

68.

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

+ Date of Decision: 23.02.2012

% W.P.(C) 341/2012 & C.M. No. 733/2012

NARINDER MAHAJAN & ANR. Petitioners
Through: Mr. Navin Chawla & Mr. Bharat
Arora, Advocates.

versus

WRESTLING FEDERATION OF INDIA & ORS. Respondents
Through: Mr. Pradeep Dewan, Senior
Advocate, with Ms. Anupam
Dhingra, Advocate for the
respondents No. 1 & 3.
Mr. Devvrat, Advocate for the
respondent No. 2/UOI.

**CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI**

VIPIN SANGHI, J. (Oral)

1. By this petition preferred under Article 226 of the Constitution of India the two petitioners, namely Shri Narender Mahajan, Executive Member, Wrestling Federation of India (WFI) and Shri Dushyant Sharma (whose election as President of respondent No. 1/WFI has been set aside by this Court), seek issuance of a writ of certiorari and seek quashing the election of respondent No. 3 & 4 as the Secretary General and the Senior Vice President of respondent No. 1-Wrestling Federation of India respectively on the ground that the same has been held in violation of the constitution of respondent No. 1. Further reliefs have

been sought in consonance with this primary relief, i.e. to restraint respondents No. 3 & 4 from acting as the Secretary General and the Senior Vice President of respondent No. 1, and for direction to hold fresh election to the said posts. Learned counsel for the petitioners, on instructions, give up the prayer (e) made in the writ petition.

2. Upon issuance of notice, notice was accepted by respondent Nos. 1 to 3, and respondents No. 1 & 3 have filed their counter-affidavit.

3. So far as respondent No. 4 is concerned, learned counsel for the petitioner submits that the summons for service of respondent No.4 were taken dasti. The same were sought to be served on respondent No.4 through the process server of the City Civil Court, Hyderabad. Learned counsel has tendered in Court the affidavit of service of Shri Nageswar Rao working as Clerk, City Civil Court, Hyderabad. The same is taken on record. He has deposed that he had taken the process server Shri Hafeez of City Civil Court, Hyderabad to serve the dasti summons to respondent No.4, namely, Shri Hamza Bin Omar at his given address. The summons were tendered to the employee of respondent No.4, namely, Shri Zafar, however, he refused to accept the same by stating that respondent No.4 was out of Hyderabad. The original report of the process server duly stamped by the Superintendent, Central Nazarat, City Civil Court, Hyderabad

accompanies the affidavit of service.

4. The Court has already set aside the election of the President of the WFI. On the same grounds – on which the said election was set aside, the petitioner is seeking the setting aside of the elections of the respondent No.3 Shri Raj Singh, Secretary General, Wrestling Federation of India and respondent No.4 Shri Hamza Bin Omar, Vice-President of the Wrestling Federation of India.

5. To me, it appears that the non-acceptance of the summons on behalf of respondent No.4 as well as non-appearance on behalf of the said respondent No. 4, is designed to avoid the present proceedings. Respondent No.4 appears to be avoiding service in the present proceedings. It is unthinkable that the Senior Vice President of the Wrestling Federation of India would not be aware of the fact that the election of the President has already been set aside by this Court, and the present petition is pending to challenge, inter alia, his election as well, particularly when the WFI – of which he is the Senior Vice President, stands served, and is appearing before the Court. Accordingly, respondent No. 4 is deemed to be served. Despite service, none appears for respondent No. 4. The position of respondents No. 3 & 4, even otherwise, is similar, and they will swim or sink together. The non-appearance of respondent No. 4, therefore,

does not cause any prejudice to him.

6. Learned counsel for the respondent No. 2 makes a statement that he does not oppose the present petition.

7. I have heard learned counsel for the petitioner and the respondents No. 1 & 3 and proceed to dispose of the present petition.

8. Respondent No. 1/WFI is a society registered under the Societies Registration Act, 1860. WFI is the apex body in India for the sport of wrestling. It represents India in all wrestling events around the world. It has affiliated units in each & every State. It is recognized by the respondent No. 2/Union of India (UOI) for the purpose of releasing the grant in aid, training and selection of wrestlers who represent the nation in various international wrestling meets and championships.

9. Elections for various posts in the WFI were due and, accordingly, the then Secretary General of WFI issued a notice dated 12.03.2011 for holding of elections of the office bearers of WFI. The schedule fixed for conduct of elections started with publication of the Electoral College on 05.04.2011 and culminated with the holding of the elections at the Annual General Body Meeting on 15.04.2011. The then Secretary General vide communicated dated 25.03.2011 also appointed Mr. Justice S.K. Aggarwal (Retd.) Judge of this Court to function as the Returning Officer. The Government of India took note of the

notification of the election and appointment of the Returning Officer. The Returning Officer then issued a notice dated 28.03.2011. In this notification, the Returning Officer, inter alia, stated that Article XIII (d) of the constitution of WFI was operative. In terms of Article XIII (d), in respect of the posts of President, Senior Vice President and Secretary General, only those members, who had held the office in the outgoing Executive Committee of WFI for a period of four years, were eligible to contest the elections. This stand taken by the Returning Officer – that Article XIII (d) was operative, and that the same would apply to the forthcoming elections, was firstly challenged before the Returning Officer, and when the said challenge failed, was challenged before this Court by filing W.P.(C.) No. 4860/2011.

10. That writ petition was allowed by this Court vide a judgment dated 04.01.2012. In that petition, the election of the President of the WFI was set aside. Challenge to the elections of respondents No. 3 & 4 herein was withdrawn by the petitioner in that case. The Letters Patent Appeal (LPA) preferred before the Division Bench against the judgment dated 04.01.2012 also came to be dismissed vide judgment dated 10.01.2012 in LPA No. 18/2012. Consequently, the judgment passed in the writ petition, aforesaid, attained finality.

11. In consequence of the said judgment, the elections for the post

of President were conducted. However, the Returning Officer appointed to conduct the said election, Mr. Justice C.K. Mahajan (Retd.) has filed his report dated 29.01.2012 before the Court, stating that the elections have not been duly held and they were abandoned/postponed due to unruly behaviour of the persons present at the election venue. This aspect shall be dealt with by me later in this judgment.

12. This petition has been preferred by the petitioners on the same grounds as taken in W.P.(C.) No. 4860/2011, i.e. by contending that the elections to the post of Secretary General and to the post of Senior Vice President are also liable to be set aside, as Article XIII (d), which has been held by the Court to be not valid and effective on the date when the elections were notified initially, has been applied to the elections for these posts as well. The submissions of the petitioners are entirely founded upon the judgments in the aforesaid writ petition and the LPA and, consequently, not much argument has been advanced by learned counsel for the petitioner in support of this petition. I, therefore, need not record the detailed submissions of the petitioner as these submissions have already been dealt with in the aforesaid judgment in Writ Petition No. 4860/2011 and LPA No.18/2012.

13. Mr. Pradeep Dewan, learned senior counsel who appears on behalf of respondents No. 1 & 3 primarily raised two submissions in the respondents defence. It is, firstly, argued that the petitioners have no locus-standi to challenge the elections for the posts of the Secretary General and Senior Vice President, as they were not candidates for either of these posts. They have not even filed their nominations for the said posts, and they did not object to the reliance placed on Article XIII (d) by the Returning Officer. They also did not challenge the implementation of the said Article in the earlier round of litigation.

14. It is further submitted by Mr. Dewan that petitioner No. 2, particularly, is seeking to approbate and reprobate at the same time inasmuch, as, petitioner No. 2 Shri Dushyant Sharma had filed his affidavit in response to the earlier writ petition being W.P.(C.) No. 4860/2011, wherein he had taken the stand that Article XIII (d) was operative on the date when the elections were notified. In this respect, reference is specifically made to paras 4 & 5 of the affidavit of Shri Dushyant Sharma filed in W.P.(C.) No. 4860/2011 dated 05.12.2011, which read as follows:

“4. I submit that present petition is legally and factually misconceived. Article X (d) (xiii) of the Constitution of Respondent No. 1 provides that the minutes of the meeting shall be conclusive evidence of their correctness only after they are confirmed by the Chairman of the next meeting. As on the date of the passing of the impugned order

5.4.2011 by the Returning Officer, the minutes of the meeting dated 5.2.2011 in which Article XIII (d) of the Constitution of Respondent No. 1 was deleted, were not confirmed, therefore, the candidature of the Petitioner No. 2 was rightly rejected by the Ld. Returning Officer. The confirmation of the minutes of the meeting dated 5.2.2011 was done in the General Council meeting of Respondent No. 1 held on 18.06.2011 at Jammu. The present petition is, therefore, not maintainable.

5. I state that because the above mentioned amendment was not confirmed, the learned Returning officer vide its order dated 5.4.2011 rightly disqualified Petitioner No. 2 and few others as they were not eligible.”

15. Mr. Dewan has placed reliance on the decisions of the Supreme Court in **Mumbai International Airport Private Limited Vs. Golden Chariot Airport and Another**, (2010) 10 SCC 422; and **The Joint Action Committee of Airlines Pilots Associations of India & Others Vs. The Director General of Civil Aviation & Others**, 2011 (5) SCALE 284, in support of his submissions that the petitioners are seeking to approbate and reprobate, which they are not permitted to do in law.

16. Mr. Dewan has further submitted that the setting aside of the election of the Secretary General would put in jeopardy the various wrestling tournaments which are to be held as a precursor to the Olympic Games to be held in London in August 2012. Without prejudice to his primary submission aforesaid, he submits that even if this Court were inclined to set aside the elections, the Secretary

General should be permitted to function as such, till the fresh elections are conducted.

17. In his rejoinder, learned counsel for the petitioner has submitted that there is no question of the petitioners not having the locus standi to prefer this petition, or of their approbating or reprobating. He submits that this not a private lis between the petitioners and the respondents No. 3 & 4. The issue is, whether the elections of respondents No. 3 & 4 as office bearers of respondent No. 1-WFI are valid as per its rules and regulations. These issues can be raised by any member of the respondent No.1 WFI as they concern them. He submits that the petitioners are only seeking the implementation of the rules as interpreted by this Court in the earlier round of litigation, and it cannot be that while the election of the President has been set aside on the ground that Article XIII (d) was not operative, respondents No. 3 & 4 can continue in office, even though, their elections are also vitiated on account of the same infirmity, i.e. the application of Article XIII (d).

18. He further submits that the petitioners are not estopped from filing this petition for the reason that it was not the petitioners case that Article XIII (d) was valid and operative. It was the stand of respondent No. 1/WFI and the Returning Officer that Article XIII (d) was valid and operative at the relevant time. The petitioner No. 2 believed

the said stand to be correct. However, this Court has ruled that Article XIII (d) was not operative. Therefore, the petitioners are entitled to rely on this legal position. He submits that the petitioners have not derived any benefit by adopting the aforesaid stand (that Article XIII (d) was operative), even if it were to be accepted that petitioner No. 2 supported the stand of respondent No. 1 in the earlier round of litigation. He further submits that the respondents have not altered their position to their disadvantage on account the said earlier stand of the petitioner No. 2.

19. In response to the submission that the setting aside of the election of the Secretary General, the affairs of WFI would suffer, learned counsel for the petitioner has drawn attention of the Court to Article X (c) and X (e) of the constitution of WFI, which read as follows:

"X (c) Vice Presidents

In the absence of Senior Vice President one of the Vice Presidents designated by the President, WFI shall act as the Senior Vice President.

x x x x x x x x x x

(e) Joint Secretaries

The Joint Secretaries shall assist the Hony. Secretary General and shall carry out the work directly assigned to them by the Secretary General. One of the Joint Secretaries, as detailed by the President, WFI, will act for the Secretary General in his absence for all matters."

20. He, therefore, submits that even if respondents No. 3 & 4 discontinue functioning as the Secretary General and the Senior Vice President, the same would not disrupt the functioning of respondent No. 1, as there are other office bearers in the respondent organization who would take over their functioning and duties.

21. Having heard learned counsel for the parties and considered their respective submissions, as well as the case law cited before me, I am inclined to allow this petition.

22. Pertinently, Mr. Dewan has not argued, and in the aforesaid background he could not have argued, that the elections of respondents No. 3 & 4 can be sustained in the light of the aforesaid decisions in W.P.(C.) No. 4860 and L.P.A. No. 18/2012. It is not his submission that Article XIII (d) of the Constitution, as it earlier existed, was not made applicable in relation to the elections for the post of the Secretary General or the Senior Vice President of the WFI. This Article was indeed made applicable for elections to the posts of President, Senior Vice President and Secretary General. This means that other members of the WFI, who may have been interested in contesting the elections to the posts of Secretary General and Senior Vice President, were kept out and prevented from even filing their nominations on the ground that they had not held the office in the outgoing Executive

Committee of the WFI for a period of four years. Since Article XIII (d) of the constitution of WFI stood deleted on 05.02.2011, and the said deletion took effect on the same day, the elections of President, Senior Vice President and Secretary General of WFI held between 05.04.2011 & 15.04.2011 on the basis of Article XIII (d) were illegal. Consequently, the elections of respondents No. 3 & 4 as the Secretary General and the Senior Vice President are clearly illegal and liable to be set aside.

23. So far as the submission of Mr. Dewan with regard to the locus-standi of the petitioners is concerned, I find no merit therein. The petitioner No. 1 was eligible to be a candidate for the posts of Secretary General and Senior Vice President. However, he could not have filed his nomination, even if he was so interested, on account of the stand taken by WFI and the Returning Officer in his communication dated 28.03.2011 vis-à-vis Article XIII (d).

24. Moreover, since this Court has already ruled that Article XIII (d) of the constitution of WFI stood deleted on 05.02.2011 and, therefore, the elections of respondents No. 3 & 4 cannot be sustained, any member of respondent No. 1 Association would have the locus-standi to challenge the said elections, as it directly concerns the affairs of the WFI, of which he is a member. It is not necessary that the petitioners should have been candidates, or should have expressed their keenness

to contest the elections for the posts of Secretary General or Senior Vice President, before they can challenge the said elections. The ground, that the elections have been held by application of a non-existent Article in the constitution of WFI, and by illegally limiting the candidature to only a handful of persons, who had been members of the Executive Committee in the outgoing Executive Committee of WFI, can be raised by any member. An unsuccessful candidate may be able to challenge the elections on various other grounds as well, but the aforesaid legal ground is available to the petitioners in their capacity as members of the WFI. It is also not necessary that petitioners should have assailed the application of Article XIII (d) at the earlier stage itself before the Returning Officer, or before this Court, and merely because the petitioners chose to wait for the outcome of the earlier writ petition on the issue whether Article XIII (d) was applicable or not, they are not precluded from now raising a challenge to the elections for the posts of the Secretary General and the Senior Vice President.

25. So far as petitioner No. 2 is concerned, he has borne the brunt of the earlier judgment of this Court inasmuch, as, his election as the President of WFI has been set aside by holding that Article XIII (d) stood deleted from the constitution of WFI on 05.02.2011. He is certainly entitled to claim that parity should be maintained in respect of elections for the post of the Secretary General and the Senior Vice

President. Even otherwise, as a member of the WFI, he is entitled to challenge the elections of respondents No. 3 & 4 just as petitioner No. 1 is so entitled.

26. The submission of Mr. Dewan that the petitioners are seeking to approbate and reprobate also has no merit whatsoever. Petitioner No. 1 had not taken no stand in the matter at any earlier stage. Petitioner No. 2 had sought to defend the application of Article XIII (d) in the earlier round of litigation. This Court did not agree with the contention of petitioner No. 2 in the earlier round, and ruled that Article XIII (d) of the constitution of WFI stood deleted on 05.02.2011. The petitioners' submission founded upon the ruling of this Court with regard to the status of Article XIII (d) in the constitution of WFI, cannot be said to constitute a case of the petitioners, or either of them, blowing hot and cold at the same time. It cannot be said that petitioner No. 2 should continue to claim that Article XIII (d) is operative, despite the ruling of this Court that the same stood deleted on 05.02.2011. Neither of the petitioners and, for that matter, nobody can contend that Article XIII (d) continued to be in effect even after 05.02.2011 as the decision in W.P.(C.) No. 4860/2011 has attained finality. That is not even the respondents submission. Once the legal position has been set at rest by this Court, any party, including the party who may have contended otherwise in earlier proceedings, would be entitled to rely upon the

finding returned by the Court and litigate on that basis. It may have been a different matter, if the Court had not ruled on the status of Article XIII (d) of the constitution of WFI. In that situation, petitioner No. 2 may have been precluded from contending that Article XIII (d) stood deleted on 05.02.2011. However, since this Court has already ruled on the status of the said Article, both the petitioners are entitled to rely on the said ruling to advance their case and they cannot be said to be approbating or reprobating merely because they seek to rely upon the findings of this Court in relation to the status of Article XIII (d).

27. There is also no merit in the submission of Mr. Dewan that the petitioners are estopped from challenging the elections of respondents No. 3 & 4. As submitted by learned counsel for the petitioner, firstly, it was the stand of respondent No. 1 and the Returning Officer, and not the initial stand of the petitioners (and certainly not of petitioner No. 1) that Article XIII (d) continued to operate in relation to the elections notified on 12.03.2011. Secondly, by the so-called representation (even if it were to be assumed that such a representation was made by petitioner No. 2), the petitioners cannot be said to have derived any benefit inasmuch, as, petitioner No. 1 was not even a candidate and petitioner No. 2's election as the President has been set aside by this Court. Thirdly, neither respondent No. 3, nor respondent No. 4 can be

said to have altered their position, in any manner, to their disadvantage by the so-called representation. In fact, they were the beneficiaries of the said representation held out the WFI and the Returning Officer, as they got elected by eliminating competition to a great extent.

28. Reliance placed by Mr. Dewan on ***Mumbai International Airport Private Limited*** (supra) is misplaced. This was a case where the plaintiff had filed a suit in the City Civil Court, Mumbai expressly setting up a claim founded upon an irrevocable license. The City Civil Court returned the plaint filed by the plaintiff and the plaintiff preferred an appeal before the Bombay High Court. In the appeal proceedings, the plaintiff expressly gave up its claim of an irrevocable license in order to revive the suit. On such stand being taken, the High Court remanded the suit for trial before the City Civil Court. Consequently, the plaintiff got the benefit of taking such a stand, namely the revival and trial of its suit, and the benefit of the interim order passed in the said proceedings which operated from the year 2001 to 2004. Under the interim protection, the plaintiff ran the restaurant in question during that period.

29. Subsequently, however, the plaintiff sought to once again urge its case of having an irrevocable license in proceedings before the

Estate Officer as well as before the Court. It was in this background that the Supreme Court applied the doctrine of Prohibition against approbation and reprobation. This decision clearly has no application to the facts of the present case.

30. Similar is the position with regard to the decision in ***Joint Action Committee of Airlines Pilots Associations of India*** (supra). The passage from the said decision relied upon by Mr. Dewan is contained in para 14, which reads as under:

"14. The doctrine of election is based on the rule of estoppels-the principle that one cannot approbate and reprobate inheres in it. The doctrine of estoppels by election is one of the species of estoppels in pais (or equitable estoppels), which is a rule in equity. But that law, a person may be precluded by his actions or conduct or silence when it is his duty to speak, from asserting a right which he otherwise would have had. Taking inconsistent pleas by a party makes its conduct far from satisfactory. Further, the parties should not blow hot and cold by taking inconsistent stands and prolong proceedings unnecessarily."

31. The aforesaid observations, in my view, have no application in the present case. As aforesaid, the petitioners cannot be said to have approbated and reprobated at the same time. They being members of WFI are entitled to question the continuance of respondents No. 3 & 4 as the Secretary General and the Senior Vice President of the WFI on the ground that their elections were vitiated for the reasons aforesaid. There is no question of any election being made by either of the

petitioners with regard to their stand. This is the first petition preferred by petitioner No. 1. In respect of petitioner No. 2 also, the stand taken by him earlier has expressly been rejected by this Court, and the stand now taken by him is founded upon the decision of this Court. Consequently, there is no merit in this submission of Mr.Dewan.

32. A perusal of Articles 10(c) and 10(e) clearly shows that the dislodgement of the Senior Vice President or the Secretary General from their respective positions, on account of their elections being vitiated due to application of Article XIII (d), would not result in hell breaking loose on the WFI or the sport of wrestling. In the absence of the Senior Vice President, one of the Vice Presidents is entitled to act in his capacity. Similarly, in the absence of the Hony. Secretary General, one of the Joint Secretaries is entitled to function in that capacity. The continuance of respondents No. 3 & 4, when their elections are vitiated would, in fact, lead to uncertainty and dissent within the organisation of the WFI and the earlier they are dislodged, the better it would be for the organization and the sport of wrestling.

33. Now, coming to the report filed by the Returning Officer Mr. Justice C.K. Mahajan (Retd.). I may note that Mr. Justice C.K. Mahajan (Retd.) was appointed as the Returning Officer to hold the elections for the post of the President of WFI on 29.01.2012. This was on account of

the setting aside of the election of the President of WFI in the aforesaid Writ Petition No. 4860/2011. The Returning Officer in his report dated 29.01.2012, i.e. made on the same day on which the elections were scheduled, and submitted to this Court on the morning of 30.01.2012, and has stated as follows:

*“When the Returning Officer commenced the proceeding **the disgruntled elements disrupted the process and would not allow casting of votes. The disruption continued for over 2 hours.** The Police was directed in writing to clear the room of persons whose names were not on the Electoral roll. No action was taken. Time and again the persons disrupting the proceedings were told that if they had any grievances relating to the decisions taken and the election process, then obstruction of the election process was not the solution and they were at liberty to take recourse to the due process of law.*

The returning Officer was manhandled by one person in the presence of those present. Timely assistance of some persons present, the Returning Officer made a hasty exit fearing harm to his person.

*The order of the Delhi High Court was complied with in letter and spirit. The Electoral College was prepared and finalized by the Returning Officer. All objections filed before the Returning Officer were finally decided and put on the WFI website. Election process was thus complete and only voting was to be done on the 29.1.2012. **Keeping in mind the deteriorating situation which could escalate into a brawl and a free for all, it was decided to Abandon/postpone the Elections.***

Shri Vinod Tomar, Assistant Secretary and Shri Asit Saha Vice President of WFI informed me on the telephone later in the afternoon that voting took place after I had left and fifty six votes were cast.

I am thus apprising the court of what transpired on

29.1.2012 for record and further action.”

(Emphasis supplied)

34. This report was submitted by the Returning Officer to this Court on 30.01.2012 in the morning itself. The same is taken on record. A perusal of the said report clearly shows that the elections for the post of President cannot be said to have been held and concluded. The elections had already been abandoned/postponed by the Returning Officer. It was for the Returning Officer to hold the elections. No other person had that authority or mandate to do the same. He had to leave because of his manhandling and unruly behaviour of those present. This being the position, there was no purpose in, or sanctity attached to the voting that may have taken place later. It was for the Returning Officer to have supervised the process of election, which he could not do for the reasons aforesaid. He has not supervised the voting, or the counting, or the compilation, or the declaration of the result. The voting that may have taken place after the postponement/abandonment of the election by the Returning Officer is a wholly unauthenticated and a self-serving exercise that some candidate may have orchestrated. It does not get any legitimacy and cannot be recognized.

35. The said report of the Returning Officer is a sad reflection on the candidates contesting elections for the post of President in WFI. The

Returning Officer, a retired Judge of this Court, was manhandled and he had to make a hasty exit fearing harm to his person. Despite the police force being present, they did not act.

36. The Returning Officer had prepared and finalized the Electoral College. All objections filed before him were finally decided and put on the website of WFI. The election process was thus completed, except that the voting, which was to be done on 29.01.2012 could not take place.

37. Mr. Dewan has submitted that elections for the post of President have already been held and a President has been elected. This submission is outrightly rejected as it is in the teeth of the report of the Returning Officer.

38. It was for the Returning Officer to have conducted the elections. Whence he had abandoned the elections due to law & order problem created at the venue, there was no question of the election proceeding further, and a President being elected.

39. Mr.Dewan's submission that WFI and the newly-elected President should be heard in the matter, also has no merit. The Returning Officer is a retired and respected Judge of this Court. There is no reason to doubt or reject his report when he states that the election had to be abandoned/postponed due to the law & order problem. No

person can claim that the election was held on 29.01.2012 after it being abandoned/postponed by the Returning Officer. No person can claim that he had been elected as the President. If someone stakes such a claim, he is merely a usurper of the office of the President of WFI. He is an imposter. Who declared him to be the President? The Returning Officer did not. Such a person need not be recognized by the Court for any purpose, much less be noticed or heard. Consequently, I declare that the election for the post of President in consequence of decision in W.P.(C.) No. 4860/2011 and L.P.A. No. 18/2012 has not been duly held.

40. Accordingly, I allow this writ petition and declare that the elections of respondents No. 3 & 4 to the post of the Secretary General and the Senior Vice President of WFI are null & void. These elections are, accordingly, set aside. The respondents No. 3 & 4 have no authority to act in the respective capacity of Secretary General and Senior Vice President of WFI and they are, accordingly, restrained from doing so forthwith. The elections for the posts of the Secretary General and the Senior Vice President deserve to be held afresh at the earliest.

41. The election to the post of President not having been concluded by the Returning Officer for the aforesaid reasons, also deserves to be

held afresh simultaneously with the elections for the post of the Secretary General and the Senior Vice President. The so-called President, who claims to have been elected in the election process held on 29.01.2012, is also not entitled to continue to hold himself out as the President of WFI, and he is also restrained from acting as such forthwith. Respondent No. 1 shall ensure strict compliance of these directions.

42. I direct the conduct of fresh elections for the posts of President, Secretary General and Senior Vice President of WFI.

43. I appoint Mr. Justice Ajit Bharihoke (Retd.), Judge of this Court, as the Returning Officer to hold elections for the posts of President, Secretary General and Senior Vice President of WFI. The fees of the Returning Officer is fixed at Rs.1,00,000/- to be paid from the account of respondent No. 1.

44. The respondents are directed to cooperate with the Returning Officer and to provide to him all the records including the Electoral College, as finalized by the earlier Returning Officer Mr. Justice C.K. Mahajan (Retd.). The elections shall be held strictly under the supervision of the Returning Officer.

45. The Commissioner of Police, Delhi is directed to provide sufficient police bandobast and protection, so that the elections are held in an

orderly manner and the unruly atmosphere experienced by Mr. Justice C.K. Mahajan (Retd.) is not repeated once again. The Deputy Commissioner of Police of the concerned area where the election venue is fixed, shall be personally responsible to ensure maintenance of proper law & order at the time of conduct of elections. Only the eligible voters shall be entitled to enter the election venue after proper verification of their identity.

46. Since the President, Senior Vice President and Secretary General have been restrained from acting in their respective capacities forthwith, to ensure that the functioning of WFI is not jeopardized, I direct the Secretary (Sports), Department of Sports, Ministry of Youth Affairs & Sports, Government of India, to discharge the responsibilities of President under the constitution of WFI till the conduct of elections. He shall nominate one of the Joint Secretaries to function as the Secretary General and one of the Vice Presidents as the Senior Vice President of the respondent No. 1 till the elections are held. He shall notify the elections for the three posts aforesaid within two weeks, and fix the election schedule in consultation with the Returning Officer and ensure that the elections are held at the earliest in accordance with the constitution of WFI.

47. The petition stands disposed of in the aforesaid terms. A copy of

this judgment be communicated to the Commissioner of Police, Delhi and the Secretary (Sports), Department of Sports, Ministry of Youth Affairs & Sports, Government of India, forthwith for information and compliance, and also the Mr. Justice Ajit Bharihoke, Retired Judge of this Court for his information and necessary action.

48. Dasti.

VIPIN SANGHI, J

FEBRUARY 23, 2012

'BSR'