutinised and verified the claim impartially, as is required of them. In the absence of a specified formal

for the sports category, an arbitrary and capricious selection has been made, depriving the genuine sportsmen of their right to be considered for

selection. Therefore, petitioner seeks the declaration as prayed for.

5. The Secretary in charge of the Selection Committee has filed a counter affidavit. It is stated in the counter that the Selection Committee itself

scrutinised the certificates produced by the candidates in terms of the prospectus. The sports Development Authority of India expressed their

inability to undertake the scrutinizing of the certificate and therefore, the Selection Committee themselves verified the certificates. According to

them, respondents 4 to 6 have participated at the international level, having sponsored by a national body. Apart from the general denials of the

allegations and the statement of correct selection, the selecting authority did not specifically set out as to how and on what basis they considered

respondents 4 to 6 as eminent sportsmen of international level in reference to the certificates produced by them. Especially, in the absence of

scrutiny by an expert body like that of a sports development Authority, the Selection Committee ought to have explained as to how they

considered respondents 4 to 6 as coming within the requirement of participation in the international sports events sponsored by a national body.

6. The fourth respondent has filed a counter affidavit. According to her, she had participated in the international sports event sponsored by a

national body, i.e. "Alan-Thilak Karate School International (Recognised by All India Karate-Do Federation) (Recognised by Government of

India). Here again, the fourth respondent has not come forward as to her satisfying the requirement of the prospectus in clear terms.

7. In the counter-affidavit filed by the fifth respondent, it is stated in para 4 as follows :

This respondent had participated in Taekwan-Do Championships at District, State, National and International Levels and had won several laurels.

He had represented India in the second G.T.F. World U.S. Taekwon-Do Championship held at St. Louis. Missiori, U.S.A. In July 1997 and won

a Gold Medal and Silver Medals for India, Wherein 64 countries participated.

According to him. the All India Global Taekwon-Do Institution is a national body, which was sponsored him to the international event.

8. Learned counsel Mr. G. Rajagopalan appearing on behalf of the sixth respondent submitted that the sixth respondent had participated in the

International Karate Tournament in India organised by the All India United Shito-Ryu Karate-Do Federation and Allen-Thilak Karate School

International, which recognised by the All India Karate-Do Federation and recognised by the Government of India. Besides, he had participated in

the District, State and National Level Karate Championships from the year 1992-95.

9. Petitioner has filed additional affidavit and a rejoinder affidavit, wherein he has categorised the various certificates produced by respondents 4 to

6 as one ineligible to be considered for the selection and has stated they did not come within the twin test of sponsorship and participation in

international event.

10. Learned Government Pleader representing the Selection Committee defended the selection and submitted that the Selection Committee was

satisfied with the certificates furnished by respondents 4 to 6 as one for participating in the international event. According to him, this Court cannot

sit in judgment over the verification and selection made by the selecting authority and take a different view. He further submitted that assuming for

the sake of argument that the selection of respondents 4 to 6 is set aside, the petitioner is placed as 21st Rank-holder in the national level sports

candidates list and has no chance of being selected, and hence, this writ petition is not maintainable.

11. I have heard the counsel for both sides and considered the matter carefully.

12. The prospectus issued for the admission to Professional Courses-M.B.B.S. etc. for the year 1999-2000 issued by the Government of Tamil

Nadu sets out the eligibility criteria for selection. Under the heading, "Seats Reserved for Special Categories in Government Colleges". para 3.5(v)

deals with the seats reserved for eminent sportsmen. The said clause reads as follows :

NO. OF SEATS RESERVED IN M.B.B.S. -3

The candidates seeking admission under this Category shall be considered in the following order of preference :

(a) Participation at International Level-the candidate having been sponsored by a national body.

(b) Participation at National Level-the candidate having been sponsored by a State Body or University.

(c) Participating at State Level-the candidate having been sponsored by Zonal or District Association.

NOTE : The candidate other than SC/ST should have scored a minimum of 50% Marks in each of the subjects prescribed for admission in

M.B.B.S. Course, Certificate Xerox copies should be submitted along with the application. The Selection Committee will verify the Original

Certificates at the time of counselling.

From the eligibility conditions, it is seen that the first category namely candidates who have participated at the international level after having been

sponsored by a national body will exclude the other Categories of National and State level. The Selection Committee has selected three candidates

for the three seats from the first category. It is seen that there were 46 candidates from the National level and 123 candidates from the State level

aspiring for selection under this category. The requirement for the selection is that the candidate should have been sponsored by a National body

and should have participated at an International level sports event.

13. Since there was a serious objection as to the selection and allegation of a wrong selection, the particulars of the selected candidates including

their original certificates were called for to verify the contentions. Therefore, it becomes necessary to set forth the claim of respondents 4 to 6 from

the files placed before me, which are given hereunder :

(1) Respondent No. 4

Name of the : P. T. Sumalatha

candidate

Sponsoring Authority : --

Details of Certificate :

Certificate issued by Champion of Champions-1994-95-India First International Karate Tournament for Children organised by All India United

Shito-Ryu Karate-Do Federation and Allan-Thilak Karate School International (Recognised by All India Karate-Do Federation) (recognised by

Government of India], which certifies that P.T. Sumalatha representing Vajasaravakkam, Tamil Nadu, is placed second in KATA Event in the Girl

Category for age 12-14 years.

This is the only certificate that the fourth respondent has claimed as one making her eligible for the sports category. In my view, this certificate does

not indicate that she is sponsored by a national body. On the contrary, it is clearly stated that she represented Valasaravakkam-Tamil Nadu

(Valasaravakkam is Sub-Division within the Corporation of Madras). Therefore, her representation is only for Valasaravakkam-Tamil Nadu.

Secondly, the fourth respondent has participated in the Kata. Event, which is not one of the sports disciplines recognised and approved by the

Sports Authority of India. Therefore, in the absence of sponsorship by a national body and no proof of participation in an international level sports

like Karate, which is recognised, this certificate cannot be accepted as a certificate proving her participation as required. Therefore, ex facie, it is

clear that this does not satisfy the requirement in the prospectus.

(2) Respondent No. : 5

Name of the : T. D. Dllipkumar

candidate

Sponsoring Authority : Tackwon-Do

Association of

Tamil Nadu.

Details of Certificate :

A certificate issued by one C. Kothandaraman under the letter head of All India Global Taekwon-Do. Association informing that T.D. Dilipkumar

had won Gold Medal in Sparring and Silver Medal in TUL Competitions at the second G.T.F. Taekwon-Do Championship held at St. Louis,

Missouri, U.S.A. from 3rd to 8th July, 1997.

In this case, in Order to prove the participation of this respondent at the international level, no certificate of the international body which conducted

the tournament has been produced. The certificate dated 15-7-97 is only an information to whomsoever it may concern that T. D. Dilipkumar had

won Gold Medal in Sparring and Silver Medal in TUL Competition. The relevant certificate from the particular body which conducted the

tournament is not furnished. Secondly, all other certificates which the fifth respondent has produced appear to have been furnished on 7-6-99

along with the application. The application and the checklist was signed on 9-6-99. It is thereafter that another certificate to whomsoever it may

concern dated 20-4-98 and 6-6-97, attested on 16-8-99 and 17-8-99 respectively, appear to have been included in the application. Both these

certificates were signed by the same C. Kothandaraman. In the certificate dated 6-6-97, it is stated that Dilipkumar is a member of Taekwon-Do

Association of Tamil Nadu and is selected to represent India. The Association sponsored his flight charges. The certificates do not show that the

said association is a national body or the Sports Authority of India, except to state that it is affiliated to a Global Federation, Canada, According to

them, Dilipkumar is a member of that association and he is selected to represent India. The Certificate issued by C. Kothandaraman is in reference

to the fact that the fifth respondent has won medals in Sparring and TUL Competitions. This information does not state whether the Sparring and

TUL Competition is a sport recognised by the Sports Authority of India coming under Taekwon-Do and that this is an international event.

Therefore, it is not possible to agree that the fifth respondent satisfied the requirement of sponsorship as well as participation at the international

level.

(3) Respondent No. : 6

Name of the : A. Prapakar

candidate

Sponsoring Authority : --Details of Certificate :

Champion of Champions -- 1994-95 --India First International Karate Tournament for Children organised by All India United Shito-Ryu Karate-

Do Federation and Allan-Thilak Karate School International (recognised by All India Karate-Do Federation) (recognised by Government of

India). This certificate certifies that Prapakar representing Chengalpet -- Tamil Nadu is placed second in KUMITE Event in the Boys Category for

age 12-14 years. This certificate does not state that the sixth respondent is sponsored by a national body. On the contrary, he represents

Chengalpet -- Tamil Nadu. As a matter of fact, the fourth respondent has represented Valasarvakkam -- Tamil Nadu, whereas the sixth

respondent has represented Chengalpet -- Tamil Nadu. The fourth respondent got second place in Kata event and the sixth respondent got second

place in Kumite event. There is no sponsorship by any national body for either of them assuming for the sake of argument that the certificates are in

reference to an International event conducted by a international body. This Kumite event is also not recognised as a category of sports/disciplines

by the Sports Authority of India.

14. From the factual analysis of the certificates furnished by respondents 4 to 6, I find that unfortunately, the selecting authority has not shown due

concern to select the proper candidates under the special category. Ex facie, it could be seen that respondents 4 to 6 do not satisfy the twin

requirement of the international participation sponsored by a national body. In reference to this requirement, a Division Bench of this Court has

considered this question. Srinivasan, J. (as he then was), leading the Bench in *Midunadan v. State of Tamil Nadu*, 1995 WLR 851, considering

an identical requirement, held as follows :

The very idea of the rule is that the eminence of the sportsmen should have been recognised by a national body so as to be sponsored for an

international event. It should be more or less a case of representation of the country as such. That is why sponsoring by a national body is insisted

upon. If a person arranges on his own to play in a tournament in which players from other countries have taken part, he cannot be considered to

have satisfied the rule. He cannot be preferred as an international level sportsman.

Precisely what happened in this case is that none of these three candidates, namely respondents 4 to 6 are sponsored by a national body. They

are persons who have arranged on their own to play in a tournament where other countries also might have participated. Therefore, they cannot be

considered as international level sportsmen. As seen earlier, respondents 4 to 6 were not sponsored by any national body. Respondent No. 4

represents Valasaravakkam Tamil Nadu and respondent No. 6 represents Chengalpet--Tamil Nadu. It appears clearly that they have participated

in a tournament organised by an All India Body as First International Karate Tournament for Children. Insofar as the fifth respondent is concerned

an information given by the Director of an Association which claims to be an All India Global Taekwon-Do Association, no certificate by the

international body is furnished. It is quite understandable and appears to be opposed to reason as to how these certificate can be recognised as

certificates issued by an international level sports authority after having been sponsored by a national body. None of these respondents have

represented India as such after having been selected by a national body for representing India. The contention that the sponsorship and

representation should not be strictly construed has to be rejected without any second thought, since it has to be seen that in this process, the

selecting authority has rejected 50 of the National level sportsmen and 123 of the State level sportsmen. By accepting these certificates without

applying their mind. I am of the view that the Selection Committee has done the greatest disservice to the sports and the interests of sportsmen.

They ought to have exercised a better care before selecting the candidates for the special reserved category.

15. The Supreme Court, in *Khalid Hussain (Minor), Represented by Father Dr. Akthar Hussain Vs. Commissioner and Secretary to Government*

of Tamil Nadu, Health Department, Madras and Ors, upheld the views of a Division Bench of this Court that the principle of pre-eminence in

sports was the only criterion for the selection of candidates. In *Sabitha v. Director of Medical Education*, in W.P. No. 9406/83, a Division Bench

consisting of S. Natarajan, J. and Venkataswami, J. (as they then were) observed as follows :

In the first place, the seats had been reserved for eminent sportsmen and not merely for candidates having some proficiency in sports. The word

eminent"" means raising above the others; conspicuous, distinguished. Therefore, it stands to reason that it is not a mere sportsmanship, but

eminence in sportsmanship that has to be the guiding principle on which the selection is to be made and the touchstone on which the selection has

to be tested. To clear any doubt in the matter, it is also stated in the prospectus that in Order merit consideration as eminent sportsmen, a

candidate should have participated at the State level and All India level sports. Since eminence in sports activities cannot be achieved by a flourish

of the magic wand or by easy methods, but can be achieved only by long, consistent and hard "work in sports field or gymnasium, it goes without

saying that the candidates would have to sacrifice a good amount of their study time in sports activities. It is to offset this sacrifice made by the

candidates of their academic time, the Government has deemed it fit to prescribe lesser marks of eligibility for applying to the M.B.B.S. Course.

In *Khalid Hussaln v. Commissioner and Secretary to Government, Health Department*, 1987 WLR 91, S. Mohan. J. (as he then was) held as

follows :

As regards the requirement of sponsorship certificate, I have already extracted relevant portion in Annexure-A. But, what the object seems to be

in my mind, is that mere participation individually and securing certificate may not be enough. There must be a sponsorship to prove the bona fides.

The learned Judge held that even if there is no certificate of sponsorship, the Selection Committee can gather materials to determine the

sponsorship and about the bona fide nature of the participation of a particular candidate.

However, an appeal against the judgment in Writ Appeal No. 1307/86, the Division Bench administered a note of caution to the Selection

Committee and impressed upon the necessity to scrutinise the sponsorship certificate with extreme care. The said Division Bench Judgment was

upheld by the Supreme Court in the judgment referred to above. The latter Division Bench in *Midunandan's case* 1995 WLR 851 cited *supra*,

while confirming the principles on this subject, held in para 5 as follows :

Two basic requirements should necessarily be satisfied in Order to make a candidate eligible for consideration : (1) Participation in

State/National/International Sports Events.

(2) The candidate was sponsored by Zonal or District Associations/State Body or University/National Body, Therefore, it is clear that participation

of a candidate without a sponsorship by a national body in an international event cannot claim a reservation under this category. The eminence of a

sportsman is determined by his participation in a sports event on being sponsored by the respective bodies. The claim of the participation in.

International event as well as the claim of their sponsorship by a national body are clearly not proved in the cases of respondents 4 to 6 for the

reasons stated above.

16. From the certificates furnished by the fourth respondent dated 2-8-99. It is clear (hat there is a body called the Tamil Nadu Karate-Do

Association which is recognised by the Sports Development Authority of Tamil Nadu. This is a State level body. There is an All India Karate-Do

Federation which is recognised by the Government of India, which is a National level body. There is a World Karate Federation which is

recognised by the International Olympic Committee. There is yet another body called the Asian Union of Karate-Do Organisations (recognised by

the Olympic Council of Asia). Whereas, the fifth respondent is a member of the All India Global Taekwon-Do Association affiliated with the

Global Taekwon-Do Federation, Canada. This is neither a State body nor a National body recognised by the Government of Tamil Nadu or the

Government of India. Therefore, the claim of the fifth respondent that he, being a member of the said Association, represented India, cannot be

accepted as he is not sponsored by a National body. That apart, there is no certificate issued by the so-called G.T.F. World Taekwon-Do

Championship. The All India Karate-Do Federation did not conduct any international event. If it is an international event, it should have been

conducted by the World Karate Federation or the Asian Union of Karate-Do Organisations. Therefore, it is clearly beyond doubt that it is not an

international event conducted at the international level by an International body. As pointed out by the Division Bench, respondents 4 to 6 have

made their own arrangements to play in a tournament which they themselves call an international tournament, neither sponsored by a National or a

State level body.

17. The next question is whether the petitioner is eligible to be considered for selection. There is no dispute of the fact that the petitioner comes

under the eminent sportsmen category at the National level. But for his lower marks in the academic field, he would have been ranked higher,

Petitioner having been secured eminence at the National level, has taken pains to approach this Court immediately after the selection. The other

candidates who are above the petitioner at the national level have not chosen to come and challenge their non-selection. It is quite probable that the

other candidates would have been selected in other professional courses or are not interested in the selection at all. In such an event, to direct the

Selection Committee to conduct a fresh selection will be unnecessary. The Supreme Court, in *State of Orissa v. Prajnaparamita Samanta*, (1996)

7 SCC 106 *President, Board of Secondary Education v. D.Suvankar* 2006 JT 10, held that it is only those who are diligent and approach the

Court in time, who can be given such relief.

18. For all the above reasons, I have no hesitation in quashing the selection of respondents 4 to 6 under the eminent sportsmen category. I direct

the Selection Committee to admit the petitioner herein and two other candidates who are in the rank list in the National level for the M.B.B.S.

Course in the Government Medical College for 1999- 2000 under the Special Category for Eminent Sportsmen. The Writ Petition is accordingly

allowed. No costs. Consequently, the connected W.M.Ps. are closed.