

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

+ **LPA No.139/2012**

% Date of Hearing: 11.04.2012
Date of Decision: 20.04.2012

Shyam Singh Yadav Petitioner in person

Versus

National Rifle Association
of India & Anr.

.....Respondent
Through Mr. Sanjeev Sachdeva,
Sr. Advocate Mr. Preet Pal Singh
advocate for respondent No.1
Mr. A.S. Chandhiok, ASG with
Mr.Neeraj Chaudhary, CGSC,
Mr.Bhagat Singh, Ms.Harleen
and Mr.Ravjyot Singh for UOI

**CORAM :
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

A.K. SIKRI, Acting Chief Justice

1. This intra court appeal is preferred by the appellant impugning the judgment of the learned Single Judge dated 5th January, 2012 passed in two writ petitions filed by the appellant. In the writ petitions, the appellant had challenged the decision of the respondent, namely,

National Rifles Association of India whereby the appellant was removed from the post of Treasurer. The learned Single Judge has upheld the decision of the respondent and dismissed the petitions. The appellant maintains that he could not have been removed from the post of Treasurer to which he was duly and validly elected and his term as a Treasurer was up to the year 2013. According to the appellant, his removal is on totally arbitrary and illegal grounds. The genesis of dispute has the following tracking:-

2. The respondent is as Association in the field of Rifle sport. It is an autonomous body recognized by the Ministry of Sports at the national level for the promotion and advancement of shooting in India. Being a recognized body it receives substantial grants from the Central Government. Elections to the various posts of office-bearers and Executive Committee are held periodically as per the Bye-Laws of the respondent Association (hereinafter referred to as the 'Rifle Association'). The appellant is a serving Government officer in the service of the Government of Uttar Pradesh. He claims that he has special interested in the Sport of shooting and is interested in the advancement of such sport in India. For this reason he has been associated with the Rifle Association since 1996. In the year 2004, he

was co-opted as the Honorary Treasurer on the demise of the erstwhile Treasurer. Thereafter, when the elections were held in the year 2005 the appellant contested the election to the post of Treasurer and was duly elected. Term of the office-bearers is four years. Fresh election became due in the year 2009 and the petitioner was again elected to the same post of Honorary Treasurer. In the normal course, this term expires in the year 2013.

3. On 3rd February, 2011, the Rifle Association through its President issued show cause notice to the appellant stating that as a serving Government servant the appellant was not entitled to continue as the Honorary President or be elected to any post in the Rifle Association for a period exceeding four years on one term whichever is less. It was enquired from him as to whether the appellant has taken No-Objection Certificate from his employer, i.e., the State of Uttar Pradesh to continue as the office-bearer of the Rifle Association.

4. The foundation of this show cause notice was the circular dated 4th February, 2010 issued by the Government of India through the Ministry of Youth Affairs and Sports, Department of Sports for adoption of norms relating to obtaining prior Governmental sanction necessary for contesting/canvassing in election to sports bodies. This circular was

addressed to the Chief Secretaries of all State Governments and Union Territories and to the Sports Secretaries of Governments of all States as well as the Union Territories. It was stated in the circular that holding of elective office, in so far as the Central Government Servants are concerned, was regulated by the Central Government Service (Conduct) Rules, 1964 and Rule 15(1) thereof mandated previous sanction of the Central Government to hold an elective office in any body. As per Rule 12 thereof, previous sanction of the Government or the prescribed authority is necessary for a Government servant associating himself with raising of any funds or other collections, in pursuance of any object whatsoever. Further, reference was made to OM dated 22nd April, 1994 issued by the Department of Personnel and Training [DOPT], which, *inter alia*, provided that no Government servant should be allowed to hold an elective office in any Sports Association/ Federation for a term of more than four years or for one term, whichever is less.

5. On this basis, the appellant was given the aforesaid show cause notice. The submission of the appellant, in this behalf, was that aforesaid circular dated 4th April, 2010 was not applicable to him as it was issued by the Central Government and was meant for Central Government employees, who were governed by the CCS (Conduct)

Rules whereas the appellant is an employee of the State of Uttar Pradesh and there was no such corresponding provision in the Rules of the State Government which impose any such condition. Feeling aggrieved by this show cause notice dated 3rd February, 2011 the appellant filed WP(C) No.1980/2011. The appellant sought restraint order against the respondent from considering the show cause notice in the proposed Governing Body meeting of the Rifle Association. The Court did not grant any stay against the proposed move of the Rifle Association. Accordingly, the General Body meeting was held on 28th March, 2011 and after discussion the proposal mooted by the President that the appellant be removed from the post of Treasurer was adopted. Thereafter, Resolution was passed by overwhelming majority removing the appellant from the post of Honorary Treasurer. Challenging this removal, the appellant filed second writ petition, i.e., WP(C) No.6159/2011 on the same grounds on which first petition was preferred.

6. The respondent Rifle Association, on the other hand, submitted that it was bound by the Government guidelines governing National Sports Federation. It was pointed out that this Court in WP(C) No.7868/2005, while dealing with the case of Indian Olympic

Federation, in its order dated 2nd March, 2010 observed that the Government guidelines governing the National Sports Federations were valid, binding and enforceable and that the tenure clause was not in violation of the International Olympic Committee's (IOC) Charter. It was also held that the Government of India was fully competent to make regulations of National Sports Federations and Indian Olympic Association.

7. The learned Single Judge has accepted the contention of the respondent holding that the circular dated 22nd April, 1994 issued to the National Sports Federation stipulating that no Central Government should be allowed to hold an elective office in any Sports Association/Federation for a term of more than four years or for one term, whichever is less was binding on the Sports Federations. No doubt, it pertained to Central Government employees but in spirit it was applicable in the instant case also, is dealt with in the following manner:-

“24. No doubt, the said prescription is in respect of Central Government employees. However, the reason behind the said prescription is what is more important to be taken note of than even the prescription itself. As noted in the said office memorandum, the entire time of the government servant, particularly a senior officer should be

available to the Government and no activities connected with his official duties should be allowed to interfere with the efficient discharge of such duties. The Government while issuing the said office memorandum was conscious of the tendency on the part of the government servant to seek elective offices in sports federations/associations at the National/State level, and after taking note thereof laid down, inter alia, the principle that no government servant should be allowed to hold elective office in any sports association/federation for a term of more than four years or for one term, whichever is less. If it is true that a senior government servant in the Central Government should be available to the Central Government for rendering his services, and no activities unconnected with his official duties should be allowed to interfere in the efficient discharge of such duties, it is equally true for State Government servants as well.

25. The submission of the petitioner that since the State of U.P has not formulated prior rules/instructions for grant of permission to enable the State Government servants to contest for elective posts in sports federations, the petitioner is entitled to continue as the Hon. Secretary has no merit. This is so because the petitioner, admittedly, has already served for a full term of four years in an elective office i.e as Hon. Treasurer of the respondent-Association from the year 2005 to 2009, and even thereafter till his removal from office by the General Body of the respondent-Association on 28.03.2011. Beyond a period of four years the State Government cannot grant permission to a State Government servant to hold an elective office in a National

Sports Federation. Whatever may the position with regard to holding of an elective office in a State/District Sports Federation by a State Government servant, in relation to an elective post in a National Sports Federation, the Government servant – to whichever service he belongs (whether Central or State), must comply with the requirements set out by the Central Government vide circular dated 04.02.2010. He cannot defy and breach those conditions by merely contending that the State Government of the State of U.P has not laid down appropriate rules/instructions for grant of permission.”

6. The learned Single Judge has also opined that even if the State of U.P. did not lay down specific rules or instructions for grant of appropriate permission, the appellant could still apply for permission/sanction from the State Government in view of the aforesaid dicta by the Central Government to the Sports Federations and particularly, having regard to the communication dated 24th December, 2010 whereby the Central Government has conveyed its decision that the appellant was not entitled to hold the post any further. In the light of the said communication, the decision of the Rifle Association passed by an overwhelming majority was valid and bona fide.

7. The appellant has argued this appeal in person and his submission remains the same, namely, that the CCS (Conduct) Rules of the Central

Government were not applicable and in the absence of any such restrictions governing the appellant, who was an employee of the State of U.P., there was no such restrictions upon him and he could not be removed from the post of Treasurer.

8. We are not convinced. Question is not merely seeking permission in view of Rule 15(1) of the CCS (Conduct) Rules. Matter has to be examined from the angle of these Federations, which are governed by the Sports Code which is introduced by the Ministry of Youth Affairs and Sports. There is a clear direction by the said Ministry as well as the mandate of DOPT imposing such restrictions on the sports bodies. As pointed out above, the issue came up in WP (C) No.7868/2005 and this Court held that the Government guidelines governing the national sports were valid and binding. After that judgment the Ministry of Youth Affairs and Sports had issued circular dated 1.5.2010, inter alia, observing as under:-

“Accordingly after taking into account the entire facts and circumstances of the case, and the views expressed by the Hon’ble Courts and Parliament, and the prevailing public opinion on the matter, and with a view to encouraging professional management, good government, transparency, accountability, democratic elections, etc. in NSFs, including IOA, the competent authority after satisfying himself has set aside the orders keeping the tenure

*clause in abeyance with immediate effect
subject to the following modifications in the
existing tenure limit provisions referred to in
letter dated 20th September,
1975.....*

x x x x x x x x x

ii. The Secretary (or by whatever other designation such as Secretary General or General Secretary by which he is referred to) and the Treasurer of any recognized National Sports Federations, including the Indian Olympic Association, may serve a maximum of two successive terms of four years each after which a minimum cooling off period of four years will apply to seek fresh election to either post.”

9. We have also to go behind the spirit of DOPT's OM No.22.4.1994, the relevant portion of which is as under:-

“..... It hardly needs to be emphasized that the entire time of the Government servant, particularly a senior officer, should be available to the Government and no activities unconnected with his official duties should be allowed to interfere with the efficient discharge of such duties. The need for curbing the tendency on the part of a Government servant to seek elective office in sports federations/associations at the National/State level has been considered carefully and it has been decided that the following principles should be followed while considering requests from Government servants for seeking election

to or holding elective offices in sports federations/associations:-

(i) No government servant should be allowed to hold elective office in any sports association/federation for a term of more than 4 years, or for one term, whichever is less.

(ii)

(iii)

(iv)”

10. The aforesaid circular points out the need of curbing the tendency on the part of Government servants to seek elective office in sports federation/association at the National/State level as it may have tendency to adversely affect their functioning as Government servant. For this reason, even the tenure is restricted. This has a laudable objective behind it. A Government servant is supposed to discharge his official duties with all commitment and devotion. For this reason his association with Sports Federations/Associations has to be minimal. That is what the aforesaid DOPT OM seeks to achieve if one goes behind the spirit of these OMs. Merely because the appellant is an employee of the State of U.P. would not mean that the Sports Associations/Federations, which are bound by the mandate of sports code and directions of the Central Government from where they receive

substantial funds, should not adhere to such directions and instructions. When we examine the matter from this angle we are of the opinion that the Court can refuse to exercise its extraordinary jurisdiction under Article 226 of the Constitution and that is what is done by the learned Single Judge. We, therefore, do not intend to interfere with such a position. This appeal is accordingly dismissed.

11. No costs.

ACTING CHIEF JUSTICE

April 20, 2012
hp.

**(RAJIV SAHAI ENDLAW)
JUDGE**