

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WA.No. 185 of 2014 ()

(AGAINST THE JUDGMENT IN WP(C).NO. 10596/2013 DATED 22/01/2014)

APPELLANT/PETITIONER :

KERALA CYCLE POLO ASSOCIATION,
(REGN.NO.1471/90),
REPRESENTED BY ITS SECRETARY, A.M.K.NIZAR,
TC NO. 20/1232, KARAMANA P.O, TRIVANDRUM.

BY ADVS.SRI.S.M.PREM
SMT.K.P.SANTHI

RESPONDENT(S)/RESPONDENTS/ADDITIONAL RESPONDENTS :

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1. CYCLE POLO FEDERATION OF INDIA,
DUNDLOD HOUSE, CIVIL LANES, HAWA SADAK,
JAIPUR-302 019, REPRESENTED BY ITS SECRETARY.
 2. KERALA STATE SPORTS COUNCIL, THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY-695 002
 3. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF YOUTH AFFAIRS AND SPORTS,
GOVERNMENT OF INDIA, NEW DELHI -110 001
 4. DIRECTOR,
SPORTS AND YOUTH AFFAIRS, GOVERNMENT OF KERALA,
JIMMY GEORGE INDOOR STADIUM, TRIVANDRUM-695 002
 5. DIRECTOR GENERAL,
SPORTS AUTHORITY OF INDIA, NEW DELHI -110 001
 6. M.A.THOMAS, AGED 40 YEARS,
S/O.M.D.ANTONY, SECRETARY,
ERNAKULAM DISTRICT CYCLE POLO ASSOCIATION,
C/O.ERNAKULAM DISTRICT SPORTS COUNCIL, P.T.USHA ROAD,
KOCHI -682 011, RESIDING AT MUTTATHUPARAMBIL,
KUTTIKATTUKARA P.O, ALUPURAM, KALAMASSERY,
PIN -683 504

W.A.NO.185/2014

7. M.BHUVATH, AGED 52 YEARS,
S/O.MOIDEEN PILLAI.K, SECRETARY,
THIRUVANANTHAPURAM DISTRICT CYCLE POLO ASSOCIATION,
C/O. THIRUVANANTHAPURAM DISTRICT SPORTS COUNCIL,
STATUE, THIRUVANANTHAPURAM-1,
REISIDING AT S.S.MANZIL, TC 35/1187,VNRA-34,
VALIYAVILA, VATTIYOORKAVU, THIRUVANANTHAPURAM.
8. C.A.ABDUL AZEEZ, AGED 57 YEARS,
S/O.LATE SRI.C.ABDULLA HAJI, SECRETARY,
KASARAGOD DISTRICT CYCLE POLO ASSOCIATION,
C/O.KASARGOD DISTRICT SPORTS COUNCIL, CIVIL STATION,
KASARAGOD, RESIDING AT DARUSSALAM, RAHMANIYA NAGAR,
MUTTATHODI P.O, KASARAGOD -671 123
9. K.JAYAKUMAR, AGED 38 YEARS,
S/O.KUNJUKUNJU, SECRETARY,
ALAPPUZHA DISTRICT CYCLE POLO ASSOCIATION,
C/O.ALAPPUZHA DISTRICT SPORTS COUNCIL,
MUNICIPAL SHOPPING COMPLEX, THATTAMPALLY P.O.,
ALAPPUZHA-13, RESIDING AT KOCHUPARAMBIL,
KANJIPPADAM P.O, ALAPPUZHA.
10. PRATHEEP.K.M, AGED 40 YEARS,
S/O.K.MANIYANACHARI, SECRETARY,
KOLLAM DISTRICT CYCLE POLO ASSOCIATION,
KURUMPELIL AVENUE, POLAYATHODE, KOLLAM,
RESIDING AT SARASUMANI.P.K.,NAGAR-13, VADAKKEVILA P.O.,
KOLLAM -691 010.
11. SHAJI PAUL, AGED 44 YEARS,
S/O.P.M.POULOSE, SECRETARY,
IDUKKI DISTRICT CYCLE POLO ASSOCIATION,
C/O.IDUKKI DISRICT SPORTS COUNCIL,
NEAR MOOLAMATTATH PANCHAYAT OFFICE, MOOLAMATTAM P.O.,
IDUKKI- 685 589, RESIDING AT PALLATH HOUSE,
MUTHALAKODAM P.O, THODUPUZHA.
12. NITHIN.P, AGED 26 YEARS,
S/O.ACHUTHAN NAMBIAR, SECRFETARY,
KOZHIKODE DISTRICT CYCLE POLO ASSOCIATION,
C/O.KOZHIKODE DISTRICT SPORTS COUNCIL,
MANACHIRA MAIDAN, KOZHIKODE,
RESIDING AT PARAMBATH HOUSE, KARUVESSERY P.O,
KOZHIKODE-673 305
13. K.K.SHAMIN, AGED 32 YEARS, S/O.K.KARUNAN, SECRETARY,
MALAPPURAM DISTRICT CYCLE POLO ASSOCIATION,
C/O.MALAPPURAM DISTRICT SPORTS COUNCIL, CIVIL STATION,
MALAPPURAM, RESIDING PERMANENTLY AT AISWARYA, KOORARA,
CHAMPADI (VIA), THALASSERY-670 101

W.A.NO.185/2014

14. VIPIN.V.P, AGED 35 YEARS,
S/O.V.P.PAVITHRAN, SECRETARY,
KANNUR DISTRICT CYCLE POLO ASSOCIATION,
C/O.KANNUR DISTRICT SPORTS COUNCIL , KANNUR-670 101
RESIDING AT PAVITHRAM, MAVILAYIL P.O, KANNUR.
15. K.NARAYANAN, AGED 67 YEARS,
S/O.KUTTAN.K, SECRETARY,
PALAKKAD DISTRICT CYCLE POLO ASSOCIATION,
C/O.PALAKKAD DISTRICT SPORTS COUNCIL, IST FLOOR,
FRIENDS JANASEVA KENDRAM, CIVIL STATION PALAKKAD,
RESIDING AT ERAKULAM HOUSE, KAVASSERY P.O,
PALAKKAD-678 501
16. N.C.SAJID,
SECRETARY, WAYANAD DISTRICT CYCLE POLO ASSOCIATION &
EXECUTIVE MEMBER, DISTRICT SPORTS COUNCIL, WAYANAD,
N.C.HOUSE, MANDAD P.O, KALPETTA NORTH,
WAYANAD -673 122
- R1 BY SRI.BABU KARUKAPADATH,SENIOR ADVOCATE
ADV.SMT. VAHEEDA BABU.M.A
- R2 BY SRI.K.GOPALAKRISHNA KURUP,SENIOR ADVOCATE
ADV. SMT.P.K.RADHIKA,SC,STATE SPORTS COUNCIL
SRI.ABHISHEK KURIAN
- R3 & R5 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
- R4 BY SR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
- R6 BY ADV. SRI.M.R.SABU
- R9 BY ADV. SRI.R.KISHORE
- R6 TO R15 BY ADV. SRI.M.R.HARIRAJ

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 13-02-2015, ALONG WITH WPC.NO. 29423/2013 AND WA. 186/2014,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S ANNEXURES:

- ANNEX A1** COPY OF THE MINUTES OF ELECTION CONDUCTED ON 25/08/2013 APPROVED BY THE REGISTRAR OF SOCIETIES
- ANNEX A2** COPY OF THE RELEVANT PAGES OF THE ANNUAL REPORT 2013-14 OF THE KERALA STATE SPORTS COUNCIL
- ANNEX A3** COPY OF THE AGENDA FOR THE MEETING OF THE STANDING COMMITTEE OF KERALA STATE SPORTS COUNCIL DATED 29/07/2014
- ANNEX A4** COPY OF THE MINUTES OF THE MEETING OF THE STANDING COMMITTEE OF THE KERALA SPORTS COUNSEL ON 30/07/2014.
- ANNEX A5** COPY OF THE NOTICE NO.KSSC/A3/1461/13 DATED 25/08/2014 ISSUED BY THE SECRETARY, KERALA STATE SPORTS COUNCIL.
- ANNEX A6** COPY OF THE MINUTES OF THE SELECTION COMMITTEE MEETINGS HELD IN THE PRESENCE OF THE OBSERVER AND FORWARDED TO THE KERALA STATE SPORTS COUNCIL BY THE PETITIONER WITH COVERING LETTER DATED 26/6/2014 ALONG WITH ENGLISH TRANSLATION
- ANNEX A7** COPY OF THE REPORT DATED 26/6/2014 SUBMITTED BY THE OBSERVER TO THE STATE SPORTS COUNCIL ON THE CONDUCT OF THE STATE CYCLE POLO CHAMPAIONSHIPS 2014-15 BY THE PETITIONER ALONG WITH ENGLISH TRANSLATION
- ANNEX A8** COPY OF THE PROSPECTUS ISSUED BY THE CYCLE POLO FEDERATION OF INDIA FOR THE CONDUCT THE 37TH SENIOR (MEN) AND 12TH SUB JUNIOR (GIRLS) NATIONAL CYCLE POLO NATIONAL CHAMPIONSHIPS 2014-15 TO BE HELD AT BOKARO STEEL CITY (JHARKHAND) FROM 25TH TO 30TH DECEMBER 2014.
- ANNEX A9** COPY OF THE PROSPECTUS ISSUED BY THE CYCLE POLO FEDERATION OF INDIA FOR THE CONDUCT THE 37TH SENIOR (MEN) NATIONAL, 35TH JUNIOR (BOYS) NATIONAL AND 31ST SUB JUNIOR (BOYS) NATIONAL CYCLE POLO CHAMPIONSHIPS 2014-15 TO BE HELD AT BHUBANESWAR (ODISHA) FROM 25TH TO 27TH FEBRUARY 2015.
- ANNEX A10** COPY OF THE PROSPECTUS ISSUED BY THE CYCLE POLO FEDERATION OF INDIA FOR THE CONDUCT THE 16TH SENIOR (WOMEN) NATIONAL 18TH JUNIOR (GIRLS) NATIONAL AND 12TH SUB JUNIOR (GIRLS) NATIONAL CYCLE POLO CHAMPAIONSHIPS 2014-2015 TO BE HELD AT BOKARO STEEL CITY (JHARKHAND) FROM 13TH TO 15TH MARCH 2015.

W.A.NO.185/2014

**ANNEX A11 COPY OF THE COMMUNICATION RECEIVED BY THE 2ND
RESPONDENT FROM THE 1ST RESPONDENT INTIMATING THAT THE
APPELLANT ASSOCIATION HAS BEEN DISAFFILIATED BY THE 1ST
RESPONDENT.**

**ANNEX A12 COPY OF THE COMMUNICATION RECEIVED FROM THE 1ST
RESPONDENT INTIMATING THAT THE APPELLANT HAS BEEN
DISAFFILIATED BY THE 1ST RESPONDENT.**

RESPONDENT'S ANNEXURES:

**ANNEX 1 COPY OF THE LETTER DATED 18/10/2014 FROM THE PRESIDENT OF
THE 1ST RESPONDENT.**

/TRUE COPY/

P.S.TO.JUDGE

sts

**ASHOK BHUSHAN, Ag.CJ
& A.M.SHAFFIQUE, J.**

W.A.Nos.185 & 186 of 2014
and W.P.C.No.29423 of 2013

Dated this the 13th day of February 2015

J U D G M E N T

Shaffique,J

Since common issues have arisen for consideration in these cases, those are decided together.

2. W.A.No.185/2014 and W.A.No.186/2014 are filed against the common judgment of the learned Single Judge in W.P.C.No.10596 of 2013 and W.P.C.No.31924 of 2013 respectively, refusing to entertain the writ petitions and relegating the petitioners to approach the Appellate Tribunal constituted under the Kerala Sports Rules, 2008 or the Civil Court for agitating their claims.

3. W.P.C.No.29423/2013 has been filed by the petitioner in W.P.C.No.10596/2013 seeking for a direction to the Kerala State Sports Council to issue the due grant to the petitioner and provide all facilities which they are bound to

get, and further to dispose of Exts.P6 and P7 representations.

4. W.P.C.No.10596/2013 is filed by Kerala Cycle Polo Association seeking to quash Ext.P5 and for a direction to the Cycle Polo Federation of India (hereinafter referred as 'the National Federation') to treat the petitioner association as an affiliated association, to intimate all its decisions and permit the Kerala team to participate in all National and State events in the sport of Cycle Polo and to declare that constitution of an Ad-hoc Committee as stated in Ext.P5 is illegal and unsustainable.

5. W.P.C.No.21924/2013 is filed by certain members and office bearers of Kerala Cycle Polo Association seeking for a direction to respondents 1 to 6 which includes Union of India, Sports Authority of India, Secretary to Sports, Government of Kerala, Director, Sports & Youth Affairs, Government of Kerala, Kerala State Sports Council and the National Federation to conduct the National Championship of

Cycle Polo 2013-14 only with the participation of the registered players of the Kerala Cycle Polo Association from the panel selected by them for the Kerala team, to restrain the Cycle Polo Federation of India from interacting with or affiliating any other sports body within the State of Kerala for selection of players in conducting Cycle Polo Championship. Further direction is sought for against the Director General, Sports Authority of India to conduct an enquiry into the internal functioning of the National Federation and to conduct the National and International Championships and other activities in accordance with the prescribed procedure.

6. The short facts involved in these appeals disclose that Kerala Cycle Polo Association (hereinafter referred as KCPA) originally started functioning during 1970-71 and was affiliated with the National Federation which is the national body to conduct National Championships as well as having control of the sport in India. The KCPA was registered as a

society under the Travancore-Cochin Literary, Scientific and Charitable Societies Act, 1955 on 31/10/1980. It is registered with the Kerala State Sports Council on 08/08/2008. According to the petitioner, on account of certain incidents which they have narrated in the writ petition, the office bearers of the National Federation has taken a decision by way of Ext.P5 to form an Ad-hoc Committee to ensure the running of game in the State of Kerala, which according to them, is clearly without jurisdiction and illegal. Petitioner contended that the National Federation has no right to interfere with the internal management of the petitioner society and cannot take a decision to override or overreach an elected body. They challenge Ext.P5 on merits as well as on legal grounds. It is alleged that Ext.P5 has been issued with mala fides and ulterior motives. It is an affiliated body with the National Federation and the said authority has no jurisdiction to interfere with the internal affairs of the KCPA.

7. In W.P.C.No.21924/2013, while narrating the very same incident by which an Ad-hoc Committee has been formed, the petitioners who are the office bearers of the KCPA submitted that they have already selected the Kerala team for the National Championship to be held for the year 2013-14 and they apprehended that the Kerala team selected by them will not be permitted to participate in the National Championship. Hence they sought for the reliefs aforesaid.

8. Learned Single Judge proceeded on the basis that the crux of the writ petitions involved a quarrel between two sets of office bearers on the basis of elections conducted parallelly and since voluminous documents had to be perused and sanctity of election of the rival set of office bearers is required to be considered, the writ petitions were dismissed without prejudice to their right to approach the appropriate forum.

9. While impugning the common judgment, learned

counsel for the appellants Sri.S.M.Prem placed reliance on various provisions of the Kerala Sports Act, Kerala Sports Rules and also the judgment of the Supreme Court in **Board of Control of Cricket in India v. Cricket Association of Bihar and Others** [2015 (1) SCALE 608) to contend that selection of State team is to be treated as a statutory function as is being done by recognised State association in the presence of observers deputed by the Kerala State Sports Council and therefore when such teams are selected, the National Federation which is an authority doing a public function of monitoring the sport of Cycle Polo on national and international basis, cannot issue any orders which are illegal or arbitrary and affecting the interest of the State team selected by the petitioner.

10. On the other hand, Smt.Vaheeda Babu, learned counsel appearing for the National Federation, argued that the issues raised by the petitioners in the writ petition are not matters which could be adjudicated by this Court under

Article 226 of the Constitution of India. Even assuming that the National Federation is amenable to writ jurisdiction, the challenge in the writ petitions are not with reference to any public function of the Federation, whereas what is projected is violation of the bye laws which has no statutory force. In that premise, it is argued that the writ petitions had rightly been dismissed by the learned Single Judge.

11. Sri. K.Gopalakrishna Kurup, learned senior counsel appearing on behalf of the Kerala State Sports Council submitted that during the pendency of the writ appeals, the KCPA which was affiliated with the National Federation has been disaffiliated, on account of which the Kerala State Sports Council has to take an independent decision to cancel their recognition, since affiliation in the National body is a pre-requisite for giving recognition to a State association.

12. During the pendency of the aforesaid appeals, this Court had passed interim orders dated 05/02/2014 permitting the team selected as per Ext.P7 alone to

represent the Kerala team and participate in the National Championship to be held on 8th to 13th of February 2014. It was further mentioned that the team will be accompanied by a representative and Manager of the Kerala State Sports Council. This Court referred to Ext.P7 which indicated that an Observer was appointed by the Kerala State Sports Council for conducting the State Cycle Polo Championship. Further materials were available to indicate that team was selected as per the procedure prescribed under the Sports Act and Rules. Apparently, the National Championship scheduled on 8th to 13th February 2014 was with reference to the year 2013-2014. Another interim order was passed by this Court on 18/12/2014. This order was passed when it was brought to the notice of this Court that KCPA was not permitted to conduct the State Championship. This Court observed that the State Association in a State has the power to conduct Championship which cannot be taken away by an Ad-hoc Committee constituted by the National Federation.

The Ad-hoc Committee could only be constituted for the purpose of overseeing or regulating the function of the sports discipline in the State of Kerala. Hence it was observed that KCPA was entitled to conduct championship and as and when any National Championship is conducted, they should be given participation. We have also observed that it is for the State Sports Council to recognise the office bearers and the National Federation shall enquire from the Kerala State Sports Council about the team selected by the KCPA in the presence of the Observer. This order came to be passed when the National Championship of 2014-2015 was about to commence in 22nd to 30th December 2014.

13. The appellants have now brought to the notice of this Court by filing I.A.No.193/2015 that the National Championship was postponed and it is scheduled to be held from 25th to 27th February 2015 and between 13th to 15th March 2015 for certain categories . According to them, the list of players registered with KCPA and who were selected

from among the participants in the State Championship was forwarded to the Kerala State Sports Council and they are eligible to participate in the National Championship. In the meantime, communications have been issued stating that KCPA have been disaffiliated from the National Federation. This, according to the appellants, is mala fide as the whole intention of the National Federation is to prevent the Kerala State team from participating in the National Championship. They have also filed I.A.No.194/2015 seeking the following reliefs:

"For the reasons stated in the accompanying affidavit, it is most humbly prayed that this Honourable Court may be pleased to issue necessary directions to the 1st respondent to forward the documents for availing Railway travel concessions for the players as mentioned in Items 3 & 4 of Annexures A9 and A10, and the 2nd respondent to issue Track suits and Jerseys to the players of the State Teams along with the grant for their participation in the National Championships 2014-15 and ensure the participation of the players of the Kerala Cycle Polo Association selected in Annexure A6 in the National Cycle Polo Championships 2014-15 scheduled to be held

at Bhubaneswar (Odisha) from 25th to 27th February 2015 and at Bokaro Steel City (Jharkhand) from 13th to 15th March 2015, pending disposal of the writ appeal."

14. Additional documents produced as Annexures A11 and A12 indicate that the National Federation has taken a decision to disaffiliate KCPA on account of various reasons which inter alia includes the attempt of KCPA in approaching the Court and obtaining interim orders for participating in the National Championship. It is, therefore, contended by the appellants that the very act of disaffiliating the KCPA is to overcome the interim orders passed by this Court in the appeals.

15. As far as the reliefs sought for in the writ petition are concerned, on account of subsequent events, the writ petitions have virtually become infructuous. The challenge by the petitioner in W.P.C.No.10596/2013 was formation of an Ad-hoc Committee by Ext.P5. In fact, no Ad-hoc Committee can be formed to replace KCPA. Whether an Ad-hoc Committee can be formed to replace KCPA in a

matter relating to a sporting event of Cycle Polo virtually depends on the terms of contract or rules under which KCPA is affiliated to the National Federation. However, formation of Ad-hoc Committee has now lost its relevance on account of subsequent events by which National Federation has disaffiliated KCPA. Whether the disaffiliation is proper or not, under the factual circumstances involved in the matter, are not matters which are to be settled by this Court in a proceeding under Article 226 of the Constitution of India. We have already taken a decision in judgment dated 17/12/2014 in W.A.Nos.1581 & 1604 of 2014, after having considered **BCCI** case (supra) that in so far as selection of teams for participating in the Championship is a function which is regulated by statutory provisions, the writ petition is maintainable to that extent. Relevant portion in the said judgment reads as under:

“18. It is well settled that any action which is in breach of the statutory provision can be made subject to writ petition under Article 226 of the Constitution

*and this Court can very well issue a mandamus regarding the action which has been taken in violation of the statutory provisions. From the above it is absolutely clear that in so far as selection of the District team for the State championship which is regulated by statutory provisions can very well be made subject matter of judicial review under Article 226 of the Constitution and upto that extent the writ petition is fully maintainable. Action of selecting District team for the State Championship falls in the domain of public function and very well can be made subject matter of issue in a writ petition. It shall suffice to refer to the judgment of the Apex Court in **Binny Ltd. and another v. V.Sadasivan and Others** [(2005) 6 SCC 657] where it was held that public law remedy is available against private body when such private body discharge public functions.”*

19. *When function entrusted to a private body is regulated by a statute and the body is obliged to perform the function, the said function is in the nature and character of public function which can be made subject matter of an issue of a writ proceeding. Thus to the above extent the writ petition which sought relief in the context of selection of District team to participate in the State championship, the writ petition is clearly maintainable.”*

However, as far as this writ petition is concerned, it relates to interference with the management of KCPA which cannot be adjudicated by this Court.

16. As far as W.P.C.No.21924/2013 is concerned, it only related to the Championship being conducted during 2013-14, which event had already occurred and there is no reason to adjudicate on the issues projected by the petitioner which is apparently similar to the one raised in W.P.C.No.10596/2013.

17. In the said circumstances, we are of the view that KCPA will have to challenge the action of National Federation in disaffiliating them in appropriate proceedings, which cannot be decided by this Court in this appeal as the subject matter involved is substantially different.

18. However, the learned counsel for the appellants have brought to the notice of this Court that they have already selected the Kerala State team for the National Championships to be held for the year 2014-15 which was

approved by the Kerala State Sports Council. There should not be a stage, where, on account of disaffiliation of KCPA, the team should not be permitted to participate in the National Championship. Therefore, the request of the learned counsel is to pass appropriate orders permitting the team, which is already selected, to participate in the National championship. In fact, we have already held in our interim order dated 18/12/2014 that the Kerala State team which was selected by KCPA, in the presence of the observer of Kerala State Sports Council, is entitled to participate in the National Championship. Therefore, we are inclined to direct the National Federation to permit the Kerala State team, which was selected in the presence of the Observer of Kerala State Sports Council, to participate in the National Championship to be held for the year 2014-15.

19. As far as W.P.C.No.29423/2013 is concerned, the said writ petition is filed seeking the various grants payable by the Kerala State Sports Council. In fact, it is for the

Sports Council to decide the claim based on the eligibility of the petitioner for which they have already given certain representations as Exts.P6 and P7. We only direct Kerala State Sports Council to consider Exts.P6 and P7 in accordance with the procedure prescribed, taking into consideration the overall facts and circumstances involved in the matter.

Under these circumstances, the aforesaid cases are disposed of as under:

i) W.A.No.185/2014 & 186/2014 are disposed of with liberty to the appellants to approach the appropriate Forum to challenge their disaffiliation. All other contentions are left open to be decided in the appropriate proceedings.

ii) The Kerala State team which was selected in the presence of the Observer of the Kerala State Sports Council, shall be allowed to participate in the National Championship of 2014-2015, conducted by the National Federation. Kerala State Sports Council shall make necessary arrangements for

the same and their representatives alone shall accompany the team. National Federation shall not deprive participation of the Kerala State team on the ground of disaffiliation of KCPA.

iii) W.P.C.No.29423/2013 is disposed of directing the Kerala State Sports Council to consider Exts.P6 and P7 and take appropriate action in accordance with law.

Sd/-

**(ASHOK BHUSHAN,
ACTING CHIEF JUSTICE)**

Sd/-

(A.M.SHAFFIQUE, JUDGE)

jsr

W.A.Nos.185 & 186

Since common issues have arisen for consideration in these cases those are decided together.

2. W.A.No.185/2014 and W.A.No.186/2014 are filed against the common judgment of the learned Single Judge in W.P.C.No.10596/2013 and W.P.C.No.31924/2013 respectively, refusing to entertain the writ petitions and relegating the petitioner to approach the Appellate Tribunal constituted under the Kerala Sports Rules, 2008 or the civil court for agitating their claims.

W.P.C.No.29423/2013 has been filed by the petitioner in W.P.C.No.10596/2013 seeking for a direction to the Kerala State Sports Council to issue the due grant to the petitioner and provide all facilities which they are bound to get, and further to dispose of Exts.P6 and P7 representations.

W.P.C.No.10596/2013 is filed by Kerala Cycle Polo Association seeking to quash Ext.P5 and for a direction to the Cycle Polo Federation of India (hereinafter referred as the National Federation) to treat the petitioner association as an affiliated association, to intimate all its decisions and permit the Kerala team to participate in all national and state events in the sport of Cycle Polo and to declare that constitution of an adhoc committee by Ext.P5 is illegal and unsustainable.

W.P.C.No.21924/2013 is filed by certain members and office bearers of Kerala Cycle Polo Association seeking for a direction to respondents 1 to 6 which includes Union of India, Sports Authority of India, Secretary to Sports, Government of Kerala, Director, Sports & Youth Affairs, Government of Kerala, Kerala State Sports Council and the National Federation to conduct the national championship of Cycle Polo 2013-14 only with the participation of the registered players of the Kerala Cycle Polo Association from

the panel selected by them for the Kerala team, to restrain the Cycle Polo Federation of India to interact or and affiliate any other sports body in the State of Kerala for selection of players in conducting Cycle Polo Championship. Further direction is sought for against the Director General, Sports Authority of India to conduct an enquiry into the internal functioning of the National Federation and to conduct the national and international championships and other activities in accordance with the prescribed procedure.

The short facts involved in these appeals discloses that Kerala Cycle Polo Association (hereinafter referred as KCPA) originally started functioning during 1970-71 and was affiliated with the National Federation which is the national body to conduct national championship as well as having control of the sport in India. The KCPA was registered as a society under the Travancore-Cochin Literary, Scientific and Charitable Societies Act, 1955 on 31/10/1980. It is registered with the Kerala State Sports Council on 08/04/2008.

According to the petitioner, on account of certain incidents which they have narrated in the writ petition, the office bearers of the National Federation has taken a decision by way of Ext.P5 to form an Adhoc committee to ensure the running of game in the State of Kerala which according to them, is clearly without jurisdiction and illegal. Petitioner contended that the National Federation has no right to interfere with the internal management of the petitioner society and cannot take a decision to override or overreach an elected body. They challenge Ext.P5 on merits as well as on legal grounds. It is alleged that Ext.P5 has been issued with malafides and ulterior motives. It is an affiliated body with the National Federation and the said authority has no jurisdiction to interfere with the internal affairs of the KCPA.

In W.P.C.No.21924/2013, while narrating the very same incident by which an Adhoc committee has been formed, the petitioners who are the office bearers of the KCPA submitted that they have already selected the Kerala team for the

national championship to be held for the year 2013-14 and they apprehended that the Kerala team selected by them will not be permitted to participate in the national championship. Hence they sought for the reliefs aforesaid.

Learned Single Judge proceeded on the basis that the crux of the writ petitions involved a quarrel between two sets of office bearers on the basis of elections conducted parallelly and since voluminous documents had to be perused and sanctity of election of the rival sets of office bearers is required to be considered, the writ petitions were dismissed without prejudice to their right to approach the appropriate forum.

While impugning the common judgment, Learned counsel for the appellants Sri.S.M.Prem placed reliance on various provisions of the Kerala Sports Act, Kerala Sports Rules and also the judgment of the Supreme Court in **Board of Control of Cricket in India v. Cricket Association of Bihar and Others** (2015(1)scale 608) to contend that

selection of State team is to be treated as a statutory function as is being done by recognised State association in the presence of observers deputed by the Kerala State Sports Council and therefore when such teams are selected, the National Federation which is an authority doing a public function of monitoring the sport of Cycle Polo on national and international basis, cannot issue any orders which are illegal or arbitrary and affecting the interest of the State team selected by the petitioner.

On the otherhand, learned counsel appearing for the National Federation Smt.Vaheeda Babu argued that the issues raised by the petitioner in the writ petition are not matters which could be adjudicated by this Court under Article 226 of the Constitution of India. Even assuming that the National Federation is amenable to writ jurisdiction, the challenge in the writ petition is not with reference to any public function of the Federation, whereas what is projected is violation of the bye laws which has no statutory force. In

that premise it is argued that the writ petition was rightly been dismissed by the learned Single Judge.

Sri. K.Gopalakrishna Kurup, learned senior counsel appearing on behalf of the Kerala State Sports Council submitted that during the pendency of the writ petition, the KCPA which was affiliated with the National federation has been disaffiliated, on account of which the Kerala State Sports Council has to take an independent decision to cancel the recognition to the State Association, since affiliation in the National body is a pre-requisite for giving recognition to a State association.

During the pendency of the aforesaid appeals, this Court had passed interim orders dated 5/2/2014 permitting the scheme selected as per Ext.P7 alone to represent the Kerala team and participated in the national championship to be held on 8th to 13th of the said month. It was further mentioned that the team will be accompanied by a representative and manager of the Kerala State Sports

Council. This Court referred to Ext.P7 which indicated that an observer was appointed by the Kerala State Sports Council for conducting the State Cycle Polo Championship. Further materials were available to indicate that team was selected as per the procedure prescribed under the Sports Act and Rules. Apparently, the National Championship was scheduled on 8th to 13th February 2014 was with reference to the year 2013-2014. Another interim order was passed by this Court on 18/12/2014. This order was passed when it was brought to the notice of this Court that KCBI was not permitted to conduct the State Championship. This Court observed that the State association in a State has the power to conduct Championship which cannot be taken away by an adhoc committee constituted by the National Federation. The Adhoc Committee could only be constituted for the purpose of overseeing or regulating the function of the sports discipline in the State of Kerala. Hence it was observed that KCPA was entitled to conduct championship

and as and when any national championship is conducted they should be given participation. We have also observed that it is for the State Sports Council to recognise the office bearers and the national federation shall enquire from the Kerala State Sports Council about the team selected by the KCPA in the presence of the observer. This order came to be passed by the National Championship was about to commence in 22nd to 30th December 2014.

The appellants have now brought to the notice of this Court by filing I.A.No.193/2015 that the National Championship was postponed and it is scheduled to be held on 25th to 27th February 2015 and for certain categories between 13th to 15th March 2015. According to them, the list of players registered with KCPA and who were selected from among the participants in the State Championship was forwarded to the Kerala State Sports Council and they are eligible to participate in the National Championship. In the meantime, communications have been issued stating that

KCPA have been disaffiliated from the National Federation. This, according to the appellants, is mala fide as the whole intention of the National Federation is to prevent the Kerala State team from participating in the National Championship. They have also filed I.A.No.194/2015 seeking the following reliefs:

"For the reasons stated in the accompanying affidavit, it is most humbly prayed that this Honourable Court may be pleased to issue necessary directions to the 1st respondent to forward the documents for availing Railway travel concessions for the players as mentioned in Items 3 & 4 of Annexures A9 and A10, and the 2nd respondent to issue Track suits and Jerseys to the players of the State Teams along with the grant for their participation in the National Championships 2014-15 and ensure the participation of the players of the Kerala Cycle Polo Association selected in Annexure A6 in the National Cycle Polo Championships 2014-15 scheduled to be held at Bhubaneswar (Odisha) from 25th to 27th February 2015 and at Bokaro Steel City (Jharkhand) from 13th to 15th March 2015, pending disposal of the writ appeal."

Additional documents produced as Annexure A11 and A12 indicate that the National Federation has taken a

decision to disaffiliate KCPA on account of various reasons which inter alia includes the attempt of KCPA in approaching the Court and obtaining interim orders for participating in the National Championship. It is therefore contended by the appellants that the very act of disaffiliating the KCPA is to overcome the interim orders passed by this Court in the appeals.

As far as the reliefs sought for in the writ petition are concerned, on account of subsequent events, the writ petitions have virtually become infructuous. The challenge by the petitioner in W.P.C.No.10596/2013 was formation of an ad hoc committee by Ext.P5. In fact, no ad hoc committee can be formed to replace KCPA. Whether an adhoc committee can be formed to replace KCPA in a matter relating to a sporting event of Cycle Polo virtually depends on the terms and conditions of bye laws of the National Federation of the terms and contract or rules under which KCPA is affiliated to the national federation. However,

formation of adhoc committee has now lost its relevance on account of subsequent events by which national federation has disaffiliated KCPA. Whether the disaffiliation is proper or not under the factual circumstances involved in the matter are not matters which is to be settled by this Court in a proceeding under Article 226. We have already taken a decision in judgment dated 17/12/2014 in W.A.No.1581 & 1604 of 2014 after having considered BCCI case (supra) that in so far as selection of teams for participating in the Championship is a function which is regulated by statutory provision, the writ petition is maintainable to that extent. However, as far as this writ petition is concerned, it relates to interference with the management of KCPA which cannot be adjudicated by this Court.

As far as W.P.C.No.21924/2013 is concerned, it only related to the Championship being conducted during 2013-14 which event had already occurred and there is no reason to adjudicate on the issues projected by the petitioner which

is apparently similar to the one raised in W.P.C.No.10596/2013.

In the said circumstances, we are of the view that KPCA will have to challenge the action of National Federation in disaffiliating them in appropriate proceedings, which cannot be decided by this Court in this appeal as the subject matter involved is substantially different.

However, the learned counsel for the appellants have brought to the notice of this Court that they have already selected to the Kerala State team for the National Championships to be held for the year 2014-15 which was approved by the Kerala State Sports Council. There should not be a stage where on account of disaffiliation of KPCA the team should not be permitted to participate in the National Championship. Therefore the request of the learned counsel is to pass appropriate orders permitting the team which is already selected to participate in the national championship. In fact, we have already held in our interim order dated

18/12/2014 that the Kerala State team which was selected by KPCA in the presence of the observer of Kerala State Sports Council is entitled to participate in the National Championship. Therefore, we are entitled to direct the National Federation to permit the Kerala State team which was selected with the observer of Kerala State Sports Council to participate in the National Championship to be held for the year 2014-15.

As far as W.P.C.No.29423/2013 is concerned, the said writ petition is for seeking the various grants payable by the Kerala State Sports Council. In fact, it is for the Sports Council to decide the claim based on the eligibility of the petitioner they have already given certain representations as Exts.P6 and P7. We only direct Kerala State Sports Council to consider exts.P6 and P7 in accordance with the procedure prescribed taking into consideration the overall facts and circumstances involved in the matter. Under these circumstances, the aforesaid cases are disposed of as under:

i) W.A.No.185/2014 & 186/2014 are disposed of with liberty to the appellants to approach the appropriate forum to challenge their disaffiliation. All their contentions are left open to be decided in the appropriate proceedings.

However, taking into consideration the fact that KPCA has already selected the Kerala State team for the national championship to be held, for the year 2014-15, the team which was selected in the presence of the observer of Kerala State Sports Council, shall be sent to participate in the National Championship. Kerala State Sports Council shall make necessary arrangements for the same and their representatives alone shall accompany with the team. National Federation shall not deprive participation of the Kerala State team on the ground of disaffiliation of KPCA.

W.P.C.No.29423/2013 is disposed of directing the Kerala State Sports council to consider Exts.P6 and P7 and take appropriate action in accordance with law.

**ASHOK BHUSHAN, Ag.CJ
& A.M.SHAFFIQUE, J.**

W.A.Nos.185 & 186 of 2014

Dated this the 18th day of December 2014

ORDER

Ashok Bhushan, Ag.CJ

W.A.No.185 of 2014 has been filed by the Kerala Cycle Polo Association which claims to be a State Association registered with the Kerala State Sports Council against the judgment dated 22/01/2014 in W.P.C.No.1059/2013.

2. W.A.No.186 of 2014 has been filed by the petitioners in W.P.C.No.21924/2013 against the judgment dated 22/01/2014. While dismissing both these writ petitions, the learned Single Judge had observed that it is doubtful as to whether a writ petition would lie against the Cycle Polo Federation of India which is only a Society registered under the Societies Registration Act. One of the reliefs prayed for in W.A.No.185/2014 was to direct the 1st

respondent to treat the petitioner's association as an affiliated association and to intimate all decisions and permit the Kerala team to participate in all national and State events in the sport of Cycle Polo. When the Kerala Sports Act, 2000 has been enacted, rules have been framed thereunder namely Kerala Sports Rules, 2008. Regulations have also been framed under the Rule namely Kerala State Sports Council Grant-in-aid Regulations, 2013. Rule 32 of Chapter IX in the Regulations provides for selection procedure which provides that State Sports Associations are primarily responsible for judicial selection of sports persons for participation in major national events based on merit and with the objective of enhancing the prestige of the State of Kerala. The State Association has come up in the writ petition challenging Ext.P5 that is a communication dated 01/04/2013 issued by the Cycle Polo Federation of India by which Adhoc Committee was formed for the smooth running of the game in Kerala till the disputed matters are not

resolved. The said communication constituting Adhoc Committee was under challenge.

3. The learned counsel for the appellant Association submits that the appellant Association, being registered with the Kerala State Sports Council in the sport discipline of Cycle Polo, has every right to conduct Championship and their right cannot be disabled by an Adhoc Committee appointed by the Cycle Polo Federation of India.

4. The learned counsel appearing for the Cycle Polo Federation of India contended that the field of operation of the Federation is throughout India under the protection of right under Article 19(1)(C) of the Constitution of India. It is submitted that constitution of Adhoc Committee flows by its right under Article 19(1)(c). He further submits that there is a dispute between the office bearers of the appellant association and the Federation is in doubt as to which office bearer has to be accepted as the valid office bearer of the State Association. The Federation further submits that

disciplinary action has been taken against the appellant's association.

5. In the judgment delivered by this Court on 17/12/2014 in W.A.Nos.1581 & 1604 of 2014, we have already taken the view that in so far as selection of teams for participating in the Championship is a function which is regulated by statutory provisions and the writ petition, which is complaining of any such action or inaction, is fully maintainable. Thus, prima facie, the writ petition filed by the appellant appears to be maintainable. The Regulations give statutory power to State Association to conduct Championship. Cycle Polo Federation of India is a national body with whom State association is affiliated.

6. The submission of the learned counsel appearing on behalf of the Federation is that the right to constitute Adhoc Committee to oversee the functions of any State organisation flows from Article 19(1)(c). Article 19(1)(c) is to the following effect:

***“19. Protection of certain rights
regarding freedom of speech, etc.-***

- (1) All citizens shall have the right-*
- (a) xxx*
- (b) xxx*
- (c) : to form associations or unions (or co-operative societies)”*

7. Article 19(1)(c) of the Constitution of India gives a fundamental right to form associations or unions. The right to form association or union is a fundamental right which is contained in the rights regarding freedom of speech, etc. Constitution of the Adhoc Committee is not an action which can be included in the petitioner's right to form association or union. No adhoc committee could be constituted for the purpose of overseeing or regulating the function of the sports discipline in the State of Kerala.

8. The argument of the learned counsel for the Federation is fully misconceived. The constitution of the Adhoc Committee can in no manner be flowed from their right under Article 19(1)(c). When the State Association in a

State has the statutory power to conduct Championship, we are of the view that the said right cannot be taken away by the constitution of adhoc committee by the Federation. We, thus, are prima facie of the view that the appellants are entitled to conduct championship and as and when any national championship is conducted, they should be given participation. In so far as the submission of the learned counsel for the Federation is that there is a dispute regarding office bearers of the association, learned counsel for the appellant association submits that the alleged disciplinary action taken by the Federation against them is without jurisdiction. We need not enter into the issues as to who are the valid office bearers of the appellant association as on date. It is not in dispute that the election of the office bearers of the association is conducted under the supervision of the observer of the State Sports Council. It is for the State Sports Council to recognise the office bearers. The Cycle Polo Federation of India shall enquire from the

Kerala State Sports Council about the team selected by the appellant association in the presence of the observer.

List these writ appeals for hearing on 19/01/2015 along with connected case.

**(ASHOK BHUSHAN,
ACTING CHIEF JUSTICE)**

(A.M.SHAFFIQUE, JUDGE)

jsr

