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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 24th August, 2023

+ **W.P.(C) 11232/2023 & CM APPL. 43723/2023**

MAHENDRA KUMAR MOHANTY

..... Petitioner

Through: Mr. Mahendra Kumar Mohanty,
Petitioner-in-Person.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. Ajay Dignpaul, CGSC with Mr.
Amit Gupta, Mr. Kamal Dignpaul, Ms.
Swati Kwatra, Mr. Saurabh Tripathi,
Mr. Vikramaditya Singh and Mr.
Ghanshyam Jha, Advocates for UOI.
Mr. Sanjay Katyal, Standing Counsel
with Mr. Nihal Singh, Advocate for
DDA.
Mr. Vivek Kumar, A.E(C)/ QGC and
Mr. Sushil Kumar, computer operator
for DDA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. Mr. Mahendra Kumar Mohanty, the Petitioner, brings forth this Public Interest Litigation, challenging the membership criteria stipulated in the notice issued by Respondent No. 2, Delhi Development Authority ["DDA"], for the Qutab Golf Course located in Mehrauli, Delhi [*hereinafter*, "*public notice*"]. He takes issue with an apparent disparity in membership



provisions, specifically the subscription charges, between applicants from the government sector and those from the private sector.

The Petitioner's case

2. Petitioner is an accomplished athlete, having accolades to his name in various national-level championships. A few years ago, he was introduced to golf, and in a short span of time, he developed deep admiration for the sport. Over time, he honed his skills to achieve an impressive handicap of around ten. His dedication to the sport and remarkable performance were recently recognized when he clinched the 15th Hindu College OSA tournament and 1st Northend Super Golf series, held at Qutab Golf Course. His association with sports makes him keenly interested in the membership of the Qutab Golf Course, which is a public facility managed entirely by the DDA – a government authority. The Golf Course, established on a vast expanse of government land and maintained using government resources, offers membership tenures to both government employees and general public.

3. *Membership fee discrepancy:* The crux of the Petitioner's grievance hinges on the exorbitant membership fees of the Qutab Golf Course. There is a steep difference in the prevalent fee structure for government employees and private individuals. He emphasizes the apparent inequality by referencing to the following fee break-up mentioned in the public notice:

<i>S. No.</i>	<i>Category</i>	<i>Entry Fee</i>	<i>Monthly Subscription</i>
<i>Government</i>			
1.	5 Years	Rs.2.95 lacs	Rs.1,416/-
2.	3 Years	Rs.1.77 lacs	Rs.1,416/-
<i>Non-government</i>			
1.	5 Years	Rs.8.85 lacs	Rs.2,124/-



2.	3 Years	Rs.5.31 lacs	Rs.2,124/-
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4. *Misuse of public resources:* The Petitioner contends that utilization of the allotted public land and government funds for the benefit of a select group of elite government servants and private individuals is antithetical to the broader principles of public policy. Such practices, he argues, stand in stark contrast to the objectives outlined in various National Sports Policies. The overarching intent of the government's sports policies, such as the National Sports Development Code, Fit India Movement and Khelo India, is to foster widespread public participation in sporting activities. These policies aim to achieve a dual goal – promoting sports as a mass activity while also nurturing excellence at the highest echelons. The afore-mentioned initiatives demonstrate government's commitment to enhancing India's sports culture, right from the grassroots through structured talent identification and nurturing.

5. *Legal precedent:* It is contended that the impugned notice runs afoul of the directives of the Supreme Court of India elucidated in the case of ***Krishan Lal Gera v. State of Haryana***.¹ In this case, the Apex Court critically examined the issue of a sports stadium being misappropriated for activities unrelated to sports. The Court observed that sports stadia cannot be used for personal enrichment or for serving the interests of a privileged few. Reliance is further placed on order dated 13th July, 2023 of this Court in ***Prem Nath Vasistha v. Union of India and Ors.***²

¹ (2011) 10 SCC 529.

² W.P.(C) 7540/2020.



Respondent's contentions

6. Mr. Sanjay Katyal, representing the DDA, vehemently contends that the current petition is a stark misuse of the judicial process. He underscores that the fee stratification across different categories possesses clear and discernible rationale and does not transgress the tenets of Article 14 of the Constitution of India, 1950, which guarantees equality before law. Mr. Katyal points out that the differential fee structure for government and non-government categories is not unique to Qutab Golf Course and other courses, constructed on government lands, also follow similar stratifications. He further illuminates the financial strains that Qutab Golf Course, being entirely reliant on the membership fee and green charges, grapples with. The club registered a significant loss of Rs. 8.70 crores during the financial year 2021-2022 and Rs. 5.57 crores for the year 2022-2023. In light of these financial challenges, he argues that the DDA has prudently calibrated its fee structure to ensure sustainable upkeep and maintenance of the Golf Course.

Analysis and findings

7. The matter at hand, pertaining to the differentiation in membership fees of the Qutab Golf Course, isn't one that is being presented to this Court for the first time. A learned Single Judge of this Court, in W.P.(C) 3365/2002, shed ample light on this very contention, providing a logical and reasoned perspective behind the difference in the fee structure. This decision, further reinforced by the Division Bench in LPA 526/2002, forms a substantial precedent for our deliberation. The order of the Division Bench reads as under:

"1. The membership fee of different categories of members prescribed by the DDA for Qutab Golf Course under the Qutab Golf Course Rules and Regulations



was challenged by the appellant by filing W.P.(C) No.3365/2002 under Article 226 of the Constitution of India on the ground that it is based on arbitrary exercise of discretion. The learned Single Judge has repelled this contention holding that the categories formed are based on intelligible differentia and the higher charges prescribed for non government members and even further higher fee for corporate members is quite reasonable. Merely because the charges payable by the government employees is lesser would not mean that the non government employees or corporate members can also claim the same membership fee. We may reproduce the following observations of the learned Single Judge:

“Learned counsel for the petitioner further contends that the classification has been made of various kinds of memberships which has no co-relation to the object sought to be achieved. I am unable to agree with the contention of the learned counsel for the petitioners. The categories formed are based on intelligible differentia. Further the concept of prescribing different charges for government employees and non government category is prevalent in most clubs. In the present case we are concerned with a sports activity and the maintenance of a Golf Course would requires considerable amount for maintenance. It is in these circumstances that higher charges have been prescribed in case of non government membership and even higher fee for corporate membership.

It may be noted that the setting up a Golf Course is not in the normal line of activities of DDA like construction.

I am of the considered view that the petitioner does not have any right to seek membership at lower rate nor is the impugned action of the respondents such as which would call for any interference under Article 226 of the Constitution of India.”

2. We are in agreement with the aforesaid view taken by the learned Single Judge and do not find any merit in this appeal.

Dismissed.”

8. Having considered the rationale put forth by the learned Single Judge in the aforesaid order, we now turn our attention to the present case. In our assessment, the petition, as framed, stands on shaky grounds. The Petitioner is not being denied the chance to become a member of the club, instead, the bone of contention is the quantum of the membership fee. A simple disparity in the fee structure, providing concessions to government employees, does



not automatically translate into arbitrariness. This distinction is based on intelligible differentia, rooted in the variation in salary brackets and resources available to government employees, as compared to their privately employed counterparts. Contrary to Petitioner's claim that such facilities are exclusively reserved for the 'elite government servants', the reality stands otherwise. The determination of the membership fee by the golf course emerges from a multitude of factors, weighing in the operational costs, maintenance, and other logistical considerations. Notably, such differential pricing, especially when it comes to clubs and recreational spaces, is not a concept alien to our society. In absence of manifest arbitrariness, the impugned fee structure does not present itself as a case for judicial examination. In light of the information presented to this Court, the assertion that the sports facilities are being exclusively commandeered by those disconnected from the sports realm for private benefits, also appears unfounded.

9. Petitioner's submissions seem to heavily endorse the notion that the facilities should be availed at no cost, especially since the Golf Course is established on government-owned land. This perspective is not entirely aligning with the practical nuances of the matter. It is crucial to recognize that the sport in discussion – golf – demands meticulous and regular maintenance of its courses, which undeniably requires substantial resources. These upkeep necessities inevitably lead to the levy of high membership or user fees. As highlighted by Mr. Katyal, the very maintenance of the infrastructure places a significant financial burden on DDA. Thus, the fixed membership charges are not arbitrary, but a result of thoughtful deliberation, aiming to strike a balance between providing top-notch facilities and



maintaining them. The mere fact that the DDA falls under the aegis of the government does not absolve it from financial practicalities. Generating revenue, in this case through membership fees, is indispensable to ensure that the golf course remains in prime condition and continues to offer premier facilities to its members.

10. The precedent of *Krishan Lal Gera (Supra)*, cited by Petitioner, in the Court's assessment, is inapplicable to the circumstances presented in the case at hand. The background to observations of the Supreme Court referred to by the Petitioner, is entirely different from the case at hand. The issue before the Supreme Court pertained to use of a stadium, meant for public benefit and sports promotion, for non-sports commercial activities, such as a bar, restaurant, venue for private events. Pertinently, the matter was remanded to the High Court of Punjab and Haryana for deliberation on the issues framed in paragraph 35 of the judgement. Similarly, the order dated 13th July, 2023, in W.P.(C) 7540/2020 does not provide a relevant parallel, as that case specifically revolved around the reservation policy of the Delhi Golf Course and the extension of membership privileges to 'senior dependents' of existing members, as opposed to the general public.

11. For the foregoing reasons, this Court is not persuaded to entertain the present petition.

12. Dismissed *in limine*, along with pending application.

SANJEEV NARULA, J

SATISH CHANDRA SHARMA, CJ

AUGUST 24, 2023/As/d.negi