

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE V.DHANAPALAN
AND
THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.A.No.248 of 2011
& M.P.Nos.1 to 3 of 2011

1. Tamilnadu Hockey Association,
Rep. by its Hony. Secretary,
K.Jothikumaran

2. Hocket Tamilnadu,
Rep. by its Hony. Secretary,
K.Jothikumaran

Vs.

.. Appellants

1. The Union of India,
Rep. by the Secretary,
Ministry of Youth Affairs and Sports,
Department of Sports,
Shastri Bhawan, New Delhi-110 115.

2. Indian Olympic Association,
Rep. by its Secretary,
Olympic Bhawan,
B.29, Qutub Institutional Area,
New Delhi-110 016.

3. Hockey India,
Rep. by its Secretary,
Olympic Bhawan,
B.29, Qutub Institutional Area,
New Delhi-110 016.

4. Tamilnadu Olympic Association,
Rep. by its General Secretary,
Room No.78, Jawaharlal Nehru Stadium,
Chennai-600 003.

5. Sports Development Authority of Tamilnadu,
Rep. by its Secretary,
No.116.A, Periyar EVR High Road,
Nehru Park, Chennai-600 084.

6. Hockey Unit of Tamilnadu,
Rep. by N.R.Radhakrishnan & M.Renuka,
Room No.78, Jawaharlal Nehru Stadium,
Chennai-600 003.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 03.12.2010 made in W.P.No.1639 of 2010 on the file of this Court.

W.P.No.1639 fo 2010:- Petition presented to this court to issue a writ of certiorarified mandamus calling for the records of the respondents 2,3 and 4 culminating the decision of the meeting of the 3rd respondent dt 11.1.2010 and the list of affiliated members in so far as it grants affiliation for the State of Tamilnadu to the 6th respondent and quash the same and consequently direct respondent 3 and 4 to grant affiliation to the second petitioner Association as the successor in interest of the first petitioner Association.

For appellants : Mr.Adeesh Anto for Mr.J.Sivanandaraj

For respondents: Mr.G.Rajagopalan,
Addl. Solicitor General of India,
assisted by Mr.K.Ravindranath, SCGCC for R-1
No appearance for R-2
Mr.Sriram Panchu, Senior Counsel for
Mr.Arun Anbumani for R-3
Mr.V.Shanmugam for R-4
Mr.Su.Srinivasan, Asst. Solicitor General for R-5
Mr.E.Manoharan for Mr.A.Jenasenan for R-6

JUDGMENT

(The Judgment of the Court was delivered by V.Dhanapalan,J)

Heard Mr.Adeesh Anto, learned counsel appearing for Mr.J.Sivanandaraj, learned counsel for the appellants, Mr.G.Rajagopalan, learned Additional Solicitor General of India, assisted by Mr.K.Ravindranath, learned SCGCC appearing for the first respondent, Mr.Sriram Panchu, learned Senior Counsel, assisted by Mr.Arun Anbumani, learned counsel for the third respondent, Mr.V.Shanmugam, learned counsel appearing for the fourth respondent, Mr.Su.Srinivasan, learned Assistant Solicitor General appearing for the fifth respondent and Mr.E.Manoharan, learned counsel appearing for Mr.A.Jenasenan, learned counsel for the sixth respondent. Though the second respondent had been served and name is also printed in the cause list, none appears for them.

2. This Writ Appeal is directed against the order of the learned single Judge, dated 03.12.2010 made in W.P.No.1639 of 2010, wherein, in respect of the prayer of the appellants/writ petitioners for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents 2, 3 and 4, culminating in the decision of the meeting of the third respondent, dated 11.01.2010 and the list of affiliated members, insofar as it grants affiliation for the State of Tamil Nadu to the sixth respondent and to quash the same and consequently direct the respondents 3 and 4 to grant affiliation to the second appellant-Association as the successor-in-interest of the first appellant-Association, the learned single Judge dismissed the Writ Petition, against which, the writ petitioners are on appeal before us.

3. It is the case of the appellants/writ petitioners that the first appellant-Association hosted the test matches with Pakistan, Germany, Poland, Belgium and prestigious tournaments such as the Champions Trophy and the Asia Cup and the second appellant-Association is the successor-in-interest of the first appellant-Association, being the body that takes over the entire affairs of the first appellant. All the State Level Sports Associations which administer various sports in Tamil Nadu, are all members of the fourth respondent and the first appellant-Association is an accredited member of the fourth respondent, and however, all these Associations including the first appellant, are independent authorities and the fourth respondent has no power or authority to interfere with their affairs. The Indian Hockey Federation and the Women's Hockey Federation would merge to form one organization at the national level, but however, the second respondent arbitrarily proceeded to disaffiliate both the Associations and set up a new Association, viz., Hockey India, the third respondent herein. There was a suit pending between the parties in C.S.No.1007 of 2008 with regard to the interference in the affairs of the first appellant-Association. A Writ Petition in W.P.No.6614 of 2009 was also pending between the parties with regard to the Committee formed by one of the members who came out from the first appellant-Association and also with regard to the ad-hoc committee formed to take over the control of the affairs of the first appellant-Association. In June 2009, the second appellant was formed and it also started the process of transfer of its entire operations. In the meanwhile, there was affiliation process of the Associations and that the fourth respondent was entrusted with the task of recommending the names of the Units to be affiliated. The third respondent announced on 29.01.2010 to conduct general body elections and declared 20.01.2010 as the last date for nominations and ultimately, the elections were re-scheduled to 07.02.2010. However, on 11.01.2010, the third respondent--Hockey India, conducted a meeting of its office bearers/members at Delhi and granted affiliation to 30 State Units and 4 institutions. The appellants did not receive any

official communication on the affiliation process and were surprised to find the name of the Tamil Nadu in the list of States that were granted affiliation. The fourth respondent has not recommended affiliation to the appellants, and recommended affiliation to Hockey Unit of Tamil Nadu, the sixth respondent, which is a non-existent Society and a creation of the fourth respondent and the respondents 2, 3 and 4 failed to comply with the direction of respondents 2 and 5 to the effect that the affiliation process must be fair and democratic. Hence, the appellants filed the Writ Petition for the above prayer.

4. The fourth and sixth respondents have filed counter affidavits before the Writ Court stating various factual aspects of the matter, including the maintainability of the Writ Petition and prayed for dismissal of the Writ Petition.

5. The learned single Judge, on a consideration of the factual matrix, observed that the Central Government has got operational, financial and functional control over the third respondent and relying on the decision of the Supreme Court reported in 2005 (4) SCC 649 (Zee Telefilms Ltd. and another Vs. Union of India and others), the learned single Judge held that the writ petition filed by the appellants claiming relief against the third and fourth respondents, is maintainable. It was further observed that the fourth respondent seems to have sent a list of members representing the State of Tamil Nadu and sought affiliation from the third respondent and on receipt of the same, the third respondent has given affiliation to the sixth respondent and the appellants/writ petitioners cannot have any grievance for not recognising the second appellant either by third or fourth respondents and the fourth respondent has to select only a unified body which had the largest number of men and women hockey players in the State, since one such Unit could be selected and recommended for affiliation with the Hockey India/third respondent and that the merger process of Associations of men and women hockey Associations is in progress. Holding so, the learned single Judge dismissed the Writ Petition, against which, the writ petitioners are before this Court on appeal.

6. We have heard the learned counsel appearing for the parties at length and on 21.01.2015, this Court passed the following order:

"Mr.K.Ravindranath, learned SCGSC takes notices for the first respondent. The service in respect of respondents 5 and 6 alone had been completed. Counsel for respondents 5 and 6 requests time to take stock of the entire situation and to place their position for consideration on the next hearing date. As regards respondents 2 to 4, service of notice is yet to be completed, because, already there was a direction for service of notice on the counsel who appeared for the respondents in the writ petition, but till date, no proof of service is filed. Learned counsel for the appellants requests time to file proof of service and if there is no

proof of service, learned counsel for the appellants is permitted to take another notice to respondents 2 to 4 intimating that the matter will be taken up for hearing on 04.02.2015, failing which, the matter will be decided on merits.

Post on 04.02.2015 for further hearing."

7. Subsequently, on 04.02.2015, the matter was adjourned to 23.02.2015 for completion of service and for hearing the matter. When the matter was taken up for hearing on 23.02.2015, this Court passed the following order:

"Mr.G.Rajagopalan, learned Addl. Solicitor General of India, appearing for the first respondent produced a copy of the written instructions of the Govt. of India, Ministry of Youth Affairs and Sports, in F.No.10-9/2014-SR-III, dated 05.02.2015 informing that the Union of India has recognised the importance of the Sport of Hockey in India, its popularity among the masses and medal prospects of India in various international events, etc., and keeping these factors in view, the Ministry realised the need to quickly resolve the long pending issues in granting recognition to a sports body as NSF for promotion of the Sport of Hockey and the Ministry has granted recognition to Hockey India and the Union of India has given a detailed background and their role in the affidavit submitted in WP(C).No.363 of 2014 filed by Indian Hockey Federation and another Vs. Union of India and others in the Supreme Court of India.

On noticing the said information, learned counsel for the appellant requests time to take instructions.

Post "for orders" on 02.03.2015 at the end of motion list."

8. On 02.03.2015, after hearing the learned counsel appearing for the parties, this Court passed the following order:

"Heard the learned counsel appearing for the parties.

2. This Court, after hearing the learned counsel appearing for the parties, on 23.02.2015, passed the following order:

"Mr.G.Rajagopalan, learned Addl. Solicitor General of India, appearing for the first respondent produced a copy of the written instructions of the Govt. of India, Ministry of Youth Affairs and Sports, in F.No.10-9/2014-SR-III, dated 05.02.2015 informing that the Union of India has recognised the importance of the Sport of Hockey in India, its popularity among the masses and medal prospects of India in various international events, etc., and

keeping these factors in view, the Ministry realised the need to quickly resolve the long pending issues in granting recognition to a sports body as NSF for promotion of the Sport of Hockey and the Ministry has granted recognition to Hockey India and the Union of India has given a detailed background and their role in the affidavit submitted in WP(C). No.363 of 2014 filed by Indian Hockey Federation and another Vs. Union of India and others in the Supreme Court of India.

On noticing the said information, learned counsel for the appellant requests time to take instructions.

Post "for orders" on 02.03.2015 at the end of motion list."

3. Today, learned counsel for the appellants placed an order copy of the Supreme Court in W.P.(Civil) No.270 of 2010, C.A.No.3225 of 2011, W.P.(C).No.363 of 2014 and W.P.(C).No.785 of 2014, dated 19.02.2015, wherein the Civil Appeal filed by Hockey India, which was pending before the Supreme Court, was dismissed as having become infructuous, while the other connected petitions, as quoted above, were also dismissed as having become infructuous, except W.P.Nos.363 and 2014 and W.P.(C). No.785 of 2014, were dismissed, without expressing any opinion on the merits of the contentions raised in the petitions, on the ground that the Supreme Court was not inclined to entertain the petitions under Article 32 of the Constitution of India, as in the considered view of the Supreme Court, the matter was not appropriate for adjudication in exercise of the high prerogative jurisdiction of the Supreme Court.

4. When that is the position, the stand taken by the Union of India in their written instructions, dated 05.02.2015, as quoted in the above order of this Court, dated 23.02.2015, has to be clarified and therefore, as things have turned down as informed by the learned SCGSC appearing for the first respondent, as the Hockey India, which moved the Supreme Court in Civil Appeal No.3225 of 2011, now ended in dismissal of their case as having become infructuous, and therefore, the matter needs to be examined after a detailed reply by the Government of India as to the claim of the appellants. Therefore, Mr.K.Ravindranath, learned SCGSC appearing for the first respondent requests two weeks' time to come out with a detailed counter affidavit by the first respondent.

5. Post on 16.03.2015 for counter and disposal and also for consideration of the matter."

9. To report the subsequent development after the decision of the Supreme Court in the above case in W.P.(Civil).No.363 of 2014, the matter was adjourned on 24.03.2015 and directed to be listed today.

10. Today (01.04.2015), when the matter is taken up for hearing, Mr.Sriram Panchu, learned Senior Counsel appearing for the third respondent brought to our notice an earlier decision of the Government of India, in F.No.32-14/2013-SP-III, Ministry of Youth Affairs and Sports, dated 28.02.2014, wherein, it was decided as follows:

"10. After a careful and detailed examination of the documents on record and keeping in view all the relevant factors, Government of India, Ministry of Youth Affairs and Sports has reached the conclusion that "Hockey India" may be given recognition as the National Sports Federation for governing the sport of hockey (both men and women) in India."

11. In the above context, it is also relevant to refer the proceedings of the Government of India, Ministry of Youth Affairs and Sports, Department of Sports, in F.No.10-9/2014-SP III, dated 05.02.2015, addressed to the learned Additional Solicitor General of India of this Court, wherein the Government of India has informed the following position:

"4. It is submitted that the answering Respondent No.1 recognizes the importance of the Sport of Hockey in India, its popularity among the masses and medal prospects of India in various international events etc. Keeping these factors in view, the Ministry realised the need to quickly resolve the long pending issues of granting recognition to a Sports body as NSF for promotion of the Sport of Hockey. The Ministry has granted recognition to Hockey India and UOI has given a detailed background and their role in the affidavit submitted in the W.P.(C).No.363 of 2014 filed by Indian Hockey Federation and another Vs. UOI and others in the Honourable Supreme Court of India."

12. It is also informed that the above decisions of the Government of India, dated 28.02.2014 and 05.02.2015, were brought to the notice of the Supreme Court at the time of hearing the connected matters before it. It is seen that in the connected matters before the Supreme Court in W.P.(Civil) No.270 of 2010 and Civil Appeal No.3225 of 2011, the Supreme Court, by order dated 19.02.2015, dismissed them as having become infructuous, and in

respect of other matters pertaining thereto in W.P.(C).No.363 of 2014 and W.P.(C).No.785 of 2014, the Supreme Court also dismissed the same by the same order, without expressing any opinion on the merits of the contentions raised in the writ petitions, on the ground that the Supreme Court was not inclined to entertain those petitions under Article 32 of the Constitution of India, as in the considered view of the Supreme Court, the matter was not appropriate for adjudication in exercise of the high prerogative jurisdiction of the Supreme Court.

13. In the light of the above stated position and in view of the above orders of the Supreme Court and the decisions of the Government of India, as quoted above, learned counsel for the appellants, on noticing the same, submitted that the present Writ Appeal may be dismissed as having become infructuous, with liberty to work out their remedy as per law with regard to the affiliation of the appellants-Associations.

14. Accordingly, the Writ Appeal is dismissed as having become infructuous, with liberty to the appellants-Associations to claim their affiliation, by working out the same before appropriate forum in the manner known to law. No costs. The Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

cs

Copy to

1. The Secretary to Government of India
Ministry of Youth Affairs and Sports,
Department of Sports,
Shastri Bhawan, New Delhi-110 115.
2. The Secretary
Sports Development Authority of Tamilnadu,
No.116.A, Periyar EVR High Road,
Nehru Park, Chennai-600 084.

- 1 cc to Mr.Arun Anbumani, Advocate, Sr. 18320
1 cc to mr.J. Sivanandaraj, Advocate, sr. 18275
1 cc to Mr.K. Ravindranath, Advocate, Sr. 18483
1 cc to Mr.Su. srinivasan, Advocate, Sr. 18544

W.A.No.248 of 2011

NM (CO)

kk 21/4