

**OFFICE OF THE RETURNING OFFICER
ELECTION OF THE EXECUTIVE COMMITTEE OF THE
VOLLEYBALL FEDERATION OF INDIA [2024 - 2028]**

16th February 2024

ORDER

Hon'ble High Court of Delhi at New Delhi in W.P.(C) 2136/2024 *Amir Singh versus Union of India and others* has, on 16.02.2024, observed as follows:

"As such, despite this Court being circumspect about interfering with the election process once it has already commenced and reached an advanced stage, in the peculiar facts and circumstances of the present case, the election process pursuant to notice dated 19.01.2024 (Annexure C) is stayed, till the next date of hearing."

A copy of the judgment in the matter is enclosed. Next date of polling shall be notified later.


Justice P. Krishna Bhat (Retd.)
Hon'ble High Court of Karnataka

Returning Officer for the elections of the VFI [2024]

Justice P. Krishna Bhat (Retd.)
Hon'ble High Court of Karnataka
And

Returning Officer
V.F.I Elections - 2024



\$~70

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2136/2024

AMIR SINGH

..... Petitioner

Through: Mr. Rahul Mehra, Sr. Adv. along with
Mr. Hemant Phalpher, Mr. Chaitanya
Gosain, Mr. Anand Thumbayil and
Mr. Auitro Mukherjee, Adv.

versus

UNION OF INDIA AND OTHERS

..... Respondents

Through: Mr. Anil Soni, CGSC along with Mr.
Devvrat Yadav, GP and Mr. Sahej
Garg, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

16.02.2024

%

W.P.(C) 2136/2024 & CM APPL. 8885/2024 (on behalf of the petitioner for interim relief under Section 151 CPC r/w Article 226 of the Constitution of India)

1. CM APPL. 8885/2024 is an application filed by the petitioner seeking stay of the election process of the respondent no.2/Volleyball Federation of India (“VFI”) initiated *vide* the election notice dated 19.01.2024 issued by the Returning Officer.
2. The present petition has been filed by a former sportsperson in the sport of volleyball, who is also a recipient of the Arjuna Award. As recorded in the order dated 14.02.2024, the primary grievance of the petitioner is that the affairs of the VFI are being conducted in utter and patent violation of the directions contained in the judgment dated 16.08.2022 passed in



W.P.(C)195/2010 reported as *Rahul Mehra v. Union of India*, 2022 SCC OnLine Del 2438.

3. Vide the said judgment, a Division Bench of this Court has prescribed certain mandatory compliances and issued directions to be complied with by all the National Sports Federations (“NSFs”) for good governance and transparency in sports federations.

4. Particular attention has been drawn to the aspect of - (i) the inclusion of sports persons of outstanding merit with voting rights in the general body and/or executive committee of NSFs; (ii) the mandatory requirement/s to make the directions contained in the judgment dated 16.08.2022 and the National Sports Development Code of India, 2011 (“**Sports Code**”) applicable to all associations affiliated to NSFs i.e. the state associations and the district associations. In this regard, during the course of arguments, specific reference has been made to the following portions of the aforesaid judgment dated 16.8.2022:-

“63. The Sports Code mandates a minimum of 25% sportspersons with voting rights both in the management of a NSF (EC) as well as in a total number of members representing the Federation (GB). The 25% is only an indicative figure. It sets the bare minimum that must be ensured. There is no bar to this number increasing. The Sports Code has to be read as an enabling code and not as a restrictive document. Sportspersons are important stakeholders, they would best espouse the concerns of players and would benefit the administration of a NSF with their experience and knowledge. Therefore, their inclusion in the General Body and in the EC would augment the objectives of the Sports Code. Keeping in mind the minimum requirement and the need to have more eminent players who have represented the country, it is desirable that the number of sportspersons with voting rights in the General Body should be equal to at least the NSFs representing Olympic sports. This category shall have equal number of women and men. If need be, on rotational basis for each successive tenure.

xxx

xxx

xxx

(x) 25% prominent sportspersons of outstanding merit with voting



rights in General Assembly and EC is mandatory in terms of clause 3.20 of 2001 Guidelines and para 9.3 (xii) of the Sports Code.

73. This issue has already been dealt with hereinabove, but for the sake of detail some relevant provisions of the Sports Code are addressed here.

74. Clause 3.20 of the 2001 Guidelines requires inclusion of prominent sportspersons of outstanding merit as members of the respective sports federations on a tenure basis. The strength of such prominent sportspersons with voting rights should be a certain minimum percentage (say 25%) of the total members representing the federation.

75. The Clause 9.3(xii) of the Sports Code requires that the National Sporting Organizations must meet, inter-alia, the following criteria:—

“Include sportspersons (say 25%) with voting rights in the management of NSFs.”

76. On 13.12.2017, this Court had noted the necessity for mandatory compliance of Clause 3.20 above, i.e., for provision for at least 25% representation of prominent sportspersons in the management of NSFs and IOA. It was directed, inter-alia, as under:—

“The application seeks interdiction with the electoral process initiated by the IOA for election of its Office Bearers. Although several contentions were urged and the counsel for the IOA too opposed the grant of interim relief at this stage, we are of the opinion that it would be inappropriate to stall or injunct the election process. However, at the same time it is made clear that election results shall be subject to the outcome of this application. Further, the respondents are hereby directed to ensure that for the purposes of election, all the provisions of the Sports Code including the condition under paragraph 3.20 of Annexure-II and conditions held applicable by this Court in its judgment reported as Indian Olympic Association v. Union of India, 2012 DLT 389 are strictly followed. Furthermore, the respondents UOI shall also ensure, that National Sports Federations that have been de-recognised are not reckoned for the purposes of electoral college. Successful candidates shall be informed about this order while declaring the results.”

77. The Code of Ethics and other texts of the IOC mandates that there should be due representation of women and athletes in the governing bodies. Clause 2.4 of the said Code reads as under:—

“Representative governing bodies

Members of the organization should be represented within the governing bodies, particular women and athletes.

Special care should be taken for protection and representation of minority groups.”

78. In its Dossier, presented to the IOC, the Government had highlighted this issue, inter-alia, as under:—

“97. The IOA's Constitution itself raises several issues in relation



to Good Governance which need immediate redressal as is evident from the following:

- Chapter 4 of the Olympic Charter prescribes the procedure and Guidelines for the National Olympic Committee (NOC), including, inter alia, composition of members.*
- Rule 29.1 contains the mandatory composition of an NOC*
- Sub Rule 1.3 thereof, makes provision for active athletes and retired Olympians, to be included in the composition of the NOC with the condition that they must retire from their posts at the latest by the end of the third Olympiad after the last Olympic Games in which they took part.*
- No such mandate for inclusion of athletes exists in the Charter of the Indian Olympic Association despite the fact that adherence to the Rule 28 & 29 are mandatory for the recognition of the NOC.*
- Moreover, the List of Members appended to the IOA Constitution reveals the absence of reservation for active/retired athlete (Olympian) in its membership.*
- Similarly, Rule 29.2 of the Olympic Charter recognises the ability of an NOC to include as Members (i) National Federations affiliated by the IOC, sports of which are not included in the Programme of the Olympic Games; (ii) multi-sports groups and other sports oriented organisations or their representatives as well as nationals of the country liable to reinforce the effectiveness of the NOC or whoever render distinguished services to the cause of sport and Olympism. However, no right of voting is contemplated in regard to these bodies and the same is restricted only to National Federations affiliated to International Federations governing sports included in the Olympic Games or their representatives.*
- A perusal of the IOA Constitution however, reveals that in addition to the National Federations referred to in Rule 29.1.2 of the Olympic Charter, the IOA Constitution empowers various 'State Olympic Associations' and Federations/Sports Associations to vote, which is a clear departure from the binding mandate of the Olympic Charter.*
- Similarly, a large number of national federations dealing with indigenous sports have also been given voting rights whereas the Indian Golf Union, which falls within Rule 29.1.2 of the Olympic Charter, has been denied recognition for reasons best known to IOA and its application for membership remains pending for long without any overt justification.*
- Additionally, the disproportionate voting rights given by the IOA to entities other than National Sports Federations dealing with Olympic Sport and/or International Federations recognized by the IOC also heightens the possibility of misuse and defeats the intent*



expressed by the Olympic Charter of National Sports Federations constituting a voting majority in every NOC.”

79. *BCCI (supra), has held that an association of cricket players would undoubtedly give to the cricketing community not only an opportunity to contribute to the promotion of the game but a sense of participation as well. It further held that the recommendation requiring financial support to the players association cannot, therefore, be rejected especially when the extent of such support is left to the BCCI (to be decided on a fair and objective view of its financial resources and commitments).*

80. *The primary objectives of any sports body/sports federation would be to support the players and budding talent to excel in the sport. In deserving cases, it may even extend to interim financial stipends and/or requisite sports gear and sports facilities. This vital supportive and nurturing facet of a sports federation needs to be considered by the IOA and the NSFs. Players from the village level right up to the national level should be rendered assistance and financial support to the extent possible, lest budding talent be subsumed by extraneous circumstances. There are frequent reports in newspapers of a sporting talent or a national player or a person who has won laurels for the country in international sporting events, giving-up the sport due to economic reasons and being compelled to selling food, fruits, vegetables, etc. by the street side.*

xxx

xxx

xxx

114. *Consequently, this Court is of the view that the Sports Code must be made applicable to every constituent of every NSF, including IOA as well as its constituents. This is conceded by Union of India in its affidavit dated 3rd October, 2012, wherein it is stated, “In response to para 17 it is submitted that the Government Guidelines of 1st May, 2010 are binding on the National Sports Federations recognized by this Ministry. Be that as it may, as a matter of Basic Principles of Good governance and International Best Practices including restrictions on age and tenure as mandated in the Olympic Charter, what is good for the parent NSF's including IOA should also be good for their Members State/District Level Federations and/or Associations.” Accordingly, respondent No. 1/Union of India is directed not to grant recognition or any facility (monetary or otherwise) to the IOA or to any NSF and/or any of its affiliated Associations, if they refuse to comply with the Sports Code as directed by this Court.”*

5. *Vide order dated 14.02.2024, Mr. Anil Soni, learned CGSC appearing for the respondent no.1/UOI was directed to take specific instructions as to whether the VFI is compliant with the directions contained in the judgment*



dated 16.08.2022, and the Sports Code, 2011.

6. Mr. Anil Soni, learned CGSC has fairly stated that the VFI is not compliant with the mandatory stipulations laid down in the judgment dated 16.08.2022. He has also drawn attention to an order dated 13.05.2023 issued by Department of Sports, Ministry of Youth Affairs and Sports, Government of India, whereby, in view of the fact that the existing constitution of the VFI was not fully compliant with the provisions of the Sports Code, an ad-hoc committee was appointed to take charge of the affairs of the VFI. Para 6 of the said order dated 13.05.2023 specifically records as under :-

“6. Whereas the Ministry has also noted that the existing constitution of the VFI is not fully compliant with the provisions of the Sports Code, 2011, as there are certain provisions in the existing constitution such as absence of the provision of 25% posts in the EC for prominent sportspersons, absence of an Internal Complaints Committee to look into complaints of sexual harassment, scope for proxy voting, presence of supernumerary posts, shortcomings in the process of appointment of Returning Officer for conducting elections, all of which need to be corrected at the earliest.”

7. Para 8 of the said order also records as under :-

“8. Therefore, in the exercise of the powers under the Sports Code, and considering the impasse in the VFI, the IOA is hereby requested to constitute a Transitory Committee or Ad Hoc Committee to conduct the election of the EC of the VFI within 45 days of its formation, and also to manage the affairs of VFI, including the selection of athletes and making of entries for the participation of sportspersons in international events, for the interim period till fresh elections are held and the newly elected EC takes charge. For conduct of fresh elections of EC of VFI, the size of the EC will stand restricted to 12, and the number of office bearers and other positions shall be as per the provisions of the Sports Code.”

8. The last sentence of the aforesaid para 8 specifically contemplates that any elections to the VFI must conform to the Sports Code. This would necessarily imply making changes in the constitution of the VFI so as to make the same compliant with the Sports Code and also with the aforesaid



judgment dated 16.08.2022 passed in W.P. (C) 195 of 2010. Admittedly, this has not been done, nor any road map prepared for the said purpose.

9. The general body of the VFI comprises of nominees of various affiliated State Associations. This forms the electoral college for the purpose of elections of the Executive Committee (EC).

10. It transpires that prior to the issuance of the election notification dated 19.01.2024, no steps have been taken to ensure that the general body of the VFI (which is the electoral college for electing the EC) comprises of persons who are nominated by such state associations, which are themselves compliant with the requirements imposed *vide* judgment dated 16.08.2022.

11. In the judgment dated 10.02.2023 passed by a Division Bench of this court in W.P.(C) 8915/2019& Ors., reported as ***K.P. Rao v. Union of India***, 2023 SCC OnLine Del 779, pertaining to Amateur Kabaddi Federation of India, in the context of dealing with submissions that the constitution of the said federation was not in compliance with the Sports Code and/or the judgment dated 16.08.2022, the Division Bench of this Court has specifically noted as under :-

*“38. Further as noticed hereinabove in Rahul Mehra (supra), the Division Bench has clearly held that **the Sports Code must be made applicable to every constituent of every National Sports Federation.** Only its players will have an opportunity to participate in district, state and national level events and avail of the facilities that are made available by the AKFI and the Government and even have an opportunity to represent India in international level events.”*

12. Taking the aforesaid into account, it was, *inter alia*, held in that case as under :-



“62. Since the AKFI continues to be under the control of the Administrator and elections of the Executive Committee of AKFI have to be held, the petitions are disposed of in the following terms:

(i) ... (ii)

(iii) all the State and District Associations and bodies, if they want to continue to be members of the AKFI have to amend their Memorandum of Associations/Constitutions and bring them in conformity with the Sports Code particularly in respect of the Age and Tenure restrictions imposed by the Sports Code; and

(iv) ...

(v) *the representatives of the State Associations to the National Federation have to be compliant of the ‘age and tenure restriction’ imposed by the Sports Code and likewise the representatives of the District Associations/bodies to the State Association have to be compliant of the ‘age and tenure restriction’ imposed by the Sports Code; and*

(vi) if the representatives of the State Associations to the National Federation and the representatives of the District Associations/bodies to the State Association are not compliant of the ‘age and tenure restriction’ imposed by the Sports Code, then they shall not constitute the electoral college and shall be disqualified from contesting for any post of the executive committee and also from casting their vote for such an election; and

(vii) ...

(viii) the election notification dated 07.08.2019 for elections to the AKFI and the notification of the electoral college of AKFI issued by the Administrator are quashed; and

(ix)... (x)”

13. As such, this court did not allow elections to take place unless the concerned State associations (which sends nominees/ representatives to the concerned NSF) were fully compliant with the Sports Code and/ or the judgement dated 16.8.2022. As already noticed, in the present case, no steps whatsoever have been taken by the ad-hoc committee after its constitution



vide the aforesaid office order dated 13.05.2023, to ensure that the various district associations/state associations are compliant with the requirements of the Sports Code and/or the judgment dated 16.08.2022.

14. Further, the charter/constitution of the VFI is itself non-compliant with the Sports Code and/or the judgment dated 16.08.2022 inasmuch there is no provision/mechanism for inclusion of sports person/s in the general body or in the executive committee.

15. Admittedly, inclusion of sports person in the general body and/or executive committee depends on the fortuitous circumstance of various state associations nominating some sportsperson/s to be their representatives/nominees in the general body of the VFI. This is not in accord with what has been laid down in the judgment dated 16.08.2022.

16. As noticed in the order dated 14.02.2024 in these proceedings, a Division Bench of this Court *vide* order dated 01.09.2023 passed in W.P.(C) 8691/2020, has *inter alia*, held as under :-

“It is further made clear that in respect of all future elections, the respondent/Union of India shall ensure strict compliance of the judgment delivered in W.P.(C) 195/2010 dated 16.08.2022.”

17. Thus, in terms of the aforesaid directions of the Division Bench, it is mandated that there should be strict compliance with the judgment dated 16.8.2022, and it is impermissible to hold elections in disregard thereof.

18. Further, a coordinate bench of this Court *vide* judgment/order dated 27.09.2023 in W.P.(C) 10138/2023, while dealing with the contentions regarding disregard of directions contained in the judgment dated 16.08.2022 in W.P.(C) 195/2010 in the context of the Gymnastics Federation of India, has specifically observed as under :-



“27. It is, therefore, discernible that the respondents have taken a stand that out of the 13 pitfalls noted in the order passed by the Division Bench of this court in W.P.(C) 195/2010, issue nos. ii, iii, iv, vi, vii and viii do not apply to a National Sports Federation. According to the respondents, these issues pertain to the internal functioning of the IOA, which is a sui generis body.

28. A perusal of paragraph no.18 of the additional affidavit would also indicate that respondent No.2-GFI in its understanding, endeavours to follow the spirit of the judgment dated 16.08.2022. At the same time, it also raises doubt as to whether the judgment and order dated 16.08.2022 should at all be made applicable to respondent no.2-GFI.

29. It is, thus, seen that there is a dispute between the parties with respect to not only compliance of the directions passed by this court but also with respect to the very applicability of those directions to respondent no.2-GFI. Even the stand of respondent no.1-UOI in its affidavit in W.P.(C) 8691/2020 is not specific to the extent of confirming the compliance of the directions passed by this court.

30. The Hon'ble Supreme Court in its order dated 17.07.2023 made it clear that the pendency of the said writ petition shall not stay any proceedings which may be pending before the High Court in relation to other sports federations.

31. It is, thus, seen that in the instant writ petition, this court has to adjudicate whether all the directions passed by this court in W.P.(C)195/2010 are applicable to respondent no.2-GFI. The second issue which requires to be adjudicated is whether the respondent no.2-GFI is at all in compliance with the mandate under the Sports Code in addition to the directions passed by the Division Bench in W.P.(C) 195/2010.

32. As of now, the order dated 01.09.2023 passed in W.P.(C) 8691/2020 unequivocally states that in respect of all future elections, the respondent no.1-UOI shall ensure strict compliance of the judgment delivered in W.P.(C) 195/2020. Therefore, in the absence of there being full satisfaction with respect to the compliance of those directions, this court is of the considered opinion that the petitioner is able to make a prima facie case in its favour that the respondent no.2-GFI is in non-compliance of the mandate of the order dated 16.08.2022 passed in W.P. (C) 195/2010.

33. As long as the interim order dated 01.09.2023 passed in W.P.(C) 8691/2020 is in operation, respondent no.2-GFI is bound by the same. Respondent no.2-GFI cannot expect any dilution of the order of the Division Bench in the instant writ petition.

34. If the order dated 01.09.2023 is to be understood in its right perspective, the same clarifies that the order dated 16.08.2022 passed in W.P.(C) 195/2010 has full application on all National Sports Federations. Unless the respondents satisfy that they are in full compliance of the Sports Code and the directions dated 16.08.2022 in W.P.(C) 195/2010, they cannot be allowed to conduct any fresh election contrary to the said binding orders.



35. *Unless the matter is fully heard by this court, at this stage, there is a serious doubt about compliance of the mandate of the Sports Code and the directions passed in W.P.(C) 195/2010 dated 16.08.2022.*

36. *Accordingly, it is directed that there shall be a stay of the impugned notice dated 07.07.2022 regarding the election of the office bearers and members of the executive committee of respondent no. 2-GFI till the next date of hearing.”*

19. Despite, an LPA being filed against the said order dated 27.09.2023, no interim stay has been granted by the Division Bench seized of the said LPA.

20. Further *vide* order dated 01.02.2024 passed by a Division Bench of this Court in W.P.(C) 8691/2020, the statement on behalf of the Union of India has been recorded to the effect that the directions contained in the judgment dated 16.08.2022 apply to all NSFs. The said order also records that the pendency of appeal before the Supreme Court shall not impact any proceeding/s which may be pending in relation to other sports federations. The relevant portion of the order dated 01.02.2024 is reproduced as under:-

“3. To be noted, this direction was issued to progress the directions contained in the judgment dated 16.08.2022 passed in W.P.(C) No.195/2010.

3.1 We have specifically asked Mr Anil Soni, learned CGSC, who represents the Union of India (UOI), as to whether according to UOI, the judgment dated 16.08.2022 is applicable to the National Sports Federation (NSF), apart from the Indian Olympic Association (IOA).

3.2 Mr Soni, in no uncertain terms, says that the directions contained in the judgment dated 16.08.2022 would apply to the NSF as well.

4. We tend to agree with Mr Soni. In our view, the judgment dated 16.08.2022 is a judgment in rem and therefore the directions contained therein will apply mutatis mutandis to the NSF, including the applicant/federation.

5. At this stage, Mr Barua says that since the judgment dated 16.08.2022 was stayed by the Supreme Court via order dated 18.08.2022, the directions contained therein cannot be progressed any further.

5.1 It is not disputed by Mr Barua or by Mr Soni that the Supreme Court via a subsequent order dated 17.07.2023 has, inter alia, observed as follows:

“3. The pendency of these proceedings shall not stay any proceedings which may be pending before the High Courts in relation to other sports federations.”

6. Therefore, respectfully stated, our understanding is that the Supreme Court



has permitted the continuation of proceedings in the pending writ petitions, including the above-captioned writ petition.

7. The other contention articulated by Mr Barua is that since the judgment dated 16.08.2022 was tendered keeping in mind the structure of the IOA, it cannot possibly apply to NSFs, including the applicant-federation.

8. As indicated hereinabove, the directions contained in the judgment can apply only mutatis mutandis. Thus, if any direction is peculiar to only the parties who stand arrayed in WP(c) 195/2020, in which the judgment dated 16.08.2022 was rendered, as and when such issue is brought to the notice of the Court, appropriate orders will be passed. Short of this, there will be strict compliance with the directions contained in the judgment dated 16.08.2022.”

21. Also, a Coordinate Bench of this Court *vide* judgment dated 02.05.2023 in W.P.(C) 1731/2023 reported as ***Pondicherry Basketball Assn. v. Union of India***, 2023 SCC OnLine Del 2495, has held as under :-

“75. Where the undisputed material available on record suggests that a candidate or candidates are wrongfully and arbitrarily denied the right to contest the election, then it would indeed be highly improper, to ask the petitioner to wait till the returned candidate assumes the charge and only then seek a remedy. The lookout of the High Court is to see whether injustice has resulted on account of any decision by an authority falling within the meaning of Article 12 of the Constitution of India. The judicial review is designed to prevent and remedy cases of abuse of power or neglect of a duty by the public authority.”

22. Although, this Court is loath to interfere with the elections once the election process has started, it cannot be lost sight of the fact that the electoral college for the purpose of the ongoing election process is not in accord with what is contemplated in the judgment dated 16.8.2022. This is besides the fact that the constitution of VFI itself is evidently inconsistent with the mandatory directions contained in the judgment dated 16.8.2022.

23. It is difficult for this Court to disregard the non-compliance of the Sports Code and the mandatory requirements/directions set out in the judgment dated 16.08.2022. The respondents have also not been able to give a clear road map as to how and in what manner will the concerned NSF i.e. VFI, and its affiliated units, fall in compliance with the mandatory



requirements/directions set out in the judgment dated 16.08.2022. Such disregard of the judgment dated 16.08.2022 cannot be countenanced.

24. As such, despite this Court being circumspect about interfering with the election process once it has already commenced and reached an advanced stage, in the peculiar facts and circumstances of the present case, the election process pursuant to notice dated 19.01.2024 (Annexure C) is stayed, till the next date of hearing.

25. The respondents are directed to file a reply, which must clearly indicate the road map for making the concerned NSF/VFI compliant with the mandatory directions/ requirements set out in the judgment dated 16.08.2022 and/or the Sport Code. Let the same be filed within a period of two weeks from today. Rejoinder thereto, if any, be filed within a period of one week thereafter.

26. List on 21.03.2024.

SACHIN DATTA, J

FEBRUARY 16, 2024/r