

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Writ Petition No. 3447 of 2019

and

WMP No.3745 of 2019

S. Nithya

.. Petitioner

Versus

1. The Secretary to the Union of India
The Ministry of Youth Affairs and Sports
Room No.401, C-Wing, Shastri Bhawan
New Delhi - 110 001
2. Sports Authority of India
represented by its Authorised Signatory
Jawaharlal Nehru Stadium Complex (East Gate)
Lodhi Road, New Delhi - 110 003
3. Athletic Federation of India
represented by its Authorised Signatory
A-90, Naraina Industrial Area
Phase-1, New Delhi - 110 028
4. The Secretary to the Government of Tamil Nadu
Yough Welfare and Sports Development Department
The Secretariat, Fort St. George
Chennai - 600 009
5. Sports Development Authority of Tamil Nadu
Represented by its Authorised Signatory
No.116-A, Periyar E.V.R. High Road
Nehru Park, Chennai - 600 084

6. Tamil Nadu Athletics Association
represented by its Authorised Signatory
No.81, Jawaharlal Nehru Stadium
Periamet, Chennai - 600 003

7. Mrs. C. Latha
Honorary Secretary
Tamil Nadu Athletic Association
No.81, Jawaharlal Nehru Stadium
Periamet, Chennai - 600 003

8. The Secretary
Indian Olympic Association
Olympics Bhawan
B-29, Qutub Industrial Area
New Delhi - 110 016

9. The Secretary
Tamil Nadu Olympics Association
No.78, Jawaharlal Nehru Stadium
Sydenhams Road, Periamet
Chennai - 600 003
(RR8 and 9 were suo motu impleaded
as per order dated 28.10.2021 made
in WP No. 3447 of 2019)

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 4:

(i) to commence online registratin system with immediate effect for all the District Level, State Level and National Level Athletics Championships, Competitions, Meets and Events, similar to the model followed in Federation Cup Athletics Championships and to publish online the amounts allotted and spent on each athlete for such events;

(ii) Directing the strict implementation of the National Sports Development Code, 2011 in the State of Tamil Nadu with immediate effect;

(iii) Directing the divesting of the sixth respondent in the present form of its powers and its affiliation with the third respondent and directing the reformation of the sixth respondent by restructuring it with eminent sports persons

(iv) Directing an enquiry/investigation into the management of funds, affairs and functioning of the sixth respondent under the seventh respondent

(v) Directing the constitution of a Special Committee with eminent sports persons, to affiliate with the third respondent and to regularise the conduct of athletics Championships, competitions, meets and events in Tamil Nadu and to function till the restructuring of the sixth respondent with eminent sports persons

(vi) Directing the respondents 1 to 4 to make appropriate safety arrangements and provide proper places of accommodation to women athletes for all State Level and National Level Athletics Championships, Competitions, Meets and Events.

For Petitioner : Mr. S. Anil Sandeep

For Respondents : Mr. G. Ilangovan
Central Government Standing Counsel for RR1 to 3

Mr. Stalin Abhimanyu
Government Counsel for R4

Mr. Alagu Raman for R5

Mr. P. Chandrasekar for R6

Mr. R. Venkataraman for R7

Mr. Hemant Phalpher for R8

Mr. Haja Mohideen Gisti for R9

ORDER

This order is organised in the following manner for better analysis and proper understanding:

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I. FACTUAL BACKGROUND

The petitioner has come forward with this writ petition seeking to issue a Writ of Mandamus directing the respondents 1 to 4 to commence online registration system with immediate effect for all the District Level, State Level and National Level Athletics Championships, Competitions, Meets and Events, similar to the model followed in Federation Cup Athletics Championships and to public online the amounts allotted and spent on each athlete for such events and for other reliefs.

2. The petitioner is an athlete, who has participated in Discus Throw events and has won several medals in the State and in South India. She is the recipient of a silver medal in Senior State Athletics Championship, 2017 held at Chennai and has bagged a gold medal in 2018 held at Tirunelveli, Tamil Nadu. The petitioner was also recipient of various medals at various events, held at various periods.

3. The grievance of the petitioner is that in spite of her stellar performance, she was denied entry by the sixth respondent to participate in the Open National Championships for the years 2017 and 2018. According to the petitioner, every year, Senior Athletics Championships and all Athletes, who secure gold and silver medals thereon will be automatically permitted to participate in the Open National Championships conducted by the second and third respondents. In her case, despite achieving the required qualifying standards, winning Silver medal in 2017 and gold Medal in 2018, she was deprived of permission to participate in the Open National Championships by the sixth respondent, for the reasons unknown to her. On the other hand, those athletes, who performed less than that of her, were given a chance to participate in the Open National Championships, 2017 held at Chennai. Thus, she was discriminated and overlooked by the respondents from participating in the Open National Championships.

4. The petitioner would further state that she hails from a lower economic background of the society and if she is motivated and given opportunities, she would excel well in the Discus throw events, in which she is specialised. On the other hand, the official respondents adopt pick and choose method to select athletes thereby ignoring and overlooking well merited athletes like her. The petitioner also states that the Central Government provides infrastructure and allocates huge funds as grants and aids for development of sports and for welfare of athletes through the second, third and fourth respondents. The second and third respondents, in turn, organise sports activities in the State of Tamil Nadu through fifth and sixth respondents and provide funds to them. However, the petitioner was not provided with any nourishment or care by the sixth respondent during her participation in Discus throw events. Further, most of the athletes were not given proper accommodation, but they were made to sign blank forms to make it as if the funds allotted, have been duly spent for the sports personnel. That apart, without even conducting any training camp, records were created to make it that such camps were conducted by obtaining signatures of the athletes in blank papers, who participate in the meets. In one such instance, records were manipulated as if training camp was conducted by the sixth respondent between 11th September to 13th September 2018, for the 30th South Zone

Junior Athletic Championships held at Guntur between 15th September and 16th September 2018, but the fact remains that no such training camp was conducted. Thus, it is stated that there is no strict implementation of the National Sports Development Code, 2011 in Tamil Nadu and no proper mechanism has been put in place to strictly implement the Code. In the affidavit filed in support of the writ petition, the petitioner has referred to various short comings and the need to streamline all the activities of the sixth respondent.

5.(i) The learned counsel for the petitioner submitted that online registration system is in vogue for athletes participating in the Federation Cup Athletes Championships. The selection trials for international competitions like Commonwealth Games are done only through online mode. If the online mode is followed, the athletes who have performed over and above the standards set in, shall be given direct entry for the events on applying on-line with their credentials. This success formula could be directed to be adopted in all the athletics championships so that favouritism, nepotism and autocratic approach of the individuals governed by the sports bodies like the sixth respondent would be nullified.

(ii) Turning to the safety of women athlete, the learned counsel for the petitioner would contend that even though funds were allocated by the Central

and State Governments namely the respondents 1 to 5 herein, no proper safety measures or proper accommodation are put in place for women athletics like the petitioner. The lack of safety measures wean away the sports personnel from participating in the meets and events that take place at various places of the country. Therefore, a robust system has to be put in place whereby adequate safety measures for the athletes during their travel and proper accommodation be provided which would boost the participants.

(iii) The learned counsel for the petitioner impressed upon the need to commence on-line registration system with immediate effect for all District Level, State Level and National Level Athletics Championships, Competitions, Meets and Events similar to Federation Cup Athletics Championships and to publish online the amounts allotted and spent on each athletes for each events. Unless it is done, according to the learned counsel, young and vibrant athletes will hesitate to participate and their talent could not be identified and tapped.

(iv) Coming to favouritism and arbitrariness in the conduct of various events, the learned counsel brought to the notice of this Court that one Ratnesh Kumar Yadav had represented the State of Tamil Nadu in the National Junior Athletics Championships in the year 2016 for 5000 meters running event. However, he was not at all a resident of the State of Tamil Nadu or he participated in the National Junior Athletics Championships in the year 2016

for 500 meters. On the contrary, the athletes namely Mr. M. Vadivel, Mr. Vinothkumar and Mr. G. Vishnu have participated in the qualifying competition conducted by the sixth respondent and they scored the top three places. In spite of the same, the trio were sidelined and Mr. Ratnesh Kumar Yadav had been given opportunity to represent the State of Tamil Nadu.

(v) The learned counsel for the petitioner also submitted that what was mentioned above is only a tip of the ice berg and there are several mismanagement and mal-management are taking place in the conduct of the sixth respondent. It is further stated that the root cause for the favouritism or arbitrariness is that almost every office bearer in the sixth respondent is either a politician or a business man, who is totally not having any idea or knowledge about athletes or sports in general. In this regard, the learned counsel submitted a memo dated 14.07.2021 listing out the office bearers of the sixth respondent and their avocation. The list indicates that out of the several office bearers, only three persons are sports persons and the rest are non-sports persons. Unless eminent sports personnel are made part of the affairs of the sixth respondent, the State will grossly under-represented in various sports events, besides those who possess rich talent will not be given an opportunity to participate in the sports events.

(vi) The learned counsel for the petitioner proceeded to contend that the District Athletics Associations affiliated with the sixth respondent have utterly failed to discharge their duties. Even though the National Sports Development Code, 2011 proposes to bring about massive changes, the sixth respondent has not shown any seriousness to implement the same. There is a dire necessity to implement the Sports Code to revamp the State/District level sports bodies and to retrieve it from the clutches of politicians or businessmen. Therefore, the learned counsel prayed this Court to issue appropriate directions to the respondents in this writ petition.

(vii) In support of his contentions, the learned counsel for the petitioner placed reliance on the following decisions (i) **Board of Control for Cricket in India vs. Cricket Association of Bihar and others, [2015 (3) SCC 251]** in which the Honourable Supreme Court has appointed a committee headed by the former Chief Justice of India of the Supreme Court as Chairman and also two other former Honourable Judges of the Supreme Court as its members to go into the question of to probe into the complaints relating to match fixing and betting in Cricket; and (ii) **Indian Olympic Association vs. Union of India, [CDJ 2014 DHC 1649]** wherein a Division Bench of Delhi High Court has given several directions for the conduct of affairs of the Indian Olympic Association.

6. The learned Senior Central Government Standing Counsel appearing for the respondents 1 to 3, relied on the counter affidavit of the respondents 1 and 2 and contended that the qualifying norms for National Athletic Championships are set out by the third respondent - Athletic Federation of India and entries from Tamil Nadu are finalised by the Tamil Nadu Athletic Association, in which the second respondent - Sports Authority of India has no role to play. The Government of India, Ministry of Youth Affairs and Sports approves financial assistance in favour of National Sports Federation including Athletic Federation of India and they are passed on through the Sports Authority of India. The Sports Authority of India is also engaged in operation of various sports training centres all over India, including Tamil Nadu. The sole responsibility of selection of athletes and conduct of sports competitions (State level and National level) vests with the State Level Association of Sports discipline concerned. Therefore, the issues raised in the present writ petition have to be examined by the Government of Tamil Nadu and Sports Development Authority of Tamil Nadu and the second respondent - Sports Authority of India has nothing to do with the disputes raised by the petitioner. It is also submitted that it is the responsibility of the Government of Tamil Nadu to ensure that Sports Code is adhered to by all Sports bodies in the State of Tamil Nadu by putting in place an effective and robust system. While

so, the learned Senior Central Government Standing Counsel prayed for dismissal of the writ petition as against the first and second respondents.

7. The learned Government Counsel appearing for the fourth respondent, by placing reliance on the counter affidavit of the fourth respondent, would contend that Sports Development Authority of Tamil Nadu (SDAT) has provided safety arrangement and accommodation for participation of athletes at District/State Level Chief Minister Trophy. Further, SDAT has taken steps to depute a Coach, male as well as female to accompany the respective teams. Already, there is a mechanism put in place for redressal of grievance of the sports personnel. The safety of women sports persons is ensured by providing security guard in each SDAT premises. As per the directions of the Government of India, the Member Secretary, SDAT has been requested to prepare suitable instructions/code for governing State and District Level Sports Association to implement the National Sports Development Code of India. By a communication dated 29.11.2018, SDAT has been directed to submit a proposal to the Government, if any, further order is necessary to more effectively implement the Code. It is also submitted that already, the Tamil Nadu Government has taken steps to implement online registration for all competitions through-out the State. The learned Government Counsel therefore prayed for dismissal of the writ petition.

8. The learned counsel for the fifth respondent would contend that the State Sports Association will select the candidates on the basis of merits for participating in the National Championships. In this case, the sixth respondent has not selected the petitioner on the basis of her merits in which the fifth respondent has no role. It is also stated that the Sports Development Authority of Tamil Nadu has provided safety arrangement and accommodation for participation of candidates in District/State level only for the Chief Minister Trophy and not for all other events. Even though the Central Government in their letter dated 04.05.2018 issued guidelines for implementing the National Sports Code to ensure transparency in the selection of athletes, the sixth respondent failed to do so. At the same time, it is stated by the learned counsel that online registration system is already implemented by the Sports Development Authority of Tamil Nadu and it is exclusively used for State Level Chief Minister's Trophy and Carom Competitions only. The learned counsel further submitted that the Sports Association is under the control of the concerned federation and the role of Sports Development Authority of Tamil Nadu is limited only to sanction grants to develop sports and forwarding complaints, if any received. The learned counsel therefore prayed for dismissal of the writ petition.

9.(i) The learned counsel for the sixth respondent, reiterating the averments made in the counter affidavit filed by the sixth respondent, would vehemently oppose the writ petition. According to the learned counsel, they are the Sports Controlling Authority and have their association in every District. The Athletes have to represent their concerned Districts and to participate in the District Level Sports Meet conducted by the respective District Association. Based on their performance and recommendation by the respective District Association, the sixth respondent will recommend the name of the athlete to the second respondent.

(ii) As far as the petitioner is concerned, for the year 2017, the norms/eligibility for participation in the National Championship was fixed at 42.07 meters, but the petitioner achieved only 38.68 meters and therefore, she was not sponsored. For the year 2018, as per the norms, the athlete has to score 43.55 meters, but the petitioner scored only 41.10 meters. It is for this reason, the sixth respondent did not sponsor the petitioner and it cannot be termed as favouritism by the petitioner.

(iii) As far as allocation of funds, the fifth respondent allocates a sum of Rs.50,000/- to the sixth respondent for conducting State championship event. The actual expenditure to conduct the State Championship event will be Rs.10 to 15 lakhs and the sixth respondent is conducting the State

Championship through sponsors to meet the expenditure. The amounts received and spent have been recorded and reports are periodically sent to the fifth respondent and there is no mismanagement of the funds, as alleged by the petitioner. The fifth respondent awards Rs.60/- as DA and 1/4th of the actual travel allowance of the sports person to participate in the State Championship, whereas, the sixth respondent is paying Rs.100/- as DA. While so, there is no need for the sixth respondent to get any signature of the athlete in blank form, as alleged by the petitioner.

(iv) It is also stated that the sixth respondent had arranged a training camp before the South Zone Junior Athletic Championship held at Guntur in which 120 athletes had attended the camp. The petitioner did not attend the training camp and informed the sixth respondent that she will undergo training on her own. In any event, whatever funds allotted to the sixth respondent are being spent properly. The amount received and spent are subjected to periodical audit and the audited reports are placed every year in the General Body meeting. Therefore, the conduct of the sixth respondent is transparent and there is no mismanagement of funds, as alleged by the petitioner.

(v) With respect to online registration, it is stated that there are practical difficulties to provide online registration for State Level Championships and National Championships since the sports person should

come through the District Athletic Association only. The sixth respondent is following this procedure to motivate and promote sports in the District level. Any aspiring Athlete can participate in the events conducted by the Tamil Nadu Young Athletic Championship for which the sixth respondent is providing online registration. In any event, out of the seven National Championships conducted by the third respondent, for only one event namely Federation Cup Athletic Championship, online registration was provided and for the rest of the six National Championships, the third respondent allowed the athletes to participate through their concerned State Association. In such circumstances, the learned counsel prayed for dismissal of the writ petition.

(vi) However, the learned counsel for the sixth respondent made certain suggestions for the development of sports in Tamil Nadu and they are as follows:-

“1. This Honourable Court may be pleased to consider the appointment of any one of the Honourable Judges of this Honourable Court either sitting or superannuated, having interest/knowledge in Sports to be the Chairman of the Panel or Committee for the development of sports in the State of Tamil Nadu

2. Retired Indian Police Service Officers either in the Rank of DGP or ADGP who are eminent in any one of the sports may be kindly considered as a member of the Honourable Court appointed panel or committee

3. Retired Indian Administrative Officer in the rank of Chief Secretary or Additional Chief Secretary who has served in the department of Sports or Youth Welfare may be kindly considered as a member of the Honourable Court appointed panel or committee

4. Coaches of any one of the Sports or Athletes may kindly be considered as a member of the Honourable Court appointed panel or committee

5. President or Secretary who are Sports persons in the important sports association of Tamil Nadu may kindly be considered to be a member of the Honourable Court appointed panel or committee

6. Business persons, educationists and philanthropists, who are interested in the development of sports for the purpose of extending financial supports to the Sports Association, may kindly be considered to be a member of the Honourable Court appointed panel or committee

7. The Secretary of the Department of Sports Development and Youth Welfare may also kindly be considered to be a member of the Honourable Court appointed panel or committee

8. The Revenue Secretary, Government of Tamil Nadu may kindly be considered to be a member of the Honourable Court appointed panel or committee for the purpose of identifying government lands for utilising for sports development

9. The Finance Secretary, Government of Tamil Nadu, may kindly be considered to be a member of Honourable Court appointed Committee/panel to suggest to the government for sanctioning funds.

10. Eminent Advocates who are interested in Sports and Practising in the Principal Bench of Madras High Court and Madurai Bench also may kindly be considered to be a member of the Honourable Court appointed panel or committee

11. President of the Indian Olympic Association and Tamil Nadu Olympic Association may kindly be considered to be a member of the Honourable Court appointed Committee/Panel

12. Women who are having eminence in Sports also may kindly be considered to be a member of the Honourable Court appointed panel or committee to express their grievances and offer their suggestion for the development of sports."

With the above submissions, the learned counsel prayed for appropriate orders in this writ petition.

10. This court considered the submissions made by the respective parties and perused the materials available on record.

II ANALYSIS OF THE ISSUES THAT ARISE FOR CONSIDERATION

11. The petitioner has narrated as to how even after winning the gold medal in Senior State Athletics Championship, 2018 as well as the silver medal in the Senior State Athletics Championship, 2017, she was denied the chance to participate in the national championship. The case of the petitioner is an evidence of the fact that the disease is not just on the externally visible layers of the system, but has penetrated deep into every layer trickling down up to the lowest level of decision-making. This case is suggestive of the fact that it would not suffice, if the National Sports Federations(NSFs) alone are regulated. Rather what is essential is, every representative body which is in any way responsible for the selection of athletes on the basis of their merit and performance alone, is made accountable for their actions as well as for the financial aid received by them by the state.

12. As pointed out by the petitioner, in the present case, the sixth respondent is the sole body representing the State of Tamil Nadu for the purpose of selection of athletes who will later be considered by the third

respondent which is the Athletic Federation of India, i.e. the Sports Federation concerned at the national level. If the aspirations of talented sports persons like the petitioner are nipped in the bud by the Association concerned itself, especially when the said Association is the sole representative body of the specific field of sports, there is no chance that they will even be considered by the sports Federation at the national level and all their future prospects will be nixed at the first step itself. It is therefore seen that the rot lies not just at the highest echelons of the pyramid of power, but has travelled down to the base of the said structure. This reminds one of the analogy that taking a superfluous view on the matter by only making external changes without looking into the problems, which are the real reasons for such ignorance of merit, and the issues of favouritism and nepotism, in the system of selection of athletes, would be like using the skills of dermatology to cure the deep-rooted cells of cancer.

13. Apart from this, the memo filed by the petitioner would clearly show that the involvement and participation of sports persons are close to nil in respect of every other association, which plays a pivotal role in the selection of athletes for participation at the national level, which in turn, would decide their prospects for further participation at the international level events. For

useful reference, the contents of the memo filed by the petitioner may be extracted hereunder :

1. The petitioner had filed this writ petition to bring forth the difficulties faced by the athletes like her in Tamil Nadu and to bring to the attention of this Hon'ble Court the necessity to bring forth imminent changes in the functioning and regulation of the sports and athletics bodies.
2. The petitioners has stated in the writ petition that most of the office bearers of the 6th respondent are persons who are in no way connected to sports. Their designation in the 6th respondent, professional details and sportsman/sportswomen status are given below:

OFFICE BEARERS OF THE THE 6TH RESPONDENT

PRESIDENT	MR. W.I. Devaram	POLICE OFFICER (SPORTS PERSON)
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SENIOR VICE PRESIDENT	MR. SUDHAKAR	POLICE OFFICER (NON-SPORTS PERSON)
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VICE PRESIDENTS	Mr. T. KRISHNASAMY VANDIAR	POLITICIAN (NON-SPORTS PERSON)
	Mr. G. ANBALAGAN	POLITICIAN (NON-SPORTS PERSON)
	MR. D.MATHIYALAGAN	BUSINESSMAN(NON-SPORTS PERSON)
	MR. S. MALARVIZHI	BUSINESSMAN(NON-SPORTS PERSON)
	MR. S.MOHANDOSS	BUSINESSMAN(NON-SPORTS PERSON)
	MR. KWAITH RAJA	BUSINESSMAN(NON-SPORTS PERSON)
	MR. E.V.KAMBAN	POLITICIAN (NON-SPORTS PERSON)
	MRS. JEYANTHI NEELA SIVALINGASWAMY	NON-SPORTS PERSON
	MRS. SHINY WILSON	SPORTS PERSON
SENIOR JOINT SECRETARY	MR. VELU MANOKARAN	BUSINESSMAN (NON-SPORTSPERSON)

JOINT SECRETARIES	MR. S.OSMAN ALI	SPORTS PERSON
	MR. M. GOVINDA RAJU	POLITICIAN (NON SPORTS PERSON)
	MR. R.B.R. SHANMUGA SUNDARAM	BUSINESSMAN(NON – SPORTS PERSON)
	MR.V.PAKKIRISAMY	NON-SPORTS PERSON

3. Similarly, as per the information and understanding of the petitioners, the following non-sports persons are at the helm of the affairs in respect of some of the other sports bodies in Tamil Nadu mentioned below:

S.No.	Name of the Association	Person & Post	Profession / Sports person
1	Tamil Nadu Olympic Association	Mr. N. Ramachandran (President)	Business / Non-Sportsperson
2	Tamil Nadu Volleyball Association	Mr. Gautham Sigamani (President)	Politician / Non-Sports person
3	Tamil Nadu Badminton Association	Mr. Anbumani Ramadoss (President)	Politician / Non Sportsperson
4	Tamil Nadu Tennis Association	Mr. Karthi Chidambaram (Vice-President)	Politician / Non Sports person
5	TamilNadu Tennikot Association	Mr. M.V.M. Velmurugan (President)	Business / Non-Sports Person)
6	Tamil Nadu Squash Racket Association	Mr. N. Ramachandran (President)	Business / Non-Sports person
7	Tamil Nadu Roller Skating Association	Mr. C. Kasthuriraj (President)	Business / Non-Sports person)

14. What is at issue here is, not only their right to participate in a sports event, but importantly whether the sports organisation or association at

the state or District level or a Federation, which works at the national level, perform the functions akin to that of the state and thereby amenable to the jurisdiction of this Court under Article 226 of the Constitution, can act in an arbitrary manner so as to attract the rigour of Article 14 of the Constitution. It is in this legal and constitutional backdrop that the rights of the petitioner and many other similarly situated persons are to be viewed by this Court. The Supreme Court has observed in **Board of Control for Cricket in India v. Cricket Association of Bihar & Ors**, reported in (2015) 3 SCC 251, that *“any organization or entity that has such pervasive control over the game and its affairs and such powers as can make dreams end up in smoke or come true cannot be said to be undertaking any private activity”*. Thus, every such sports organisation, be it an Association, Club or Federation will have to act with utmost transparency and rectitude as it involves the rights of citizens as also the element of duty of State like authorities to act with fairness in action, being subject to judicial review.

15. In the background of the extensive powers given to the NSFs & IOA in the area of selection of athletes/sports persons for participation in international events, including the Olympics, it is essential that howsoever autonomous they may be, they must be made accountable to the Government

in their functioning as the issue at stake is the performance of the Indian team and its players both individually and collectively at the international platform. The Government in turn, has the right to enforce such accountability as it is accountable to the Parliament and the people at large for the team's performance.

16. The issue raised by the petitioner is only a tip of the iceberg and one can effortlessly understand that the level of unbridled discretion is caused by the persons, who have no stake in the selection of the right talent except having financial stakes in the matter, who are unfortunately at the helm of affairs. In the absence of eminent sports persons' involvement in decision-making, arbitrariness and extraneous consideration in selection will continue to cause injustice to be meted out to the deserving candidates.

III LEGAL FRAMEWORK

A. ON POWER TO LEGISLATE

17. 'Sports' as a subject of legislation falls under Entry 33 of List II of the Seventh Schedule of the Constitution of India. This means, the subject 'sports' falls under the State List and the states alone have the exclusive right

to legislate on all aspects coming within the broad purview of the subject 'sports'. However, the Union government can, having recourse to its residuary powers and within the purview of Entries 10 and 13 of the Union List in the Seventh Schedule of the Constitution, legislate on 'sports' at the national level.

18. There is no specific legislation that deals with sports or sports development. The Government of India externally regulates these sports bodies, importantly the National Sports Federations and unless the Federations are in need of monetary assistance and incentives, they did not adhere to these guidelines and regulations issued by the Government until after the coming into force of the National Sports Development Code, 2011 which made annual recognition of the National Sports Federations mandatory. Only a few states like Kerala, Rajasthan, Himachal Pradesh and recently Haryana, have come up with legislation that establishes Sports Councils at the Block, District and State level, which have been given the power and authority to register and recognise sports organisations, including State units of the National Sports Federations recognised by the Union Government. These legislations deal with the regulation of sports bodies, associations and federations, establishment of sports councils at the District as well as state-level. With the recent development in sports activities and heightened interest of the government,

both Union and State, in the development of sports as one of the avenues of development for the youth, the regulation of sports bodies, which both directly as well as indirectly determine, how the sports talent of the country is channelized and which also determines the chances of success at the International Olympics events, has become not only desirable, but also essential.

B. SPORTS BODIES- AMENABLE TO JUDICIAL REVIEW

19. In **Zee Telefilms v. Union of India**, reported in (2005) 4 SCC 649, the Supreme Court observed that “the Sports bodies largely remain unaccountable to the state or any other central body inside the territory of India, which however should not be the case considering the importance of sports in the modern arena. Unaccountability leads to arbitrariness, which gives rise to malpractices that can devastate the foundation of sports. While holding that the BCCI is not a ‘State’ under Article 12 of the Constitution, the ‘public function’ discharged by the sports bodies has been recognised so as to make them amenable to judicial review under Article 226 of the Constitution”.

20. In **Board of Control for Cricket in India v. Cricket Association of Bihar & Ors.**, reported in (2015) 3 SCC 251, the observation of the Supreme Court is extracted hereunder for useful reference to emphasize the importance of judicial review of the actions of the sports organizations/Associations and NSFs under Article 226 of the Constitution of India:

“27. In Board of Control for Cricket in India & Anr. v. Netaji Cricket Club and Ors. (2005) 4 SCC 741, this Court had an occasion to consider the role and the nature of functions being discharged by the BCCI. This Court held that the Boards control over the sport of cricket was deep and pervasive and that it exercised enormous public functions, which made it obligatory for the Board to follow the doctrine of ‘fairness and good faith’. This Court said:

“80. The Board is a society registered under the Tamil Nadu Societies Registration Act. It enjoys a monopoly status as regards regulation of the sport of cricket in terms of its Memorandum of Association and Articles of Association. It controls the sport of cricket and lays down the law therefor. It inter alia enjoys benefits by way of tax exemption and right to use stadia at nominal annual rent. It earns a huge revenue not only by selling tickets to viewers but also selling right to exhibit films live on TV and broadcasting the same. Ordinarily, its full members are the State associations except Association of Indian Universities, Railway Sports Control Board and Services Sports Control Board. As a member of ICC, it represents the country in the international fora. It exercises enormous public functions. It has the authority to select players, umpires and officials to represent the country in the international fora. It exercises total control over the players, umpires and other officers. The Rules of the 27 Board clearly demonstrate that without its recognition no competitive cricket can be hosted either within or outside the country. Its control over the sport of

competitive cricket is deeply pervasive and complete.

81. In law, there cannot be any dispute that having regard to the enormity of power exercised by it, the Board is bound to follow the doctrine of “fairness” and “good faith” in all its activities. Having regard to the fact that it has to fulfil the hopes and aspirations of millions, it has a duty to act reasonably. It cannot act arbitrarily, whimsically or capriciously. As the Board controls the profession of cricketers, its actions are required to be judged and viewed by higher standards.”

(emphasis is ours)

28. The question whether the respondent-BCCI is ‘State’ within the meaning of Article 12 fell directly for consideration of this Court in Zee Telefilms Ltd. and Anr. v. Union of India and Ors. (2005) 4 SCC 649. By a majority of 3:2 this Court ruled that respondent-BCCI was not ‘State’ within the meaning of Article 12. This Court held that the Board was not created by any statute, nor was a part of the share capital held by the Government. There was practically no financial assistance given to the Board by the Government, and even when the Board did enjoy a monopoly status in the field of cricket such status was not State conferred or State protected. So also there is no deep and pervasive State control. The control, if any, is only regulatory in nature as applicable to other similar bodies. The 28 control is not specifically exercised under any special statute applicable to the Board. All functions of the Board are not public functions nor are they closely related to governmental functions. The Board is not created by transfer of a government-owned corporation and was an autonomous body. Relying upon the tests laid down in Pradeep Kumar Biswas’s case (supra), this Court held that the Board was not financially, functionally or administratively dominated by or under the control of the Government so as to bring it within the expression ‘State’ appearing in Article 12 of the Constitution. Having said that this Court examined whether the Board was discharging public duties in the nature of State functions. Repelling the contention that the functions being discharged by the Board were public duties in the nature of State functions which would make the Board a State within the meaning of Article 12 this Court observed:

“29. It was then argued that the Board discharges public duties which are in the nature of State functions. Elaborating on this argument it was pointed out that the Board selects a team to represent India in international matches. The Board makes rules that govern the activities of the cricket players, umpires and other persons involved in the activities of cricket. These, according to the petitioner, are all in the nature of State functions and an entity which discharges such functions 29 can only be an instrumentality of State, therefore, the Board falls within the definition of State for the purpose of Article 12. Assuming that the abovementioned functions of the Board do amount to public duties or State functions, the question for our consideration is: would this be sufficient to hold the Board to be a State for the purpose of Article 12? While considering this aspect of the argument of the petitioner, it should be borne in mind that the State/Union has not chosen the Board to perform these duties nor has it legally authorised the Board to carry out these functions under any law or agreement. It has chosen to leave the activities of cricket to be controlled by private bodies out of such bodies’ own volition (self-arrogated). In such circumstances when the actions of the Board are not actions as an authorised representative of the State, can it be said that the Board is discharging State functions?”

The answer should be no. In the absence of any authorisation, if a private body chooses to discharge any such function which is not prohibited by law then it would be incorrect to hold that such action of the body would make it an instrumentality of the State. The Union of India has tried to make out a case that the Board discharges these functions because of the de facto recognition granted by it to the Board under the guidelines framed by it, but the Board has denied the same. In this regard we must hold that the Union of India has failed to prove that there is any recognition by the Union of India under the guidelines framed by it, and that the Board is discharging these functions on its own as an autonomous body.”

29. Having said that this Court recognized the fact that the Board was discharging some duties like the Selection of Indian Cricket Team, controlling the activities of the players which activities were akin to public duties or State functions so that if there is any breach of a constitutional or statutory obligation or the rights of other citizens, the aggrieved party shall be entitled 30 to seek redress under the ordinary law or by way of a writ petition under Article

226 of the Constitution which is much wider than Article 32. This Court observed: "31. Be that as it may, it cannot be denied that the Board does discharge some duties like the selection of an Indian cricket team, controlling the activities of the players and others involved in the game of cricket. These activities can be said to be akin to public duties or State functions and if there is any violation of any constitutional or statutory obligation or rights of other citizens, the aggrieved party may not have a relief by way of a petition under Article 32. But that does not mean that the violator of such right would go scot-free merely because it or he is not a State. Under the Indian jurisprudence there is always a just remedy for the violation of a right of a citizen. Though the remedy under Article 32 is not available, an aggrieved party can always seek a remedy under the ordinary course of law or by way of a writ petition under Article 226 of the Constitution, which is much wider than Article 32."

(emphasis supplied)

30. The majority view thus favours the view that BCCI is amenable to the writ jurisdiction of the High Court under Article 226 even when it is not 'State' within the meaning of Article 12. The rationale underlying that view if we may say with utmost respect lies in the "nature of duties and functions" which the BCCI performs. It is common ground that the respondent-Board has a complete sway over the game of cricket in this country. It regulates and controls the game to the exclusion of all others. It formulates rules, regulations norms and standards covering all aspect of the game. It enjoys the power of choosing the members of the national team and the umpires. It exercises the power of disqualifying players which may at times put an end to the sporting career of a person. It spends crores of rupees on building and maintaining infrastructure like stadia, running of cricket academies and Supporting State Associations. It frames pension schemes and incurs expenditure on coaches, trainers etc. It sells broadcast and telecast rights and collects admission fee to venues where the matches are played. All these activities are undertaken with the tacit concurrence of the State Government and the Government of India who are not only fully aware but supportive of the activities of the Board. The State has not chosen to bring any law or taken any other step that would either deprive or dilute the Board's monopoly in the field of cricket. On the contrary, the Government of India have allowed the Board to select the national team which is then recognized by all

concerned and applauded by the entire nation including at times by the highest of the dignitaries when they win tournaments and bring laurels home. Those distinguishing themselves in the international arena are conferred highest civilian awards like the Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri apart from sporting awards instituted by the Government. Such is the passion for this game in this country that cricketers are seen as icons by youngsters, middle aged and the old alike. Any organization or entity that has such pervasive control over the game and its affairs and such powers as can make dreams end up in smoke or come true cannot be said to be undertaking any private activity. The functions of the Board are clearly public functions, which, till such time the State intervenes to take over the same, remain in the nature of public functions, no matter discharged by a society registered under the Registration of Societies Act. Suffice it to say that if the Government not only allows an autonomous/private body to discharge functions which it could in law takeover or regulate but even lends its assistance to such a non-government body to undertake such functions which by their very nature are public functions, it cannot be said that the functions are not public functions or that the entity discharging the same is not answerable on the standards generally applicable to judicial review of State action. Our answer to question No.1, therefore, is in the negative, qua, the first part and affirmative qua the second. BCCI may not be State under Article 12 of the Constitution but is certainly amenable to writ jurisdiction under Article 226 of the Constitution of India."

21. Thus, it is beyond the pale of doubt that every sports organization is amenable to the jurisdiction of this Court under Article 226 of the Constitution of India.

C. NATIONAL SPORTS DEVELOPMENT CODE, 2011 - &
NATIONAL SPORTS POLICY, 2001

22. In the absence of any legislation holding the field at the national level, the National Sports Development Code, 2011 (hereinafter referred to as 'the Code') governs the conduct of the National Sports Federations (NSFs) in

India. The validity of this Code was challenged and upheld by the Delhi High Court in **Indian Olympic Association v. Union of India, reported in 2014 (212) DLT 389**. As of today, there are few National Sports Federations (NSFs) that have been recognised by the Ministry of Youth Affairs and Sports, Government of India. It is seen that the Sports authority of India is yet another autonomous body functioning under the Ministry of Youth Affairs and Sports, Government of India. While the Code broadly specifies certain criteria on the basis of which recognition is granted by the Government to the sports federations in the different fields of sports, there is no specific law governing the NSFs. The constitutions of the different sports federations at the national level, which in turn are composed and constituted from amongst the different sports associations and sports clubs in each district and state, remain largely unregulated and are only loosely governed by the general principles of law regulating societies registration.

23. In the absence of a legislative framework, which lays down the general governing principles and guidelines on the basis of which sports associations are to function and constituted, which in turn would together constitute a sports Federation at the national level, it is seen that there is no uniformity in the constitution of the authorities, councils which govern the functioning and administration of the associations as well as federations. As

such, the need of the hour is to govern the constitution of these national sports federations in order that their functioning is so streamlined as to leave no room for unbridled discretion at the hands of a few, who are neither eminent persons in the concerned field of sports nor in any way connected to sports in general. In order to recognise as well as coach and groom the upcoming talent of the youth, who are proficient in a particular sport, it is but natural that eminent and prominent persons in the concerned field of sports with an unmistakable stamp of merit and identity, should not only be part of the concerned sports federation, but also should play an important role of leadership in such a federation in order that the development and promotion of sports alone should be of paramount importance to the federation. The other aspects relating to funding and financial support should only be a matter of routine business, which cannot and should not, in the larger interest of sports be allowed to interfere with the decision-making in the selection process of athletes concerned.

24. As on date, the National Sports Federations (NSFs) granting recognition to different associations and clubs, are doing so on the basis of points awarded to the latter based on the events conducted and sponsored by these associations and clubs. The NSFs in turn are granted recognition based

on the events conducted by them, their standing, experience, the number of associations and clubs they represent and include as members and further on the basis of the compliance of other guidelines and fulfilment of technical criteria specified by the Government.

25. After the notification of the 2001, National Sports Policy, the government notified revised guidelines for assistance to National Sports Federations in August 2001 and issued subsequent guidelines from time to time, which are legally binding on the National Olympic Committee (NOC) , i.e., the Indian Olympic Association (IOA) and the National Sports Federations, if they are desirous of regulating and controlling sports in India, or using the name of 'India' while representing India within or outside India or availing themselves of various benefits and concessions, including financial benefits such as custom duty exemption or income tax exemption that are available to NSFs, including the NOC. Although these bodies may be registered in different states under the Societies Registration Act or the Companies Act, their authority to function as the NOC or NSF will be dependent on compliance with the government guidelines.

26. After the coming into force of the Code, 2011, while it is seen that annual government recognition of the NSFs have been made mandatory, and compliance of various guidelines and conditions have been laid down as a pre-requisite for recognition, they are still largely autonomous in their own functioning in the absence of a specific legislation to govern their constitution, composition and functioning, being loosely governed by the Societies Registration Act and that too only in respect of the aspects covered by that legislation without having reference to the specific field of sports.

27. In this regard, it is to be pointed out that the Code, 2011 brought in certain new initiatives like restoring the limits on duration of tenure of office bearers of Indian Olympic Association and all recognized NSFs, issued guidelines for good governance in the context of 'basic universal principle of good governance' of Olympic and sports movement, an annual recognition of NSFs, measures to combat fraud in age of players, prevention of sexual harassment of women in sports et cetera, notifying the Indian Olympic Association and the National Sports Federations as public authorities under the Right to Information Act, guidelines for efficient management of coaching camps, selection of coaches, selection of athletes et cetera, representation of Indian nationals only at national teams et cetera. While it is seen that the union

government has attempted to afford a lot of positive incentives to all the NSFs, which are compliant of the guidelines issued by the government from time to time in several aspects including the ones mentioned above, the authorities has adopted the 'carrot and stick' method by withdrawing these incentives in respect of those federations, which are not complying with the government directives and guidelines issued from time to time for the regulation of the NSFs.

28. Annexure XIII of the Code deals with tenure limit for the office bearers of the federations and the need for enhancing transparency and accountability in the functioning of sports bodies. In this regard also, specific guidelines have been issued and the Code also mentions the model election guidelines and bylaws to be followed in order that the functioning of these federations is transparent. Similarly, detailed guidelines have been issued with respect to eligibility and selection of coaches at the national level and the selection of athletes.

29. In Annexure XIV to the Code, emphasis has been laid upon compliance of the 2001 government guidelines on good governance by the Indian Olympic Association and the National sports federations, including those relating to tenure limit, in respect of office bearers and age limit for all members as well as democratic elections, including at least representation on

management of sports bodies with full voting rights. The said annexure XIV found at page nos.73 to 75 of the Code may be extracted hereunder for better understanding on the issue.

F.No.8-17/2009-SP-III
Government of India
Ministry of Youth Affairs and Sports

Dated : 17th May, 2010
New Delhi

To

1. President of Indian Olympic Association /
all recognised National Sports Federations
2. The Secretary General/General Secretary /Secretary of
Indian Olympic Association/all National Sports Federations

Subject: Compliance to the Government guidelines on good
governance in the context of 'Basic Universal Principles
of Good Governance of the Olympic and Sports Movement'

Sir,

I am directed to refer to the notice, posted on the website of the Indian Olympic Association (IOA), regarding separate meetings of the Executive Council and the Special General Assembly, scheduled to be held on the 18th of May 2010, at the Olympic Bhawan in New Delhi.

2...

3. The above matter gains immediate relevance, in the light of the Public Interest Litigation, being heard by the Bench of the Hon'ble Chief Justice of the Delhi High Court, and the recent reference on the tenure matter, made to International Olympic committee (IOC), by the IOC member from India, who is also Secretary General of IOA. The IOC's response to it and the Government's stand on it, has been duly posted, on the Ministry's website, for the information of all stakeholders, including the general public, as sports lie in the public domain, and sports governance is a public function, which involves both public and national interest.

4. This matter also derives urgency, in the light of the recommendations made at the IOC Seminar on 'Basic Universal Principles of Good Governance of the Olympic and sport Movement' held in February 2008, which was attended by 170 participants from National Olympic committees (NOCs)

International sports Federations (Ifs) and their respective association as well as IOC members and senior IOC staff. These recommendations were further endorsed, at the XIII Olympic Congress held in October 2009. The consensus that emerged at both the forums was that good Governance was essential, if sports movement was to justify and claim autonomy. It was resolved that all members of the Olympic Movement should adopt as their minimum standards the Basic Universal Principles of Good Governance of the Olympic and Sports Movement, as proposed by the IOC.

5. Some of the core principles, enunciated in the Basic Universal Principles of Good Governance of the Olympic and Sports Movement include:

- Elections to sports bodies should be governed by clear, transparent, and fair rules (which in our view, should include, a clean electoral roll, known to the public in advance; an independent returning officer; and secret ballot)
- Adequate procedural regulations must exist to ensure there is no conflict of interests
- The Terms of office, should be of limited duration, in order to allow, renewal of office bearers on a regular basis; and give access to new candidates.
- Cooperation, coordination and consultation with government to preserve autonomy.

6. It may be noted, that the 2001 guidelines issued by this Ministry (including the 1975 tenure regulations as modified on May 1st 2010) are fully in accordance with the recommendations of the IOC and the Olympic Congress. Government is happy to note, that the recent concerns expressed unanimously by parliament, the Courts as well as the general public and media, on the need to ensure good governance in sporting bodies, has been equally echoed by the IOC as well as the Olympic Congress. It may be pertinent to state that the liberalization of the tenure limit allowing 12 years maximum tenure for the President, as opposed to 8 years earlier, was done to bring our guidelines in alignment with the norms adopted by the IOC in 1999, which represent the best international practices.

7. The Resolution passed by the XIII Olympic Congress, also underlines the essentiality of athletes' involvement in decision making, with full voting rights; and establishment of grievance redressal mechanism for athletes. As you are aware, these requirements form an integral part of the Government guidelines (initially notified in 1975, and modified in 1997 and 2001). But unfortunately, the majority of NSFs including IOA are yet to fully implement these basic principles of good governance.

8. It is noted that a large number of NOCs, Ifs, and their associated bodies have already adopted all or many of the good governance principles stated above. It is therefore the earnest expectation of the Government of India that the IOA and the NSFs will follow the recommendations of the IOC and the Olympic Congress on good governance and will comply with the guidelines prescribed by the Government of India, which are in alignment with the principles endorsed by the IOC and the Olympic Congress.

9. The Government hopes, that the IOA and their associates, will not disappoint the country, by falling short of what is rightfully expected of them. They should keep in mind, the observations made by the Hon'ble Delhi High Court in CWP 7868 of 2005, that the Government guidelines to national sporting bodies are legal, valid and enforceable and not in violation of the Olympic Charter. They should also take note of the sentiments expressed by members of Parliament from all parties, in the Rajya Sabha debate on 22.04.2010, supporting the age and tenure limits. Above all, they should take note of the aspirations New Delhi expectations of the people of India, who want their national sports bodies to be at the forefront of good governance in the Olympic and Sports Movement in the 21st century.

10. It is requested that this communication be circulated to the members of the Executive Council and the General Assembly of IOA, for thorough deliberations and appropriate decisions, as deemed fit. IOA may like to intimate its stand to the Hon'ble Delhi High Court, which is hearing this matter on the 19th instant. IOA should also apprise this Ministry, which is bound by the directions of Parliament, Courts and Public opinion of its decisions on the matter.

11. Please note that the above communication has been copied to the IOC, which is at present seized of the entire matter; and posted on the Ministry's website for the information of all stakeholders, including the general public.

Yours faithfully,

Joint Secretary (Sports)
Government of India

IV. INVOLVEMENT OF SPORTS PERSONS IN DECISION-MAKING

A. ABSENCE OF CRITERIA FOR BEING PRESIDENT OF AN NSF/SPORTS ASSOCIATIONS-

30. It is pertinent to note that while detailed guidelines have been issued on very many aspects with respect to the requisites on the basis of which recognition is granted by the government to the various sports federations, on the aspect whether the head of the concerned Federation, be it the President or Chairman of a Federation should be a person of some

eminence in the respective field of sport, has not been mentioned anywhere in any of the guidelines issued under the code or under the any of the policies issued by the central or state governments. Even in respect of the few states that have come up with legislation to establish a state sports Council, this particular requirement has not been mentioned in any provision.

31. Though not mentioning about the criteria for being a President of a Sports Federation, a passing reference on this aspect has been stated in Clause 3 of the Code (dealing with eligibility criteria for recognition), in Clause 3.20 as follows:

“Inclusion of prominent sports persons 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 and selection of such sports persons should be in consultation with this Department.”

32. The significance of this need lies in the fact that if such a requirement is not satisfied, it would mean that persons of merit may well be left out and commercial activities may go unchecked even if they hamper the interest of the sport concerned. While a lot of discretion and decision-making power has been given to the national coaches concerned in respect of selection of participants/athletes, the President of the NSF plays a pivotal role in the selection of the National Coach as would be apparent from the guidelines envisaged in the Code.

B. PROVISIONS IN THE CODE FOR SELECTION OF COACHES AND SELECTION OF ATHLETES

33. It is seen from Annexure XXI of the Code that the National Coach is selected by a selection committee with the President of the NSF concerned as its Chairman, DG (SAI), ED (TEAMS), one ex-international player, to be nominated by the Government, and the nominee of IOA from the panel prepared by the Sports Authority of India (SAI). The National coach shall then be appointed by the SAI after consideration of the names recommended by the Selection Committee, and this Selection Committee, in consultation with the National coach, shall choose members of the coaching team. Similarly, in the selection of athletes for participation in major international events, it has been specifically stated that the same shall be the responsibility of the NSFs concerned and that the Government and the SAI shall have no direct involvement in the selection process. The selection shall be done by a Selection Committee, consisting of the President of the NSF as the chairman, the National Coach and eminent Ex-sports persons, preferable Arjuna Awardees and it has been stated that no Government Observer/SAI Nominee, should be a member in the Selection committee.

34. In this regard, a reference was made to the decision in **Kirandeep v. Chandigarh Rowing Association, reported in AIR 2004 (P & H) 278,**

which is a case in point where the issue relating to arbitrariness in the selection process by the Rowing Association had resulted in meritorious and deserving sports persons being left out of the fray. The High Court of Punjab and Haryana emphasized that sports persons must be involved in the process of selection of athletes/sports persons in order that the best talent is encouraged for participation at the various international events.

35. Similarly, there are various cases coming up time and again before this Court as well as other High Courts and the Supreme Court alleging arbitrariness in selection of athletes, corruption in the selection process, selection for other extraneous reasons and use of unbridled discretion by NSFs, resulting in unequal opportunities and denial of appropriate chances of success to deserving athletes. At times, the time taken for the athletes to approach the Courts and receive timely relief before the event concerned would fundamentally alter their career prospects. Even when the selection process is challenged, the extent of judicial review is limited, when there are no legal provisions or express regulations governing the functioning of these sports bodies. Therefore, the importance and relevance of the President of the NSFs to be persons of eminence and having knowledge and experience in a particular sport, is rather clear and does not need further elaboration.

C. IMPORTANCE OF SPORTS PERSONS HEADING NSFS AND SPORTS ASSOCIATIONS/AFFILIATES

36. Unless the said President, Vice President and other important functionaries of the Federation are also persons of eminence in the particular field of sports, merit and accountability would be seriously compromised. It would be dangerous to imagine a situation, where a person who is completely unknown to the field of sports, is given the decision to appoint a national coach in respect of that particular sport, who in turn would be the decision-making authority to decide which of the sports persons would qualify for participation in international events. While it is seen that even Joint Secretaries and Assistant Secretaries of NSFs and the IOA (who acts as liaison officer between the Government and the Federation, and who have been given administrative and financial accounting related powers only) are to necessarily possess the qualification of – “*participation in sports events in the concerned discipline atleast at the college university level; possession of fair knowledge of rules and regulations of the sports discipline for which candidature is offered*”, such a requirement of possession of knowledge of the sport has to be made mandatory for the post of President of the Federation who has been empowered to decide the fate of the sports persons’ entire career and the

prospects of India in the international sports arena sports, including at the Olympics.

37. Similarly, the President, Vice President and Secretary of every association should be an eminent sports person of the respective field and it is pertinent to ensure that the issue of contribution of funds and the holding of the post of an important functionary in an association or Federation should never be mixed. Anyone who would like to contribute funds to an association or for an event or sponsor individual athletes financially for any of the district, state or national level events should do so and enough publicity may be given to the said person, firm or company that makes such contributions as a measure of gratitude to them. However, allowing them to assume the mantle of being at the helm of affairs with respect to the selection of sports persons/athletes for events that not only shape the career of these young sports persons, but also make them eligible or otherwise for government jobs is like playing with their lives in an arbitrary manner that can never muster the test of constitutional validity.

V. ENSURING TRANSPARENCY AND ACCOUNTABILITY & NEED FOR LEGISLATION

38. It is in this context that as a measure of transparency, it is found that the direction sought for by the petitioner for commencement of an online

registration system with immediate effect for all district level, state level and national level athletic championships, competitions, meets and events, similar to the model followed in the Federation cup athletics Championships and to publish online the amount allotted and spent on each athlete for such events, assumes significance and is to be granted.

39. It is also in this background that every association, which deals with any field of sports is made accountable to the respective National Sports Federation, which in turn would have to fulfil all its obligations as mentioned under the Code in order to obtain recognition by the Union Government. In this regard, one step that would ensure that meritorious athletes are not left out, is that it is made mandatory for every association to have a website where all its financial aid as sanctioned and granted by the sports development authority of the respective State as well as by the Union Government must be furnished and the details of all applicants with their respective credentials must also be mentioned in a transparent manner in the website. Further, the qualifications as required from year to year for participation at the national level, should also be mentioned in order that every applicant can satisfy himself or herself about whether or not they are eligible to participate at the national level. Once the rules are laid out straight and the associations are

made to work in a transparent manner, there would be no room for unbridled discretion in the hands of the Association.

40. Further, as stated above, there is no legislative framework available in the state of Tamil Nadu for regulating these associations, which play such an important role in the selection of athletes for participation at the national level. In this regard, inspiration may be drawn from the legislations passed by some of the states in order to streamline the functioning of the sports clubs/associations/organisations and bodies in general. The Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005 makes it compulsory for any sports association or organisation to have itself registered under the provisions of the Act. The registration is a prerequisite for any such organisation or association to affiliate itself with the relevant Sports Federation at the national level. The Act also provides for the elections to the concerned association as well as the maintenance of a separate Constitution for the said association. In short, it can be said that the legislation regulates as well as monitors the functioning of the sports associations in a way as to ensure accountability of the said association with specific reference to sports. Similarly, the Kerala Sports Act, 2000 also provides for the establishment of a State Sports Council, which fixes the criteria for approval and recognition of

the various sports associations including the state unit of the National Sports Federation recognised by the Union government. The Haryana Sports Council Act 2016 envisages the establishment of a State Sports Council along with the District, Block and Town Sports Council. Under this Act, any sports organisation carrying activities at the state level or district level may be registered with the state sports Council as a registered sports organisation in order that they may be provided grants. It also provides for sports persons to register themselves with the district sports Council in order that they may avail of the benefits, cash awards, price and other facilities directly from the sports Council.

41. It is therefore manifest that the level of transparency and accountability as well as the functioning of sports Association/organisation in a streamlined manner owes much to the statutory regulation which in the arena of sports is the legislative reserve of the State government. As such, the state government would do well to invoke its legislative power in the wake of the various difficulties and grievances often faced by deserving sports persons as well as considering the mushrooming of various associations and organisations that play a significant role in the selection of athletes for participation in the national level, and also to regulate and monitor the state units of the national

federations, which in turn play a very important role in the selection of national level candidates/champions for participation at the international level.

42. Thus, in the present scenario, where there is no government body that regulates the functioning of the sports associations or affiliates to the Federation concerned, their registration and functions are regulated only within the four corners of the legislation governing societies registration, and not with any specific regulations with direct relevance to sports. Functioning under the regulation of such sports councils which are statutory bodies and registration with them on the terms and conditions set out by such councils under a statute, would be an important step in ensuring transparency and accountability in the functioning of these associations.

43. The case at hand itself shows that the Sports Development Authority of Tamil Nadu seems to have little or no control over any of the associations apart from the grant made to them. The counter affidavits filed by every official respondent display a total lack of accountability and responsibility on their part as each one of them shrugs off their shoulders citing their limited role in selection of athletes, and little or no role in regulation of the working of the Sports Associations. In order to rectify this

issue, establishment of statutory sports councils at the state level and regulation of the associations which not only develop and nurture the talent of young sports persons, but also play an important role in the decision-making with respect to their selection for the next level of participation at the national level, will go a long way in ensuring that the best talent in the country is sent for participation in every event that matters up to the level of Olympics and that deserving candidates are never left out of the fray.

VI. DIRECTIVES ISSUED

44. In the light of the above discussions, the following directives are issued:

i. The State government should consider for creating a legal framework that imposes statutory regulation on the functioning of every sports organisation/clubs/association, including the state unit of the National Sports Federation in respect of every field of sports. The said legal framework should include as far as possible all the following aspects and directions and which shall continue to be in force until the passing of such a statute by the state legislature.

ii. Every Sports Association/organisation shall be compulsorily registered with the State Government and it shall be mandatory for the said organisation to provide its complete details including its constitution and details of its members, the sports persons registered with the said association,

its financial status as well as the contributions/funds received by the said association, the number and details of events conducted by the Association and the credentials of the sports persons participating in every such event.

iii. Every Sports Association should have a record of all the above stated details and it shall be within the power of the State Government to inspect such records at any given point of time.

iv. The State Government as well as the state unit of the National Sports Federation of every sport which is recognised by the Central Government shall have a grievance cell, in order that deserving sports persons may contact them directly in cases where the recognised sports Association/affiliate does not forward a deserving athlete/sports person's name for participation at the national level to the concerned National Sports Federation.

v. The positions of President, Vice President and Secretary of every sports Association/organisation as well as important functionaries of such organisations including that of the state unit of the National sports Federation shall be held only by sports persons and it must be ensured that a minimum of 75% of the members of any sports body/organisation/association/NSF shall be composed of eminent sports persons and they shall have voting rights.

vi. The selection of athletes shall be within the purview of the decision-making powers of the selection committee consisting only of sports persons in the respective association as well as the sports Federation.

vii. No person shall be entitled to hold the position of President, Vice President, Secretary or any other important functionary in any association as well as Federation on the only ground that he or she has contributed financially to the said organisation. The holding of such a position shall be strictly governed by the Constitution of the respective organisation which shall clearly set out the procedure for election to the office of President, Vice-President and Secretary and other important functionaries, in accordance with the previous direction in clause vi. above that such positions can only be held by sports persons.

viii. Any reference to the term 'sports persons' for the purpose of holding the positions of any of the important functionaries in any organisation/association or Federation, would mean a person who has participated in sports at least at the State level, with participation at the national level and winning of awards and accolades at the national level being a desirable qualification.

ix. An online registration system for all district level, state level and national level athletic championships, competitions, meets and events, similar to the model followed in the Federation Cup Athletics Championships, shall be effectuated immediately, which shall publish online the amount allotted and spent on each athlete for such events.

x. It shall be mandatory for every association to have a website where all its financial aid as sanctioned and granted by the sports development authority of the respective State as well as by the Union Government must be

furnished and the details of all the applicants with their respective credentials must also be mentioned in a transparent manner in the website.

xi. In cases where it is found after an enquiry that any association/organisation or state unit of the National sports Federation has acted against merit in respect of the selection of participants, the State Government can take penal action against such an organisation including blacklisting of such an organisation for a minimum period of two years during which the association/organisation will not be in a position to sponsor candidates for national events or receive grant from the State Government.

xii. In the event of any grievance made by any athlete/sports person to the state unit of the National sports Federation, the same shall be disposed of within a period of one week from the date on which such a grievance has been raised or before the upcoming event in respect of which the grievance is made, whichever is earlier, in order that the concerned athlete/sports person does not lose their chance for the concerned year.

xiii. In the event of any grievance made with respect to any state unit of the National sports Federation, the state government shall dispose of the same within a period of one week from the date on which such a grievance has been raised or before the upcoming event in respect of which the grievance is made, whichever is earlier.

xiv. The suggestions placed by the sixth respondent, which are extracted in para 9(vi) of this order shall be considered by the respondents 1, 4 and 5. Such compliance report be filed within a period of three months.

45. With the aforesaid directions, this writ petition stands disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

Post the writ petition after three months 'for reporting compliance'.

19.01.2022

Index : Yes/No

Internet : Yes/No

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To

1. The Secretary to the Union of India
The Ministry of Youth Affairs and Sports
Room No.401, C-Wing, Shastri Bhawan
New Delhi - 110 001
2. Sports Authority of India
represented by its Authorised Signatory
Jawaharlal Nehru Stadium Complex (East Gate)
Lodhi Road, New Delhi - 110 003
3. Athletic Federation of India
represented by its Authorised Signatory
A-90, Naraina Industrial Area
Phase-1, New Delhi - 110 028
4. The Secretary to the Government of Tamil Nadu
Yough Welfare and Sports Development Department
The Secretariat, Fort St. George
Chennai - 600 009

5. Sports Development Authority of Tamil Nadu
Represented by its Authorised Signatory
No.116-A, Periyar E.V.R. High Road
Nehru Park, Chennai - 600 084
6. Authorised Signatory
Tamil Nadu Athletics Association
No.81, Jawaharlal Nehru Stadium
Periamet, Chennai - 600 003
7. The Secretary
Indian Olympic Association
Olympics Bhawan
B-29, Qutub Industrial Area
New Delhi - 110 016
8. The Secretary
Tamil Nadu Olympics Association
No.78, Jawaharlal Nehru Stadium
Sydenhams Road, Periamet
Chennai - 600 003

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R. MAHADEVAN, J

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