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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 19th January, 2023

+ **W.P.(C) 1839/2020**

VIRENDER SINGH Petitioner

Through: Mr. Ajay Verma, Advocates.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Virender Singh, Advocate for
UOI.

Mr. Ajay Digpaul, CGSC with Mr.
Kamal Digpaul & Ms. Swati Kwatra,
Advocate for UOI. (M:9811157265)

Mr. Bhupendra Pratap Singh,
Advocate for R-3/SAI.
(M:9873835833)

11

WITH

+ **W.P.(C) 2566/2020**

PARDEEP MALIK Petitioner

Through: Mr. Ajay Verma, Advocates.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Virender Singh, Advocate for
UOI.

Mr. Ruchir Mishra, Mr. Sanjiv Kumar
Saxena, Ms. Rabajena Mishra and
Mr. Mukesh Kr. Tiwari, Advocates
for R-1 & 2. (M:8368422800)

Mr. Bhupendra Pratap Singh,
Advocates for R-3/SAI.

12

WITH

+ **W.P.(C) 2571/2020**

AJAY KUMAR Petitioner

Through: Mr. Ajay Verma, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Virender Singh, Advocate for UOI.

Mr. Ruchir Mishra, Mr. Sanjiv Kumar Saxena, Ms. Rabajena Mishra and Mr. Mukesh Kr. Tiwari, Advocates for R-1 & 2.

Mr. Bhupendra Pratap Singh, Advocates for R-3/SAI.

13

AND

+

W.P.(C) 2579/2020

SUMIT DAHIYA

..... Petitioner

Through: Mr. Ajay Verma, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Virender Singh, Advocate for UOI.

Mr. Ruchir Mishra, Mr. Sanjiv Kumar Saxena, Ms. Rabajena Mishra and Mr. Mukesh Kr. Tiwari, Advocates for R-1 & 2.

Mr. Bhupendra Pratap Singh, Advocates for R-3/SAI.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present four petitions have been filed by Mr. Virender Singh, Mr. Pardeep Malik, Mr. Ajay Kumar & Mr. Sumit Dahiya who are all sport persons of renown. They all have been assessed with 100% disability in speaking and hearing vide the disability certificates which have been granted to them. By way of the present petitions, the Petitioners seek equal treatment of the deaf sports persons with other para-athletes along with other reliefs.

3. The petitions highlight that the Committee International of Silent Sports (CISS) Congress in Rome in the year 2001 had resulted in an agreement between the International Olympic Committee (IOC) and CISS where a decision was taken at the international level to accord the same status to Deaflympic games as to the Olympic games and Para-Olympic games. In effect, therefore, the case of the Petitioners is that sports persons who participate in Deaflympics, being deaf, would be deserving of the same status as those who participate in Olympic games.

4. The four Petitioners, before the Court, have won various medals in several international events. Their grievance is that sport persons with hearing disabilities are not treated equal with other sports persons. It is highlighted that the cash awards and other schemes which are there for other sport persons does not apply in the same manner to persons with disabilities and for Para-Olympic sports. The prayer in these writ petitions is, therefore, for directions to the Ministry of Youth Affairs and Sports to frame proper policies in respect of deaf sports as well.

5. During the pendency of these writ petitions, vide order dated 23rd March, 2022, a direction was given to the Union of India to place on record the applicable 'award policy' pertaining to Para-Olympics as well as Deaflympics. Pursuant to the said order, the award policy had been placed on record as amended on 11th March, 2020.

6. The submission of Id. Counsel for the Respondent is that broadly as per the latest policy, various para sports, blind sports, and deaf sports have also been considered and proper cash awards and other awards have been announced by the Government.

7. On the other hand, Id. Counsel appearing for the Petitioners submits that there are certain issues which still deserve consideration by the Government.

- The first being that in the category of deaf sports, 'Deaf Asian Games' is missing. He concedes that this may be due to an oversight.
- Secondly, he submits that a Target Olympic Podium Scheme (TOPS) has been launched for the purposes of providing assistance to India's top athletes who have the capability to win Olympic medals. He submits that the TOPS scheme is already applicable to 'para sport persons' but it ought to be extended to deaf sports persons as well.
- Thirdly, he submits that post retirement benefits for deaf sports persons should be same as those which are matching to the Olympic games sport persons and para sport persons.

8. Mr. Ruchir Mishra, Id. Counsel submits that the three issues which have been highlighted by Id. Counsel for the Petitioner could be treated as a representation by the Petitioners on which the Ministry would take a decision.

9. Heard. The evolution of these writ petitions, since the time they have been filed would itself show that considerable changes have been brought in respect of encouragement being given to sport persons in general and sport persons with disabilities in particular. The latest scheme which has been placed on record shows that recognition in the form of cash awards and other benefits has been extended to para sport persons and even those persons participating in blind and deaf sports. The issuance of such schemes, awards, benefits, *etc.*, is in the realm of policy of the Government. While in general there can be no doubt that persons with disabilities ought not to be

discriminated, announcing of policies and schemes is again to be done by the Government and a specific benefit cannot be directed by the Court. The contours of judicial review in policy matters have recently been summed up by the Supreme Court in *Small Scale Industrial Manufactures Association v. Union of India (2021) 8 SCC 511* in the following words-

“17. The correctness of the reasons which prompted the government in decision taking one course of action instead of another is not a matter of concern in judicial review and the court is not the appropriate forum for such investigation. The policy decision must be left to the government as it alone can adopt which policy should be adopted after considering of the points from different angles. In assessing the propriety of the decision of the Government the court cannot interfere even if a second view is possible from that of the government.

18. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review. The scope of judicial review of the governmental policy is now well defined. The courts do not and cannot act as an appellate authority examining the correctness, stability and appropriateness of a policy, nor are the courts advisers to the executives on matters of policy which the executives are entitled to formulate.

10. The Petitioners herein are well qualified sport persons who have earned accolades for India in various international sporting events. Their outstanding concerns are the following three issues:

- ‘Deaf Asian Games’ has not been included in the category of deaf sports.
- TOPS scheme has not been made applicable to deaf sports persons.

- Post-retirement benefits of the deaf sports persons are not the same as that of other sports persons.

11. Overall, the prayer of the Petitioners is that the deaf sport persons ought to be treated on par with para sports persons. In principle, there can be no doubt and even the Court confirms that deaf sport persons and para sport persons would have to be treated equally and neither category can be discriminated against the other. However, on the specific issues highlighted by the Petitioners, this Court is of the opinion that the same ought to be considered by the Respondent, after taking an overall view of the matter.

12. Accordingly, the present writ petition, along with all pending applications, is disposed with the direction that on the three issues raised above, the Ministry of Youth Affairs and Sports would take a decision in a manner which is fair to persons suffering from speaking and hearing disabilities.

13. The said decision shall be taken within a period of three months from today. In the meantime, since there are certain tournaments which are stated to be going on, if any interim support is to be given, the same shall be considered within four weeks.

14. With these observations, the present petitions, with all the applications, are disposed of. All remedies are left open.

PRATHIBA M. SINGH
JUDGE

JANUARY 19, 2023

dj/sk