

HIGH COURT OF TRIPURA
AGARTALA
WP(C) No. 25 of 2024

1. Shri Tapash Ghosh,
Son of Late Sailendra Ghosh
Aged about 48 years, resident of Ramnagar Road No.8 PO- Ramnagar, PS-
West Agartala, Agartala, District-West Tripura, Honorary Secretary of TCA;
2. Shri Timir Chanda,
Son of Late Kajal Chanda
Aged about 48 years, resident of 56, HGB Road, PO-Agartala, PS-West
Agartala, District-West Tripura, Honorary Vice President of TCA;
3. Sri Joylal Das,
Son of Late Lal Bihari Das,
Aged about 36 years, resident of Chechuria, PS- Sidhai, PO & Sub-Division-
Mohanpur, District- West Tripura, Treasurer, Tripura Cricket Association

-----Petitioners.

Versus

1. The State of Tripura,
Represented by the Secretary, Sport Department, Government of Tripura,
Agartala, West Tripura
2. Tripura Cricket Association,
Post Office Chowmuhani, PS- West Agartala, PO & Sub-Division- Agartala
District- West Tripura, Represented by its Secretary.
3. The Honorary President, Tripura Cricket Association, Post Office
Chowmuhani, PS- West Agartala, PO & Sub-Division- Agartala, District- West
Tripura.
4. The Joint Secretary, Tripura Cricket Association, Post Office Chowmuhani,
PS- West Agartala, PO & Sub-Division- Agartala, District- West Tripura.
5. Sri Bimal Kanti Roy, IPS (Retired),
Commissioner of Tripura Cricket Association, Post Office Chowmuhani, PS-
West Agartala, PO & Sub-Division- Agartala, District -West Tripura.

----- Respondents.

For the Petitioner(s)	:	Mr. S. Lodh, Advocate. Mr. Subham Majumder, Advocate
For the Respondent(s)	:	Mr. S. S. Dey, Advocate General. Mr. D. Sarma, Addl. GA Mr. S. Debnath, Advocate Ms. A. Chakraborty, Advocate
Date of hearing	:	18.01.2024.
Date of delivery of Judgment & Order	:	22/01/2024
Whether fit for reporting	:	YES

BEFORE
HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R

This present writ petition is filed by the 3(three) writ petitioners. The petitioner no.3 Mr.Joylal Das is the deponent and the prayer as sought for in the writ petition are as under:-

"i. Issue Rule, calling upon the respondents and each one of them, to show cause as to why a writ of certiorari and/or in the nature thereof, shall not be issued, calling for the records, lying with them and a writ petition under article 226 of the Constitution of India, for issuance of a writ of certiorari and/or in the nature thereof, for calling for the records, lying with the official respondents, for rendering substantial and conscionably justice to the petitioner and to quash/set aside the resolution of the Annual General Meeting 2022-23 of TCA held on 04.12.2023 at 12.00 noon at Club House, MBB stadium, Agartala with regard to dissolution of the existing Apex Council and Office bearers and for conducting fresh election for a afresh next tenure of three years as per amended Constitution on 18.09.2023.

ii. Issue Rule, calling upon the respondents and each one of them, to show cause as to why a writ of mandamus and/or in the nature thereof, shall not be issued for mandating/directing the respondents, to revoke/resend the impugned resolution of the Annual General Meeting 2022-23 of TCA held on 04.12.2023 at 12.noon at Club House, MBB Stadium, Agartala with regard to dissolution of the existing Apex Council and Office Bearers and for conducting fresh election for a fresh next tenure of three years as per amended constitution on 18. 09.2023 forthwith;

iii. Issue Rule, calling upon the respondents and each one of them, to show cause as to why a writ of prohibition and in the nature thereof, shall not be issued prohibiting the respondents to act in furtherance of the resolution of the Annual General Meeting 2022-23 of TCA held on 04.12.2024 at 12.noon at Club House, MBB Stadium, Agartala with regard to dissolution of the existing Apex Council and Office bearers and for conducting fresh election for a fresh next tenure of three years as per amended constitution on 18.09.2023.

iv. Pass an interim order staying the operation / execution of impugned resolution of the Annual General Meeting 2022-23 of TCA held on 04.12.2023 at 12.noon at Club House, MBB Stadium, Agartala with regard to dissolution of the existing Apex Council and Office Bearers and for conducting fresh election for a fresh next tenure of three years as per amended constitution on 18.09.2023 and to allow the petitioner-applicants to do all the works as secretary, Vice President and Treasurer of TCA as per Memorandum of Association & Rules and Regulations of Tripura Cricket Association.

v. After hearing the parties, be pleased to make the Rules absolute interms of prayer i,ii, & iii, above.

vi. Call for records, appertaining to this petition.

vii. Costs of and incidental to this proceeding

viii. Any other relief(s) as to this Hon'ble High Court may deed fit and proper."

2. The petitioner has sought the aforestated reliefs as prayed for only on the ground that he was absent in the Annual General meeting held on 4th December, 2023 and in the said meeting, the impugned resolution was passed. To his surprise, in the minutes of the meeting, it is recorded as if he is present and thus prayed to set aside the said resolution and allow the writ petition.

3. On the other hand, Mr. S.S Dey, learned Advocate General appearing for the State-respondents contended before this court that the writ petition is not maintainable and the same is liable to be dismissed. To forward his argument, learned Advocate General relied on judgment dated 18.01.2022 passed in CRP No.95 of 2021 and another Judgment dated 16.01.2024 in WP(C) No. 471 of 2023 & WP(C) No.473 of 2023 passed by this Court.

4. Mr. S. Debnath, learned counsel appearing for the respondent-TCA contended that the petitioner though he was not present, but very much participated in the proceedings and upon his instructions, his version was recorded through WhatsApp communication and he prayed to dismiss the writ petition since the disputed question of facts cannot be gone into in writ jurisdiction. Learned Counsel further placed before this court the order dated 16.01.2024 in WP(C) 471 of 2023 and WP(C) 473 of 2023 passed by the learned Single Judge wherein the learned Judge has categorically directed the respondents to proceed with the elections and nominating a Committee for

conducting the elections and also to manage the affairs, person in-charge has been appointed.

5. Mr. S. Lodh, learned counsel appearing for the petitioner on the point of maintainability relied on Judgment of Hon'ble Apex Court in ***Board of Control for Cricket in India v. Cricket Association of Bihar and others, dated 22.1.2015*** reported in ***AIR 2015 SC 3194*** the relevant portion of the said judgment as referred by the learned counsel is quoted below:-

"2. Allegations of sporting frauds like match fixing and betting have for the past few years cast a cloud over the working of the Board of Control for Cricket in India (BCCI). Cricket being more than just a sport for millions in this part of the world, accusations of malpractices and conflict of interests against those who not only hold positions of influence in the BCCI but also own franchises and teams competing in the IPL format have left many a cricketing enthusiasts and followers of the game worried and deeply suspicious about what goes on in the name of the game. There is no denying the fact that lower the threshold of tolerance for any wrong doing higher is the expectation of the people, from the system. And cricket being not only a passion but a great unifying force in this country, a zero tolerance approach towards any wrong doing alone can satisfy the cry for cleansing.

3. These appeals arise out of two successive writ petitions filed in public interest by the appellant-Cricket Association of Bihar before the High Court of Bombay for several reliefs including a writ in the nature of mandamus directing BCCI to recall its order constituting a probe panel comprising two

retired Judges of Madras High Court to enquire into the allegations of betting and spot fixing in the Indian Premier League (IPL) made among others against one Gurunath Meiyappan. The High Court has by its order dated 30th July, 2013 passed in PIL No.55 of 2013 (*reported in 2013 (5) AIR Bom R 598*) granted that relief but declined a possible reconstitution of the panel. Aggrieved, BCCI has assailed the order passed by the High Court in Civil Appeal No.4235 of 2014. In the connected Civil Appeal No.4236 of 2014, Cricket Association of Bihar has prayed for further and consequential orders which according to the appellant could and indeed ought to have been passed by the High Court, *inter alia*, for removal of respondent No.2 from the post of President of BCCI and cancellation of the franchise favouring Chennai Super Kings and Rajasthan Royals for the IPL matches to be conducted in future. In Civil appeal arising out of SLP (C) No.34228 of 2014 the association challenges the validity of Regulation 6.2.4 of the BCCI Regulations for Players, Team Officials, Managers, Umpires & Administrators (for short 'BCCI Regulations') and the order passed by the High Court dismissing PIL No.107 of 2013."

Learned counsel further contended that the parties are amenable to writ jurisdiction and prayed to allow the writ petition.

6. Heard both sides.

7. It is seen from the record that the petitioner is represented at serial No. 22 as Treasurer, Tripura Cricket Association is shown absent. But whereas in the resolution

dated 4th December, 2023 recording the petitioner Joylal Das as under :-

".....One Sri Joylal Das, Treasurer expressed his consent to the decision of the house, of course along with his recorded report and submission as the Treasurer, TCA....."

8. To the said argument made by the respondent-Tripura Cricket Association, the petitioner has not denied that he has not instructed the above quoted submission to the respondents through WhatsApp.

9. Therefore, the learned counsel appearing for the respondents-TCA submits before the Court that the petitioners are not entitled for any relief to say that by way of no confidence motion the petitioners have been removed and bodies dissolved.

10. In view of the above argument, made by counsel for Tripura Cricket Association, the order of the learned Single Judge dated 16.01.2024 in WP(C) No.471 of 2023 & WP (C) No 473 of 2023 is extracted hereunder:

"23. In view of the aforesaid facts and circumstances and keeping in mind the present and future of the cricket in the State of Tripura, this Court deems it fit to appoint a Committee of Administrators to look after the affairs of the Tripura Cricket Association.

24. Since, it is a peak season of Cricket, in my opinion, any person alien to the administration of TCA may face difficulties to achieve the object and purposes of the Association.

In view of this, I would like to appoint Sri Tapan Lodh, a former Chief Engineer of PWD, Government of Tripura, Sri Basudeb Chakraborty, a member of Blood Mouth Club

associated with cricketing affairs and former honorary Secretary of TCA and Dr. Pallab Das Gupta, Level-B Coach of BCCI and senior cricket coach of SAI, Kolkata as three-members Committee of Administrators. At the same time, Sri B. K. Ray, IPS (Retd.) will continue as Commissioner to supervise the affairs of the Association. The Committee of the Administrators, as constituted here-in-above, shall take over the charge with immediate effect.

25. Simultaneously, I deem it fit to appoint an Electoral Officer to conduct the election of TCA. Accordingly, I request Mr. Kishore Ambuly, IAS(Retd.) as an Electoral Officer to conduct and hold election of the Tripura Cricket Association. I have considered his name for the reason that in the earlier occasion, in the similar situation Mr. Kishore Ambuly had conducted the election of the TCA as he had experience to conduct the election of the TCA. Mr. Ambuly is requested to complete the entire process of election within a period of 1(one) month from the date a copy of this order is furnished to him.

26. The Registry is directed to forward a copy of this order to Mr. Ambuly (Electoral Officer appointed by this court) and the members of the above-mentioned Committee of Administrators as well as in favour of Sri B. K. Ray, the Court appointed Commissioner within 2(two) days from today."

11. In view of the above order passed by the learned Judge, it appears to this Court the relief which the petitioner could not get directly is attempting before this court to obtain relief by indirect method. In the above order the court has appointed a person to look after the affairs of the committee

and also appointed persons to conduct the elections. It appears from the record that they have not challenged the said order and the present writ petition is filed seeking an order for continuance of their elected body without going for election. It cannot be accepted that the petitioner before WP(C) No.471 of 2023, [Mr. Partha Sarathi Gupta and Anr. Versus The State of Tripura and 20 Ors], wherein the petitioner Mr. Partha Sarathi Gupta a Life Member of Tripura Cricket Association and the petitioner in the present writ petition is holding the post of Treasurer. And any order i.e., passed against the Office Bearers affecting the continuance of their term would equally have a force on all Office Bearers of this committee. Each individual cannot approach this court contending that he is not a party to the earlier writ proceeding and the principle of *res-judicata* would not apply to him and he can file a fresh writ. This court has no hesitation to say that principle of *res-judicata* would definitely apply in this matter. Moreover, the petitioner has also not made out a case to say that his legally enforceable rights for filing this writ petition has been infringed, when the entire body is dissolved and when there is a direction of this court to proceed to the elections as seen from the above order the petitioner do not deserve any relief in this writ petition. Further, the writ petition no WP(C) No.471 of 2023, is still pending before this Hon'ble Court.

12. In view of the above disputed question of facts and in view of the orders passed in WP(C) No.471 of 2023 & WP (C) No 473 of 2023, dated 16.01.2024, this court is not inclined to grant any relief to the petitioner. Accordingly, the writ petition stands dismissed.

13. Accordingly, the present writ petition stands dismissed. As a sequel, miscellaneous application(s), pending if any, shall stand closed.



Paritosh

SABYASACHI
HI GHOSH

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