

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) no. 775/2024
CM no. 2014/2024

Bilquis Mir

...Appellant(s)/Petitioner(s)

Through: Mr. Najmi Waziri, Sr. Advocate with
Mr. Shariq Reyaz, Advocate

Vs.

UT of JK and others

...Respondent(s)

Through: Mr. Sajad Ashraf, GA

CORAM:

HON'BLE MS. JUSTICE SINDHU SHARMA, JUDGE

ORDER
15.04.2024

1. Petitioner, an International athlete and Coach in the Sport of Canoeing and Kayaking, has been selected by the Asian Canoe Confederation as a Chief Finish Line Judge in the Asian Canoe Sprint Olympic Qualifier to be held in Japan from April 14th to April 21st, 2024. She has also been selected as a Judge (ITO) for the Paralympic Games to be held in Paris, France, from August 28th to September 08th, 2024, and is nominated from Asia for 2024 Paralympic Games in Paris from 3rd September to 9th September, 2024, as a first ever Technical Officer from India.
2. The President, Indian Kayaking and Canoeing Association, requested on 21st February 2024, requested her employer respondent no. 2 to issue a No Objection Certificate (NOC) to enable the participation of the petitioner in these competitions. On 22nd March, 2024, the Association again requested the Secretary, Youth Services and Sports,

Jammu & Kashmir, to issue NOC for petitioner's timely participation in the International event as it was a unique honour for the country to be a Jury Member in the Pre-Olympics. In case the opportunity is denied to her, it might act as a deterrent for future as it may result in loss of reliability in International Forum for future selection. The contention of the petitioner is that the respondents despite repeated requests have not issued No Objection Certificate/ permission to her to travel abroad to participate as Judge in Olympics in Japan. Petitioner, thus, seeks a direction to the respondents for granting her the requisite permission to travel to Japan as Jury Member in the Paralympic.

3. Mr. Sajad Ashraf, GA has reported instructions in this regard. It is submitted that prior permission of the Competent Authority is required by an employee who intends to visit the foreign country on private affairs during the period of leave. This permission can be denied in the interest of security of the State or if the investigation/ inquiry is faced or in case of apprehension of evading the arrest.
4. It is submitted by the respondents that the petitioner is facing investigation in FIR no.23/2023 under Section 5 (1)(d) of the Prevention of Corruption Act, regarding her appointment as Physical Education Teacher and such requires mandatory vigilance clearance by ACB before processing her case for a visit to foreign country. In addition to the same, a complaint has also been filed against her. Further the form submitted by her on the online portal was not accepted as she has not submitted her property statement.

5. The circular dated 21.02.2019 regarding grant of permission to visit outside the country on private affair provide that permission may be denied in the interest of security or individual facing investigation/ inquiry on serious charges or trying to evade apprehension by police authority.
6. The petitioner has already assailed FIR no.23/2023 by way of CRM(M) No.652/2023 and vide order dated 22.11.2023, this Court has directed that investigation in the FIR will go on but respondent shall not present the challan without prior permission of this Court. In addition to the same, it was also directed that in the event of arrest she be released on bail.
7. The only reason of petitioner's travel to abroad is to participate in the Asian Canoe Sprint Olympic Qualifier to be held in Japan from April 14th to 21st April, 2024 on an invitation as it will only bolster and promote the sport of canoeing and kayaking. It is not the case of the respondents that there is any apprehension of her evading arrest. The petitioner also submits that she is working with the Department and is available for investigation and complaint.
8. In case it was not expedient to grant permission due to some reason or any lacuna, the same should have been conveyed to the petitioner within a reasonable time. In this case, it appears that no such decision has been taken.
9. Keeping in view the fact that the event in Japan is going to be held on 14th April to 21st April, 2024, and the petitioner would lose all opportunities to participate in the same and this may even act as deterrent for appointment as Chief Line Finish Judge in future.

10. The participation of the petitioner in future International event would suffer and it may even have a deterrent effect with regard to such position being provided to the athletes in India.
11. Prima facie case for indulgence is made out.
12. Notice in the main as well as in CM returnable within four weeks.
Requisites for service within one week.
13. In the meanwhile, subject to objections and till next date of hearing before the Bench, the respondents shall grant NOC/ permission to the petitioner to travel abroad for the event scheduled in Japan in the first instance.
14. Put up on 24.05.2024.
15. Copy of this order be provided to learned counsel for the petitioner under the seal and signature of the Bench Secretary.

(SINDHU SHARMA)
JUDGE

SRINAGAR
15.04.2024
"Imtiyaz"