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

+ Date of Decision: 05.01.2012

% W.P.(C) 6159/2011 & C.M. No. 16893/2011

SHYAM SINGH YADAV Petitioner
Through: Mr. Mohit Chaudhary with
Mr.Dheeraj Gupta and Mr. A. Das,
Advocates.
versus

NATIONAL RIFLE ASSOCIATION OF INDIA Respondent
Through: Mr. Sanjeev Sachdeva, Senior
Advocate with Mr. Preet Pal Singh
and Ms. Priyam Mehta, Advocates.

% W.P.(C) 1980/2011

SHYAM SINGH YADAV Petitioner
Through: Mr. Mohit Chaudhary with
Mr.Dheeraj Gupta and Mr. A. Das,
Advocates.
versus

NATIONAL RIFLE ASSOCIATION OF INDIA & ORS..... Respondents
Through: Mr. Sanjeev Sachdeva, Senior
Advocate with Mr. Preet Pal Singh
and Ms. Priyam Mehta, Advocates
for the respondent No. 1/NRAI.
Mr. Neeraj Chaudhari, CGSC with
Mr. Khalid Arshad, Advocate, for
the respondent/UOI.

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

VIPIN SANGHI, J. (Oral)

1. These two petitions under Article 226 of the Constitution of India have been preferred by the petitioner in relation to the action of the

respondent/National Rifle Association of India (NRAI) in removing him from the post of Treasurer. The respondent-Association/NRAI is an association, which is an autonomous body recognized by the Ministry of Sports at the national level for the promotion and advancement of the sport of shooting in India. It is the National Sports Federation duly recognized and regulated by the Government of India. It receives substantial grants from the Central Government. According to the petitioner, it received grants of Rs. 22 Crores (approximately) between 2007 and July 2011.

2. The petitioner is a government officer serving under the Government of Uttar Pradesh. He states that he is a PCS 1982 Batch officer. He claims that he has special interest in the sport of shooting, and is interested in advancement of the said sport in India. He has been associated with the NRAI since 1996.

3. The petitioner states that on 14.08.2001, the Government, acting through the Ministry of Sports (Ministry of Youth Affairs & Sports), notified and introduced the Sports Code for assistance to National Sports Federations. The Government set priorities and detailed the procedure to be followed by National Sports Federations for their recognition and to avail sponsorship and assistance from the Government.

4. In the year 2004, upon the demise of the erstwhile Treasurer, the petitioner was co-opted as the Hon. Treasurer of the respondent-

Association. He continued in that position till 2005 when the elections, inter alia, for the said post were held. The petitioner contested for the said post of Hon. Treasurer in the respondent-Association, and was elected to that position. On the expiry of the four-year term in the year 2009, the elections for the said post were again held, and the petitioner again offered his candidature for the said post. Once again he was elected as the Hon. Treasurer of NRAI for a term of four years, which will expire in 2013.

5. On 04.02.2010, the Government of India through the Ministry of Youth Affairs & Sports, Department of Sports, issued a circular addressed to the Chief Secretaries of all the State Governments and Union Territories, and to Sports Secretaries of Governments of all State Governments and Union Territories on the subject of adoption of norms relating to obtaining of prior governmental sanction for contesting and canvassing in elections to sport bodies. This circular took note of the fact that a number of government servants of the State Governments and the Union Territories Administration are holding posts in various sports associations and bodies at the national level, state level and district level. It pointed out that holding of elective office by government servants by the Central Government is regulated by the Central Civil Services (Conduct) Rules, 1964 [CCS (Conduct) Rules]. In terms of Rule 15(1) of the CCS (Conduct) Rules, previous sanction of the Central Government is required to hold an elective office in any

body. Under Rule 12 of the CCS (Conduct) Rules, previous sanction of the Government or the prescribed authority is also necessary for a government servant, associating himself with raising of any funds or other collections, in pursuance of any object whatsoever.

6. Pertinently, this circular also referred to instructions issued by the Department of Personnel & Training (DOPT) contained in its O.M. No. 11013/3/9/93-Estt.(A) dated 22.04.1994 which, *inter alia*, provides 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. The circular dated 04.02.2010 called upon the State Governments/Union Territories Administrations to formulate, if not already so formulated, appropriate rules/instructions for incorporating the above-referred provisions. The Government also required the States/Union Territories to furnish a list of names of officers, *inter alia*, belonging to the State Services holding elective posts in Sports Federations/Associations, along with details of their terms and tenure.

7. According to the petitioner, this Government circular dated 04.02.2010 was not *ipso-facto* applicable in the case of the petitioner since the petitioner, as aforesaid, belongs to Uttar Pradesh State Service and is not a Central Government servant. The petitioner submits that the CCS (Conduct) Rules are not applicable to him. It is also the petitioner's submission that the State of Uttar Pradesh has not

made any similar rules/instructions as referred to in the circular dated 04.02.2010 of the Government of India. In this regard, reliance is placed by the petitioner on the communication dated 28.12.2010 issued by the Joint Secretary and Public Information Officer of the Uttar Pradesh Government, in response to a query raised under the Right to Information Act (RTI Act), wherein it is stated that no guidelines have been issued by the Appointment Department, Uttar Pradesh, in pursuance of Government of India circular dated 04.02.2010.

8. The petitioner submits that the NRAI, acting through its President, issued a show cause notice dated 03.02.2011 to him. In this notice, the respondent-NRAI sought to place reliance upon the correspondence undertaken by it with the Ministry of Sports & Youth Affairs vide its communication dated 20.12.2010 and the response received from the said Ministry on 24.12.2010. The show cause notice states that NRAI had sought a clarification and instructions from the Ministry of Sports & Youth Affairs with regard to the petitioner's eligibility to continue as an office bearer in the post of Hon. Treasurer or any other elected post in NRAI. It was also enquired whether the petitioner had the required No Objection Certificate (NOC) from his employer, i.e. the State of Uttar Pradesh, to continue as an office bearer of NRAI. The show cause notice made reference to the governmental response dated 24.12.2010, which advised the Federation that, as a serving government servant, the petitioner may

not continue as the Hon. Treasurer, or be elected to any post in NRAI for a period exceeding four years or one term, whichever is less.

9. The show cause notice also referred to a communication sent by the NRAI to the Government of Uttar Pradesh dated 21.12.2010 seeking instructions, as to whether or not the petitioner had taken prior permission to contest the elections of NRAI or to continue as the Hon. Treasurer, or to contest elections for any other post in the said Association in future. It also made a reference to the response received from the Chief Secretary, Government of Uttar Pradesh, vide his letter dated 31.12.2010, which states that the petitioner had not been accorded any such permission by the Uttar Pradesh State Government.

10. By this show cause notice the President, in exercise of his constitutional duty and on the ground of maintaining transparency in the functioning of the respondent-Federation, called upon the petitioner to show cause as to why the Governing Body should not consider his removal from the post of Hon. Treasurer of the Federation. The President also sought to curtail the powers of the petitioner in the interregnum by, firstly, constituting a three-member committee headed by the petitioner to act as a Special Finance Committee to oversee and discharge all the responsibilities of the Hon. Treasurer of NRAI. The President also required the petitioner to interact with the office staff through the Secretary only.

11. The petitioner, being aggrieved by the said communication dated 03.02.2011 issued by the President of NRAI, preferred W.P.(C.) No. 1980/2011 to assail the same. It appears that the petitioner also sought a restraint against consideration of the said show cause notice in the proposed Governing Body Meeting of NRAI.

12. This writ petition was taken up by the Court on 25.03.2011. On this date, the petitioner made a statement that he foregoes his right to answer to the said show cause notice. The Court observed that the pendency of the writ petition would not prevent the respondent NRAI from proceeding to dispose of the show cause notice in accordance with law, and in passing appropriate orders. The Court also rejected the petitioner's application for stay, (which was not numbered, though wrongly noted in the order as C.M. No. 4198/2011), whereby the petitioner sought a restraint against the holding of the Governing Body Meeting on 28.03.2011, on the ground that the petitioner had not made out a prima-facie case for interim relief.

13. The Governing Body Meeting of respondent-Association was held on 28.03.2011. The consideration of the show cause notice issued to the petitioner was taken up by the Governing Body under Item 14(g). The minutes of the said Governing Body Meeting have been placed on record of W.P.(C.) No. 6159/2011. From the minutes, it appears that the Governing Body after discussions adopted the proposal mooted by the President that the petitioner be removed from the post of

Treasurer of NRAI. The Governing Body was conscious that for this purpose the General Body should pass a resolution.

14. Thereafter the General Body Meeting was convened on 28.03.2011, where the General Body considered whether the petitioner should continue as the Hon. Secretary of NRAI or not. The minutes of the meeting of the General Body held on 28.03.2011 have been placed on record by the respondent with their counter-affidavit.

15. The General Body had a total strength of 40. Out of 40 members, two members left the house and were not present at the time of voting. 31 out of 38 members voted in favour of the resolution and, accordingly, the said resolution was passed by overwhelming majority. Consequently, the petitioner stands removed from the post of Hon. Treasurer of the NRAI.

16. As aforesaid, the primary submission of the petitioner is that the circular dated 04.02.2010 is not applicable to the petitioner, as it has been issued by the Central Government, whereas the petitioner is a Government officer under the State of Uttar Pradesh and is not bound by the CCS (Conduct) Rules. The second submission of the learned counsel for the petitioner is that the State of Uttar Pradesh has not yet adopted the said circular dated 04.02.2010 and there are no guidelines laid down by the State of Uttar Pradesh for grant of sanction, to enable the petitioner to continue to serve as the Hon. Secretary of NRAI. He submits that since there are no rules or guidelines in this regard, the

petitioner, possibly, could not have obtained any prior permission from the State of Uttar Pradesh. Thirdly, it is submitted that the election of the petitioner as Hon. Treasurer had taken place in the year 2009, whereas the said Government circular had come to be issued only on 04.02.2010. It is argued that this circular would, at best, be prospective in its operation and cannot affect the right of the petitioner, who is holding the position of Hon. Treasurer for a period of four years from 2009 to 2013. The petitioner also submits that the President of the NRAI has no authority to curb the powers of the Hon. Treasurer, as done by him in the show cause notice dated 03.02.2011.

17. The petition is opposed by the respondent. The submission of learned counsel for the respondent is that the issue of implementation of tenure restrictions in National Sports Federations/Associations was pending for a long time and was not implemented due to strong opposition of the Indian Olympic Association and various National Sports Federations. However, this Court in W.P.(C.) No. 7868/2005, while dealing with the case of Indian Olympic Federation, in its order dated 02.03.2010 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.

18. Learned counsel draws attention of the Court to the circular dated 01.05.2010 issued by the Ministry of Youth Affairs & Sports to the President of Indian Olympic Association, and all recognized Sports Federations and to the Secretary General/Secretary of, inter alia, of National Sports Federations, wherein the government, inter alia, observes:

“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 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.”

19. Learned counsel for the respondent submits that the circular dated 04.02.2010 issued by the Central Government makes reference to DOPT instructions dated 22.04.1994 which, *inter alia*, provides 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. He submits that the State Government/UT administrations are bound by the said circular, at least in relation to National Sports Federations, since the National Sports Federations are recognized and regulated by the Central Government and receive aid and funds from the Central Government. The National Sports Federations are bound by the Central Government guidelines and no member or office bearer of National Sports Federation can remain in office in breach of the guidelines laid down by the Central Government. Learned counsel for the respondent submits that it is in public interest that government servants, whether under the Central Government or under a State Government/UT administration, should not be involved in sports federations for an indefinite period of time in an elected capacity, as it is bound to effect the discharge of their primary responsibilities and duties as a government servant. It is for this reason that Rule 15 of the CCS (Conduct) Rules lays down various prescriptions, and prohibits that the government servant shall not, except with the previous sanction of the Government engage in trade or business; undertake any other employment; hold an elective office, or canvass for a candidate or candidates for an elective office, in any body, whether incorporated or not etc. He also refers to the DOPT O.M dated 22.04.1994, referred to in the circular dated 04.02.1010. This DOPT O.M., inter alia, states :-

“-----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)”

20. Learned counsel for the respondent submits that the respondent has acted bona fide and upon the advice of the Central Government. He has drawn my attention to the communication dated 20.12.2010 issued to the Government of India, Ministry of Youth Affairs & Sports, bringing to its notice the fact that the petitioner had been holding an elected office since 2005, and had been elected for the second time in 2009 to the post of Hon. Treasurer. The respondent had sought the advice of the said Ministry as to whether the petitioner could continue as the Hon. Secretary or contest elections for any other post in the respondent- Association. The Central Government had responded vide letter dated 24.12.2010, inter alia, stating:

“As per the extant guidelines on the subject matter, no Government Servant can hold an elective post in any sports association/federation for more than four years or one term whichever is less. Further, he is required to obtain prior sanction of the government before holding any elective post.

Since Sh. Yadav has already completed 6 years as Hony. Treasurer, he is not entitled to continue in the post nor can he contest for any other elective post in the sports body. It is also not known if he had taken prior sanction from the Government for holding the post”.

21. Learned counsel for the respondent further submits that the petitioner did not even chose to respond to the show cause notice dated 03.02.2011, as recorded in the order dated 25.03.2011 passed in W.P(C) 1980/2011. He submits that since the office bearers of the association are elected by the General Body, their removal has also to be considered by the General Body. He submits that the petitioner has been removed by the General Body in its meeting held on 28.03.2011. He further submits that the petitioner has not even challenged the resolution passed by the General Body by an overwhelming majority.

22. In his rejoinder, learned counsel for the petitioner submits that his writ petition, being W.P(C) 1980/2011 ought to have been considered as his reply to the show cause notice dated 03.02.2011. Moreover, since the petitioner is an U.P State Government servant and not a Central Government servant, the requirement of prior permission/approval from the State Government is not applicable so far as the petitioner is concerned, for holding the elective office of Hon.

Secretary of the respondent-Association for more than one term.

23. It is well settled that the Central government is entitled to lay down guidelines to govern the National Sports Federations and such guidelines are binding on and enforceable against the National Sports Federations. The Central Government aids and funds the activities of the NSFs and regulates them. The Central Government is also entitled to lay down the tenure clause for the office bearers and members of the National Sports Federations. By circular dated 01.05.2010, the Central Government, in the Ministry of Youth Affairs and Sports, has laid down the tenure for, *inter alia*, the Hon. Treasurer of any recognized National Sports Federation/Association as "*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*". However, it is important to note that this prescription of tenure is a general prescription for all those who may hold the post of, *inter alia*, the Hon. Treasurer of the National Sports Federation. This prescription does not whittle down the effect of further restrictions placed by the Central Government on the holding of an elective office in the National Sports Federations by government servants. As early as on 22.04.1994, the DOPT has laid down that no Central 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.

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 be 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.

26. Even though it would be academic to say so, and is not relevant for the purpose of this case, I may also observe that merely because the State of U.P may not have laid down specific rules/instructions for grant of appropriate permission, that did not preclude the petitioner from applying for permission/sanction from the State Government. Admittedly, the petitioner has not applied to the State of U.P for grant

of permission to hold, or continue to hold the elective post of Hon. Secretary of the respondent-Association. In its communication dated 24.12.2010, as extracted above, the Central Government has conveyed its decision that the petitioner is not entitled to hold the post of Hon. Secretary any further. In the light of the aforesaid, the General Body of the respondent –Association, by an overwhelming majority removed the petitioner. That decision/resolution of the General Body, which is supreme, has not been assailed in these proceedings. The challenge to the Minutes of the meeting of the Governing Body meeting held on 28.03.2011 is of no avail, as the Governing Body did not take the decision to remove the petitioner from his position as the elected, Hon. Treasurer of the respondent-Association. It only considered the issue whether the petitioner's case for removal should be placed before the General Body. It is the General Body of the respondent-Association which could have, and which has infact removed the petitioner from the post of Hon. Treasurer.

27. In the light of the aforesaid discussion, I do not intend to go into the petitioner's submission with regard to the curtailment of his powers as the Hon. Secretary by the President vide communication/show cause notice dated 03.02.2011, as the said issue has become academic in view of the petitioner's valid removal from his position as the Hon. Treasurer by the General Body in its meeting held on 28.03.2011.

28. For the aforesaid reasons, I do not find any merit in these petitions and dismiss the same, leaving the parties to bear their respective costs.

JANUARY 05, 2012
'BSR'/as

VIPIN SANGHI, J