

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.06.2015
Delivered on : 24.06.2015

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.2559 of 2011 and 11431 to 11433 of 2015
and M.P.Nos.1 and 2 of 2015 (4 cases)

W.P.No.2559 of 2011

G.Venkatesh .. Petitioner

Vs.

- 1.Bridge Federation of India
A Society registered under
Societies Registration Act, 1860
Through its President,
1-F, Ammaiammal Street,
Ayyavoo Colony, Aminjikarai,
Chennai-600 029.
- 2.Ministry of Youth Affairs and Sports
Government of India,
Through the Secretary, Department of Sports,
Room No.504, B-Wing, Shastri Bhawan,
New Delhi-110 001.
- 3.Ministry of Home Affairs
Government of India,
Through its Secretary,
North Block, Central Secretariat,
New Delhi-110 001.
- 4.Ministry of Overseas Indian Affairs,
Government of India,
Through its Secretary,
Akbar Bhawan,
Chanakya Puri,
New Delhi-110 021.

..Respondents

W.P.Nos.11431 to 11433 of 2015

Padmanabhan Sridharan	..	Petitioner in W.P.No.11431/2015
Subahs Gupta	..	Petitioner in W.P.No.11432/2015
Sunderram Srinivasan	..	Petitioner in W.P.No.11433/2015

Vs.

1. Bridge Federation of India
A Society registered under
Societies Registration Act, 1860
Through its President,
1-F, Ammaiammal Street,
Ayyavoo Colony, Aminjikarai,
Chennai-600 029.

2. Ministry of Youth Affairs and Sports
Government of India,
Through the Secretary, Department of Sports,
Room No.504, B-Wing, Shastri Bhawan,
New Delhi-110 001.

3. G. Venkatesh .. Respondents in all Wps.

Prayer in W.P.No.2559 of 2011: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of first respondent relating to its letter dated 23.12.2010, quash the same and direct the first respondent to permit the petitioner to participate in the Selection Trials and International Bridge Tournaments as per the rights granted to the petitioner by Notification bearing No.S.O.542(E) dated 11.04.2005 issued by the third respondent under Section 7-B(1) of the Citizenship Act, 1955.

Prayer in W.P.Nos.11431 to 11433 of 2011: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to its announcement in its website in www.bfi.net.in dated 12.03.2015 and its consequential actions, quash the same, direct the respondents 1 and 2 to permit, authorise the winner of the Team in the Trial dated 15-16/8/2014 played at New Delhi to represent India in the '2015 Bermuda Bowl Bridge Championship' due to be held in Chennai from 26.09.2015 to 10.10.2015 in terms of the representation dated 17.03.2015 sent to the respondents 1 and 2.

For Petitioners: Mrs.Hema Sampath, Senior Counsel
for Mrs.R.Meenal
in W.P.No.2559 of 2011

Mr.V.T.Gopalan, Senior Counsel
for Mr.K.Moorthy
in W.P.Nos.11431 to 11433/2015

For Respondents: Mr.Gopal Subramaniam, Senior Counsel
assisted by Mr.Srinath Sridevan
for R1 in all W.Ps.
Mr.Su.Srinivasan, Asst. Solicitor
General for R2 to R4 in
W.P.No.2559/2011
and for R2 in W.P.Nos.11431 to
11433/2015

Mrs.Hema Sampath, Senior Counsel
for Mrs.R.Meenal
for R3 in W.P.Nos.11431 to 11433/2015

COMMON ORDER

By consent all the writ petitions are taken up for final disposal.

2. Since the issue involved in these writ petitions is one and the same namely to participate and represent India in the '2015 Bermuda Bowl Bridge Championship' due to be held in Chennai from 26.09.2015 to 10.10.2015, all these writ petitions are disposed of by this common order.

W.P.No.2559 of 2011

3.1. The petitioner was an Indian citizen and became a naturalized citizen of United States of America (U.S.A.) in the year 1996. However, the petitioner claims that still he is having roots in India and visit India regularly and also registered himself as an Overseas Citizen of India [in short 'OCI'] in terms of Section 7-A of the Citizenship Act, 1955 since February, 2006 and by virtue of the same, he is entitled to certain legal rights conferred by the Government of India including treatment on parity with Non-Resident Indians in certain fields. The petitioner would state that the first respondent, namely Bridge Federation of India [hereinafter referred to as 'BFI'] is a Society registered under the Societies Registration Act, 1860 having its presidential seat in Chennai and its primary object is to promote and develop the sport of Bridge in India and it is also the recognized National Sports Federation for the sport of Bridge in India. The first respondent is responsible for conducting National Bridge Championships/Tournaments and for conducting Selection Trials for selecting teams to represent the first respondent in International Bridge Championships/Tournaments and it has authority to determine and control the selection process and decide on the selection of Bridge players/teams that represent them in International Championships/Tournaments.

3.2. The petitioner would further state that World Bridge Federation [in short 'WBF'] is established for the purpose of promoting and developing the sport of Bridge throughout the world and its headquarters is located in Switzerland. WBF is a private independent sports body corporate and according to the petitioner, it is not affiliated with International Olympic Committee. WBF consists of eight zonal organizations which are divided by geographical locations and each zonal organization is responsible for the organization and administration of Bridge Championship and Tournaments in its geographical area. It is further stated by the petitioner that there are two major World Championships for Open Team participation, besides other International Championships/Tournaments conducted under the aegis of WBF, namely (a) World Bridge Championship which is held once in four years and (b) World Bridge Team Championships of which the Bermuda Bowl is the Open Team event, which is held once in every two years during the odd years like 2007, 2009, 2011 and so on.

3.3. The petitioner would contend that no nationality restrictions are placed in the Conditions of Contest governing specific World Championships/International Tournaments held under the auspices of WBF and as a matter of fact, many countries do permit Bridge players, who are their citizens, to be part of team representing NBOs of other countries. The petitioner would further state that the selection of teams for participating in the event Bermuda Bowl will be in two phases, first being National Selection Trials and subsequently the Zonal Selection Trials and six teams would be competing in the National Selection Trials and out of which, five teams gain a direct qualified entry/berth in the National Selection Trials based on their performance in the National Championships/Tournaments and the sixth team would be a direct sponsorship team which would gain a direct entry into the National Selection Trials by paying Rs.5 lakhs to the first respondent as sponsorship/support funding.

3.4. According to the petitioner, he is a member of the first respondent and his membership number is TM710 and he would claim that he is an internationally claimed Bridge player and recognized by the World Body as a player representing the NBO of India, namely the first respondent by virtue of being born in India and he has also identified players, who are Indian citizens based in India with immense potential and discipline and trained them to international standards. The petitioner also formed a team with the said players and captaining the team in various National and International Championships/Tournaments and also National Selection Trials organized by the first respondent and he has also privately sponsored his team to participate in such National and International Championships/Tournaments.

3.5. The petitioner would contend that he, after becoming an OCI, was consistently allowed by the first respondent to participate in the National and International Championships/Tournaments and also to participate in the National Selection Trials held for selecting teams to represent the first respondent in International Tournaments and during the year 2006, the first respondent accepted a capitation fee from him and conveyed its approval to the World Body in the open event held in Verona, Italy. The petitioner was also permitted by the first respondent to participate in the National Selection Trials held in the years 2007, 2008 and 2009 and he also participated in 2010 World Bridge Series Championships held in Philadelphia, U.S.A by accepting a capitation fee from him and conveyed its approval to the World Body. The petitioner further claims that his team won the National Masters, a National Championship Event and a National Qualifying Event for the National Selection Trials due to be held by the first respondent in Bengaluru in April 2011.

3.6. The petitioner wrote a letter dated 21.06.2010 to the President of the first respondent stating that as a person born in India, he is entitled to represent the first respondent in '2011 Bermuda Bowl' in terms of Supplementary Conditions of Contest of WBF, governing such event and the first respondent also sought clarification from the World Body as to his eligibility to represent them in the said event and the World Body also written a letter to the first respondent during October 2010 confirming that the petitioner was eligible to participate. However, the first respondent did not sent any communication to them. The petitioner got apprehension that there is a possibility of the first respondent disallowing his team's direct entry into the National Selection Trials, decided to reconstitute a team and accordingly done it and took a decision to participate in the Summer Nationals to be held in Aurangabad in March, 2011 and also sought clarification from the first respondent as to his eligibility for participating in the National/Zonal Selection Trials for International Events more particularly 2011 Bermuda Bowl.

3.7. The petitioner, to his shock and surprise, has received a letter dated 23.12.2010 from the first respondent stating that the first respondent will not be able to consider him while selecting teams for International Events based on his performance in the National Tournaments/Qualifying Events in view of the Circulars dated 26.12.2008 and 12.03.2009 issued by the second respondent and also clarified that though he is entitled to participate in the National Tournaments/Qualifying Events, if his team qualifies for Selection Trials, his presence in the team will disqualify the team, may be on account of the fact that he is an OCI.

3.8. The petitioner, challenging the letter of the first respondent dated 23.12.2010 as well as the notification dated 11.04.2005 issued by the third respondent under Section 7(B) of the Citizenship Act, 1955, has filed this writ petition. The petitioner, pending disposal of this writ petition, filed M.P.No.1 of 2011 praying for stay of the operation of the letter of the first respondent dated 23.12.2010 and also filed M.P.No.2 of 2011, praying for a direction, directing the first respondent to permit him to participate in the National/Zonal Selection Trials held during April/May 2011 for the '2011 Bermuda Bowl' event pending disposal of the writ petition. Both the miscellaneous petitions were dismissed by a common order dated 09.03.2011 and challenging the same, the petitioner filed writ appeals in W.A.Nos.482 and 483 of 2011 and pending disposal of the appeals, filed M.P.No.1 of 2011 in W.A.No.482 of 2011 for stay of the operation of the order dated 23.12.2010 and also filed M.P.No.1 of 2011 in W.A.No.483 of 2011, for a direction directing the first respondent to permit the petitioner to participate in the Selection Trials to be held in April 2011 for the '2011 Bermuda Bowl', pending disposal of the writ appeal. A Division Bench of this Court, vide interim order dated 22.03.2011, has granted interim stay in M.P.No.1 of 2011 in W.A.No.482 of 2011 and also granted an order of interim direction to comply the order passed, on the same day in M.P.No.1 of 2011 in W.A.No.483 of 2011.

3.9. Counter affidavit has been filed on behalf of the respondents 1 and 2, namely BFI and Ministry of Youth Affairs and Sports, Government of India, New Delhi. Writ Appeals were taken up for final disposal and both the writ appeals were disposed of by a common judgment dated 09.03.2015 and it is relevant to extract the operative portion of the said judgment:

"9. On 22.03.2011, this Court, while admitting the Writ Appeals, granted the interim reliefs in M.P.Nos.1 and 1 of 2011, as sought for by the appellant, without any conditions and observations. By the grant of the said reliefs, the appellant was permitted by the first respondent to participate in the selection trials for the 2011 Bermuda Bowl Bridge Championship and his grievance was redressed and, therefore, nothing survives for consideration in these Writ Appeals and they have become fructuous.

10. Coming to M.P.No.1 of 2014 in W.A.No.483 of 2011, the prayer is for a direction to the first respondent to permit the petitioner/appellant to participate in the 2015 Bermuda Bowl Bridge Championship due to be held in Chennai from 26.09.2015 to 10.10.2015.

11. In the above regard, it is to be stated that when the reliefs sought for in the Writ Appeals have become infructuous, the miscellaneous petition in M.P.No.1 of 2014, which is for a different relief and unconnected to the one of the writ appeal, cannot be clubbed with the appeal when the writ petition is very much alive before the single Judge, and the same has to be decided by the writ Court under Article 226 of the Constitution, but not this Court under Clause 15 of the Letters Patent. In other words, the appellant, without exhausting the remedy before the writ Court, has approached this appellate court directly, which approach, in our considered opinion, is not entertainable, the reason being that the cause of appeals, which are filed against the interim orders. Therefore, it is open for the petitioner/appellant to file a similar petition before the writ court, in which event, we, considering the importance and urgency in the matter, request the said court to dispose of the miscellaneous petition as well as the writ petition, as expeditiously as possible, preferably within a period of one month.

12.Writ Appeals are disposed of accordingly.
No costs..."

3.10. The team of the petitioner, namely "TEXAN ACES" consisting of other members namely Mr.Padmanabhan Sridharan, petitioner in W.P.No.11431 of 2015, Mr.Subahs Gupta, petitioner in W.P.No.11432 of 2015 and Mr.Sunderram Srinivasan, petitioner in W.P.No.11433 of 2015 along with another, by virtue of the interim order passed in W.A.No.483/2011, participated and won the Selection Trial on 16.08.2014 for the '2015 Bermuda Bowl Bridge Championship' due to be held in Chennai from 26.09.2015 to 10.10.2015. Thereafter, the first respondent, in its communication dated 12.03.2015, has indicated that they have unanimously decided to hold a fresh trial for selection of Indian Open Team for '2015 Bermuda Bowl' and it will be held at Calcutta from 28.04.2015 onwards. The above said three persons, aggrieved by the said communication, filed W.P.Nos.11431 to 11433 of 2015 respectively and the other member, namely Mr.Swarnendu Banerjee, filed a suit in Title Suit No.57 of 2015 before the 3rd Civil Judge (Junior Division), Alipore against the respondents 1 and 2 herein and against the petitioners in W.P.Nos.11431 to 11433 of 2015, praying for a declaration that he is qualified in the trials held during August 2014 and can represent India in the World Championships, 2015 at Chennai, India, with a further declaration that the notification of the second respondent dated 12.03.2015 shall be cancelled or withdrawn and for a injunction restraining

the first respondent from holding fresh trials in pursuance of the above said notification dated 12.03.2015 and for mandatory injunction directing the first respondent to allow him to represent India in World Championships 2015 to be held at Chennai.

W.P.Nos.11431 to 11433 of 2015

4.1. Mr.Padmanabhan Sridharan, Mr.Subahs Gupta and Mr.Sunderram Srinivasan, have filed these writ petitions praying for issuance of a Writ of Certiorari to quash the communication dated 12.03.2015 with a direction to the respondents 1 and 2 to permit, authorize the winner of the team in the trial dated 15-16/8/2014 played at New Delhi to represent India in the '2015 Bermuda Bowl Bridge Championship' due to be held in Chennai from 26.09.2015 to 10.10.2015 in terms of their representation dated 17.03.2015, submitted to the respondents 1 and 2. In the affidavit filed in support of these writ petitions, they aver among other things that the first respondent without putting the petitioner as well as the third respondent, namely Mr.G.Venkatesh on notice, has issued the impugned communication dated 12.03.2015 in the website, informing about the conducting of fresh trial during April 2015 at Kolkata, citing the reason that the third respondent is an OCI. The petitioners would further aver that Bridge Game is played with four players with two substitutes and as such their team is eligible to participate in the said championship and since they were permitted to include two more players for their team and there are very many precedents in support of the same, prays for substitution in the place of Mr.J.M.Shaw and the third respondent, namely Mr.G.Venkatesh and represent India in the Bridge World Championship. The petitioners also filed M.P.Nos.2 to 2 of 2015 in the said writ petitions praying for stay of the operation of the communication of the first respondent dated 12.03.2015. This Court, while ordering notice of motion returnable on 30.06.2015, has granted interim stay till 30.06.2015.

4.2. The first respondent has filed a common counter affidavit in all these writ petitions stating among other things that in view of the circulars issued by the second respondent dated 26.12.2008 and 12.03.2009, the petitioner in W.P.No.2559 of 2011, who is also the third respondent in W.P.Nos.11431 to 11433 of 2015, is ineligible to participate in international events as he is an OCI. The first respondent also took a stand that admittedly no challenge has been made to the above said circulars and also invited the attention of this Court to the decisions in Sorab Singh Gill v. Union of India and Others [AIR 2010 P&H 83] and Karm Kumar v. Union of India [(2010) 172 DLT 521] and took a stand that in the light of the said decisions, Mr.G.Venkatesh cannot participate in international events

under the Indian National Flag. It is further stated by the first respondent that right to play the game of Bridge must necessarily be controlled by the internal rules of the Federation under which the game is played or in case of seeking to participate as a national team, the same is bound by both the policy decisions of the Government of India, the requirements under the Citizenship Act as well as the rules of the International Federation and in the light of the circulars of the second respondent dated 26.12.2008 and 12.03.2009, Mr.G.Venkatesh is not entitled to any relief. It is also stated by the first respondent that for re-trial a team has already been filed on 06.04.2015 consisting of Mr.Raju Tolani, Mr.Ajay Khare, Mr.S.Sundarram, Mr.P.Sridharan, Mr.Swarnendu Banerjee, Mr.J.M.Shaw, Mr.Arun Jain and the said fact has not been disclosed in W.P.Nos.11431 to 11433 of 2015. The first respondent also took a stand that one of the team members of the writ petitioners namely Mr.Swarnendu Banerjee has filed a civil suit before the District Munsif Court at Alipore on identical issues, but failed to get any interim orders and therefore, the present litigation before this Court is an attempt to do "Forum Shopping" and prays for dismissal of these writ petitions.

5. In response to the counter affidavit, the petitioner in W.P.No.11431 of 2015 has filed a rejoinder, reiterating the stand taken in the writ petition, explaining as to the non disclosure of the fact of filing application for substitution and also took a stand that the team without the participation of Mr.G.Venkatesh is eligible to participate in Bermuda Bowl Bridge World Championship in accordance with the World Bridge Federation.

6. Mrs.Hema Sampath, learned Senior Counsel appearing for the petitioner in W.P.No.2559 of 2011 made the following submissions:

(i) Two circulars of the second respondent dated 26.12.2008 and 12.03.2009 have no statutory force, as under Section 7-B of the Citizenship Act, 1955, every notification pertaining to conferment of rights of overseas citizens of India, shall be laid before each House of Parliament and admittedly, such procedure has not been adopted.

(ii) The first respondent is purely a private body and is not receiving any aid or grant from the Government and hence, it is not bound by any Circular/Order issued by the Government of India and hence, it need not act on the above said two circulars issued by the second respondent.

(iii) Teams are also not selected by the Government of India and the team which win Selection Trials can represent the country on behalf of the first respondent and as such, there is no prohibition/disqualification on the part of the petitioner, namely Mr.G.Venkatesh to participate in the 'Bermuda Bowl, 2015' to be held at Chennai.

The learned Senior Counsel appearing for the petitioner has also drawn the attention of this Court to the various notifications issued by the Ministry of Overseas Indian Affairs and would submit that Overseas Citizen of India [OCI] is more or less a citizen of India, conferred with all privileges in terms of Clause 3.1.1. of Supplementary Conditions of Contest for the '2011 World Bridge Championship' comprehensively Bermuda Bowl and other championships and would submit that it is not a strict or rigorous condition and as per the communication of the WBF Credential Committee, the petitioner/third respondent was informed that he can play for India in the next Bermuda Bowl, but he cannot play for any other country for example U.S.A during the 10 years and in the light of the stand taken by the World Body itself, the decision taken by the first respondent in not permitting the petitioner to participate in the 'Bermuda Bowl 2015' to be held at Chennai between 26.09.2015 and 10.10.2015, is totally arbitrary, erroneous and unsustainable and prays for interference.

7. Mr.V.T.Gopalan, learned Senior Counsel appearing for the petitioners in W.P.Nos.11431 to 11433 of 2015 would contend that the decision taken to disqualify even the other members of the team, has been taken unilaterally without adhering to the principles of natural justice and the team namely, 'TEXAN ACES', through its merit and credential, has won National Championship and the said fact has been completely overlooked by the first respondent for obvious and malafide reasons to favour other teams for their participation in the ensuing championship. The learned Senior Counsel apart from reiterating the submission made by the learned Senior Counsel appearing for the petitioner in W.P.No.2559 of 2011 would further contend that taking advantage of the observations made in the final orders passed in W.A.Nos.482 and 483 of 2011, the present impugned order came to be passed. Insofar as the prayer made by the petitioners for substitution is concerned, it is the submission of the learned Senior Counsel appearing for the petitioners that substitution can be done in terms of rules and regulations and in all fairness, the first respondent ought to have permitted substitution in place of the third respondent, namely Mr.G.Venkatesh even for the sake of argument he is disqualified on account of the fact that he is an OCI. It is the further submission of the learned

Senior Counsel appearing for the petitioners that Supplementary Conditions which came into being in the year 2014 has been applied only to prevent the third respondent from participating in the ensuing championship and in any event, it can be made applicable only to future matches and dehors the two circulars of the second respondent, he was permitted to participate in the nationals. Moreover, the circulars of the second respondent have not been issued in pursuant to the executive power of the Union and by virtue of unilateral cancellation without any notice and not taking into account the performance of the team, namely 'TEXAN ACES', the impugned order is per se arbitrary and unreasonable and also against the principles of natural justice and hence, prays for setting aside the order with a direction directing the respondent to accept substitution, enabling his team, namely 'TEXAN ACES' to participate in the ensuing championship.

8. The learned Senior Counsel appearing for the petitioners, in support of their submissions, placed reliance upon the following judgments:

- (i) Sorab Singh Gill v. Union of India and Others [AIR 2010 P&H 83]
- (ii) Karm Kumar v. Union of India [172 (2010) DLT 521]
- (iii) Order dated 18.02.2011 made in SLP (Civil) Nos.10880 of 2010.
- (iv) Bar Council of Delhi and Others v. Surjeet Singh and Others [(1980) 4 SCC 211]
- (v) Abdul Sattar Hari Ibrahim Patel v. State of Gujarat [AIR 1965 SC 810]
- (vi) Kulathi Mammu v. State of Kerala and Others [AIR 1966 SC 1614]
- (vii) Asha v. PT.B.D.Sharma University of Health Sciences and Others [(2012) 7 SCC 389]
- (viii) Gulf Goans Hotels Company Limited and Another v. Union of India and Others [(2014) 10 SCC 673]

9. Per contra, Mr.Gopal Subramaniam, learned Senior Counsel assisted by Mr.Srinath Sridevan, appearing for the first respondent/BFI would submit that the core issue involved in these writ petitions is that whether an OCI is entitled to claim the status of national of the country and that whether he is entitled to participate in any

international event representing the concern sports federation/association under the Indian national flag? It is the submission of the learned Senior Counsel appearing for the first respondent that citizenship is determined by municipal law and Constitution and citizenship begins with the Constitution and drawn the attention of this Court to Articles 5, 6 and 7 of the Constitution of India as well as Sections 7-A and 7-B of the Citizenship Act, 1955 and would submit that though by virtue of registration of OCI, the same will confer right on the petitioner in W.P.No.2559 of 2011/the third respondent in W.P.Nos.11431 to 11433 of 2015, representing the first respondent in international events under the Indian Flag and in any event, he cannot be treated on par with regular citizen of India. The learned Senior Counsel appearing for the first respondent has also traced out the history relating to the amendment made to Section 7-A of the Citizenship Act, 1955 and would submit that though Dr.L.M.Singhvi Committee made a recommendation for Dual Citizenship, it was not found acceptance and conscious decision was taken to amend Section 7-A of the Citizenship Act, 1955 for registration of Overseas Citizenship of India and admittedly, the petitioner/third respondent has renounced the Citizenship of India and became citizen of USA as early as in the year 1996 and in any event, Overseas Citizenship of India cannot be equated to regular citizen of India.

10. It is the further submission of the learned Senior Counsel appearing for the first respondent/BFI that the letters/circulars issued by the second respondent dated 26.12.2008 and 12.03.2009 are only clarificatory in nature and it need not be placed before the Parliament. The first respondent/FBI is affiliated to Indian Olympic Association and being a member, it is also bound by the above said circulars. Attention of this Court was also drawn to Olympic Charter which stipulates that the participants should be citizen of a particular country and even on that ground also, the petitioner/third respondent being an OCI cannot represent the country like that of the regular citizens in international events under the Indian National Flag. The learned Senior Counsel appearing for the first respondent has also placed reliance upon the judgments in (i) Sorab Singh Gill v. Union of India and Others [AIR 2010 P&H 83] and (ii) Karm Kumar v. Union of India [172 (2010) DLT 521] and would submit that insofar as the judgment rendered by the Punjab and Haryana High Court is concerned, the petitioner was born in U.S.A. and since he has not voluntarily surrendered his citizenship, the Division Bench of Punjab and Haryana has not quashed the circular/letter dated 26.12.2008 issued by the second respondent. The said decision was put to challenge in Special Leave to Appeal (Civil) No.10880/2010 and the Hon'ble Supreme Court of India found that the cause of action does not survive for

adjudication, however leaving the question that arisen for consideration left open. The judgment rendered by the Delhi High Court is squarely applicable to the facts of this case as the very same issue was put forth for adjudication. Even the amendment made to the Citizenship Act by Amendment Act No.1 of 2015 has not diluted the earlier decision and as such, the petitioner/third respondent cannot represent the first respondent Association.

11. Insofar as W.P.Nos.11431 to 11433 of 2015 are concerned, it is contended by the learned Senior Counsel appearing for the first respondent that admittedly they prayed for substitution and their participation in selection trials is purely on account of the interim orders passed in W.A.Nos.482 and 483 of 2011 and they cannot claim any advantage on the basis of the interim orders. The Writ Appeals, by virtue of final disposal, will not confer any right to the team, namely 'TEXAN ACES' which include Mr.G.Venkatesh - an OCI to participate in international events. The learned Senior Counsel appearing for the first respondent has also invited the attention of this Court to the Suit filed before the District Munsif Court at Alipore by Mr.Swarnendu Banerjee, wherein the prayer made was also similar to that of the prayer sought in these writ petitions and having failed to get interim orders in the said Suit, it utilized the services of the petitioner to file writ petitions. Admittedly, the game of Bridge is a team game wherein all the players contribute to the success of the team and by means of substitution, the said team cannot bask on glory or the performance of an individual and taking into consideration all facts and circumstances only, the impugned order came to be passed. The learned Senior Counsel appearing for the first respondent has also drawn the attention of this Court to the typed set of documents and additional typed of documents filed on behalf of the first respondent and the judgments in (i) Raghunathrao Ganpatrao v. Union of India [1994 Supp (1) SCC 191] and (ii) The State Trading Corporation of India Ltd., and Others v. The Commercial Tax Officer, Vishakapatnam and Others [AIR 1963 SC 1811].

12. In response to the said submission, learned Senior Counsel appearing for the petitioners would contend that the impugned order ordering fresh trial visits the petitioners in W.P.Nos.11431 to 11433 of 2015 with civil consequences and without affording any opportunity whatsoever, the hard work put and success earned by them was set at nought and even the prayer for substitution was also negate on account of extraneous and other considerations. It is their further submission that if an OCI is permitted to participate in the national event, there is no logic in preventing them from participating in international event under the national flag

of the country and reiterated their submission that the guidelines/circulars issued by the second respondent have no statutory force and the first respondent, being an independent and private body, ought not to have taken cognizance and acted upon it and hence, prays for setting aside the impugned order with further direction to order substitution and to enable the team 'TEXAN ACES' to participate in the '2015 Bermuda Bowl World Championship'.

13. Mr.Su.Srinivasan, learned Assistant Solicitor General appearing for the second respondent would contend that the two circulars issued by the second respondent merely clarified the position regarding the status of OCI to participate in international events and those circulars are not against the provisions of law and hence, it need not be laid before parliament and also adopted the arguments of the learned Senior Counsel appearing for the first respondent.

14. This Court paid its best attention to the submissions made by the learned Senior Counsel appearing for the petitioners, learned Senior Counsel appearing for the first respondent, learned Assistant Solicitor General appearing for the second respondent and also perused the entire materials placed before it.

15. Articles 5 to 11 of the Constitution of India deal with citizenship and its relevant to extract Articles 9 to 11:

"9. Persons voluntarily acquiring citizenship of a foreign State not to be citizens.— No person shall be a citizen of India by virtue of article 5, or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State.

10. Continuance of the rights of citizenship.—Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

11. Parliament to regulate the right of citizenship by law.—Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship."

16. The Citizenship Act, 1955 is enacted pursuant to Article 11. It is also relevant the following provisions of the said Act:

"2. In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 2, in sub-section (1), for clause (ee), the following clause shall be substituted, namely:-

'(ee) "Overseas Citizen of India Cardholder" means a person registered as an Overseas Citizen of India Cardholder by the Central Government under section 7A

7A. (1) The Central Government may, subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf, register as an Overseas Citizen of India Cardholder-

(a) any person of full age and capacity,-

(i) who is a citizen of another country, but was a citizen of India at the time of, or at any time after the commencement of the Constitution; or

(ii) who is a citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or

(iii) who is a citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or

(iv) who is a child or a grandchild or a great grandchild of such a citizen; or

(b) a person, who is a minor child of a person mentioned in clause (a); or

(c) a person, who is a minor child, and whose both parents are citizens of India or one of the parents is a citizen of India; or

(d) spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India Cardholder registered under section 7A and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application under this section:

Provided that for the eligibility for registration as an Overseas Citizen of India Cardholder, such spouse shall be subjected to prior security clearance by a competent authority in India:

Provided further that no person, who or either of whose parents or grandparents or great grandparents is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as an Overseas Citizen of India Cardholder under this sub-section.

(2) The Central Government may, by notification in the Official Gazette, specify the date from which the existing Persons of Indian Origin Cardholders shall be deemed to be Overseas Citizens of India Cardholders.

Explanation.— For the purposes of this sub-section, "Persons of Indian Origin Cardholders" means the persons registered as such under notification number 26011/ 4/98 F.I., dated the 19th August, 2002, issued by the Central Government in this regard.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that special circumstances exist, after recording the circumstances in writing, register a person as an Overseas Citizen of India Cardholder.

7B. (1) Notwithstanding anything contained in any other law for the time being in force, an Overseas Citizen of India Cardholder shall be entitled to such rights, other than the rights specified under sub-section (2), as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) An Overseas Citizen of India Cardholder shall not be entitled to the rights conferred on a citizen of India—

(a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;

(b) under article 58 of the Constitution for election as President;

(c) under article 66 of the Constitution for election as Vice-President;

(d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;

(e) under article 217 of the Constitution for appointment as a Judge of the High Court;

(f) under section 16 of the Representation of the People Act, 1950 in regard to registration as a voter;

(g) under sections 3 and 4 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the House of the People or of the Council of States, as the case may be;

(h) under sections 5, 5A and section 6 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the Legislative Assembly or the Legislative

Council, as the case may be, of a State;

(i) for appointment to public services and posts in connection with affairs of the Union or of any State except for appointment in such services and posts as the Central Government may, by special order in that behalf, specify.

(3) Every notification issued under sub-section (1) shall be laid before each House of Parliament."

17. A careful scrutiny of the above said provisions of Citizenship Act, 1955 makes it very clear that OCI cannot be equated to Dual Citizenship and Article 9 of the Constitution of India states that "No person shall be a citizen of India by virtue of Article 5, or be deemed to be a citizen of India by virtue of Article 6 or Article 8, if he has voluntarily acquired the citizenship of any foreign State.

18. Various notifications were also issued by the Ministry of Home Affairs in exercise of powers conferred under Section 7-B of the Citizenship Act, 1955 and it is relevant to extract the same:

Ministry of Home Affairs, Notl.No.S.O.542 (E), dated April 11, 2005, published in the Gazette of India, Extra., Para II, Section 3(ii), dated 11th April, 2005, P.2. No.373 [F.No.26011/2/2005-IC.I]

In exercise of powers conferred by sub-section (1) of Section 7-B of the Citizenship Act, 1955 (57 of 1995), the Central Government hereby specifies the following rights to which the persons registered as Overseas Citizens of India under Section 7-A of the said Act shall be entitled, namely:-

(a) grant of multiple entry lifelong visa for visiting India for any purpose;

(b) exemption from registration with Foreign Regional Registration Officer or Foreign Registration Officer for any length of stay in India; and

(c) parity with Non-Resident Indians in respect of all facilities available to them in economic, financial and educational fields except in matters relating to the acquisition of agricultural and plantation properties.

Ministry of Overseas Indian Affairs, Noti.No.S.O.12(E), dated January 5, 2007, published in the Gazette of India, Extra., Para II, Section 3(i), dated 6th January, 2007 P.1. No.7 [F.No.OI-16011/10/2006-DS]

In exercise of powers conferred by sub-section (1) of Section 7-B of the Citizenship Act, 1955 (57 of 1995), the Central Government hereby specifies the following rights to which the persons registered as Overseas Citizens of India under Section 7-A of the said Act shall be entitled, with effect from the date of publication of this notification in the Official Gazette, namely:-

(a) Registered Overseas Citizens of India shall be treated at par with Non-Resident Indians in the matter of inter-country adoption of Indian children.

(b) Registered Overseas Citizens of India shall be treated at par with resident Indian nationals in the matter of tariffs in air fares in domestic sectors in India.

(c) Registered Overseas Citizens of India shall be charged the same entry fee as domestic Indian visitors to visit national parks and wildlife sanctuaries in India.

Ministry of Overseas Indian Affairs,
Noti.No.S.O.36(E), dated January 5, 2009,
published in the Gazette of India, Extra., Para
II, Section 3(ii), dated 6th January, 2009 P.1.
No.33 [E.No.OI-15013/13/2008-DS]

In exercise of powers conferred by sub-section (1) of Section 7-B of the Citizenship Act, 1955 (57 of 1995), and in continuation of the notifications of the Government of India in the Ministry of Home Affairs, Number S.O.542(E) dated the 11th April, 2005 (2005-CCL-III-386[126]) and in the Ministry of Overseas Affairs, S.O.12 (E), dated the 6th January, 2007 (2007-CCL-III-131 [49]), the Central Government hereby specifies the following rights to which the persons registered as Overseas Citizens of India under Section 7-A of the said Act shall be entitled, namely:-

(a) parity with non-resident Indian in respect of,-

(i) entry fees to be charged for visiting the national monuments, historical sites and museums in India;

(ii) pursuing the following professions in India, in pursuance of the provisions contained in the relevant Acts, namely:-

(i) doctors, dentists, nurses and pharmacists;

(ii) advocates;

(iii) architects;

- (iv) chartered accountants;
- (b) to appear for the All India Pre-Medical Test or such other tests to make them eligible for admission in pursuance of the provisions contained in the relevant Acts."

The Citizenship Act, 1955 was amended during August, 2005 and the scheme of OCI was introduced taking into account that such citizens contribute to economic prosperity in the form of foreign exchange.

19. A reading of the above said notifications would clearly reveal that the right of participation by representing national sports association/federation in international events under the flag of India has not been afforded given the two circulars dated 26.12.2008 and 12.03.2009 only clarify and outline the policy of the Government with regard to the participation of foreign nationals of Indian origin in international and national events. As already pointed out, Article 9 of the Constitution of India makes it very clear that persons voluntarily acquiring citizenship of a foreign state is not a citizen and the said position has been merely clarified in the above said two circulars. Admittedly, the petitioner in W.P.No.2559 of 2011/third respondent in W.P.Nos.11431 to 11433 of 2015 has voluntarily surrendered his Indian citizenship and became a citizen of U.S.A. in the year 1996 and therefore, he cannot be construed/treated as a citizen of India.

20. In *Sorab Singh Gill v. Union of India* [AIR 2010 Punjab and Haryana 83], the petitioner therein, who was born in U.S.A., returned to India at the age of one year and on 09.04.2007, he was granted OCI status by the Government of India and he represented India in shooting championship and on account of the policy dated 12.03.2009 in pursuant to the judgment of the Hon'ble Supreme Court of India in *Karm Kumar v. Union of India* dated 01.10.2008 in W.P.(C)No.3049 of 2008, the petitioner was prevented from participating. The Division Bench of Punjab and Haryana High Court has taken into consideration of the fact that the education includes sports also and that the petitioner therein has not voluntarily acquired citizenship of U.S.A., directed the respondents to accord same status as NRI so far as the participation is concerned. It is also pointed out at this juncture that the policy of the second respondent dated 26.12.2008 has not been struck down. The above said order was put to challenge by the Union of India before the Hon'ble Supreme Court and taking note of the subsequent events, the Hon'ble Supreme Court dismissed the Special Leave Petition after noting that the cause of action does not survive and however, left the question open.

21. In *Karm Kumar v. Union of India and Others* [(2010) 172 DLT 521], the facts of the case would disclose among other things that Karm Kumar was a petitioner in the earlier round of litigation in W.P.(C).No.3049 of 2008 (cited supra), made a challenge to the circular dated 26.12.2008 issued by the second respondent. The Delhi High Court, after taking note of the relevant Articles in the Constitution of India and Sections 7-A and 7-B of the Citizenship Act, 2005 observed as follows:

"25. The very wording of Section 7B of the Act indicates that what is meant to be granted to OCIs is a limited right. Secondly, it is a statutory right and not a fundamental or constitutional right. The grant of the limited right is by the central government by notification under Section 7B of the Act. Therefore what right is granted depends on the policy of the central government. It is not automatic on the attaining of the status of an OCI. There cannot be a presumption that a right that is not taken away by a notification is deemed to have been granted. On the other hand Section 7B makes it clear that only those rights that are specifically granted by a notification issued by the central government in exercise of its powers under Section 7B(1) of the Act are available to an OCI. The legislative intent appears to give the government flexibility in changing its policy from time to time. It might, depending on the circumstances, change its policy and decide to withdraw a right granted to an OCI by issuing a notification to that effect. Incidentally, there is no challenge to the validity of Section 7B of the Act which permits this.

.....

34. As far as this Court can appreciate, the judgment in *Sorab Singh Gill* turned on the interpretation of the words -educational fields? occurring in the notification dated 11th April 2005. The reasoning appears to be that the participation in sporting events by a student in school forms an integral part of education. This Court is unable to read the above notification dated 11th April 2005 issued under Section 7B of the Act as anything more than granting parity to the OCIs with NRIs in -economic, financial and educational fields?. In the context of educational field what it connoted was that if an NRI was granted admission to educational institutions in India, under a quota meant for NRIs, then an OCI would equally be eligible to be considered under the said quota. The intention was not to permit OCIs to represent India in international sporting

events. An OCI need not be a student studying in India at all. An OCI could well be merely a resident of a foreign country of which he or she is a passport holder. The right to represent India in an international sporting event does not, in the considered view of this Court, flow from the above notification dated 11th April 2005. Limited scope of interference in policy decisions.

39. This Court is of the view that the policy decision taken by the Government of India as announced on 26th December 2008, as subsequently clarified on 12th March 2009, restricting the right to represent India in international sporting events to Indian passport holders, cannot be said to be arbitrary, irrational or unreasonable. There is a justification in insisting that only Indian passport holders should represent India in an international sporting event. Those with foreign passports obviously owe their allegiance to the country of which they hold the passport. As long as the policy of the Government of India does not recognize dual citizenship in all aspects, this Court cannot accept the submission that even foreign passport holders should be permitted to play for India in international sporting events. Ultimately the decision whether Indians alone should be allowed to represent India in an international event is a matter of policy of the Government of India. The scope of the powers of this Court under Article 226 of the Constitution of judicial review of such policy decision is extremely limited.

40. It is perfectly possible that only Indian passport holders are allowed to represent India in international sporting events whereas national events are thrown open to both OCIs and PIOs. This Court finds nothing unreasonable or irrational in these two distinct policies: one for the national tournaments and the other for international tournaments.

41. The contention that the entire policy has been made by the Union of India only to victimize Karm Kumar needs only to be stated to be rejected. This submission at best can be termed as 'extraordinary'. It is no doubt true that the said policy came to be framed as a result of the order passed in the Writ Petition (C) No. 3049 of 2008 filed by Karm Kumar in this Court. However, it is quite a different thing to say that the policy has been framed only to

victimise' Karm Kumar. The said policy has a uniform application to all OCIs and does not single out Karm Kumar for a different treatment.

42. The submission that the policy decision should be announced only by way of a notification proceeds on an erroneous reading of Section 7B(1) of the Act. A notification is required only where it is proposed to confer a right on an OCI. The impugned communications do the opposite. They clarify the policy decision not to grant OCIs the right to represent India in international tournaments."

The Delhi High Court also taken note of the judgment reported in State Trading Corporation of India Ltd., v. CTO [(1964) 4 SCR 99] (cited supra) and observed as follows:

"52. It was submitted by Ms. Bhagat that as long as the Petitioners were Indian 'nationals', their right to represent India an international sporting event could not be denied. It was submitted that a person domiciled in India by birth would always be an Indian national whether or not he has an Indian passport. Reference was made to the International Olympic Charter and regulations in support of this submission. On the other hand, the learned ASG also referred to the charters of international sports bodies which require the 'nationals' to be recognised by the law of those countries of which they claim to be nationals.

53. As far as the legal position in India is concerned, wherever a reference is made to an Indian 'national', in law it means an Indian 'citizen'. But the vice versa is not true. In State Trading Corpn. of India, Ltd. v. CTO (1964) 4 SCR 99 the Supreme Court explained:

"But the question still remains whether nationality" and "citizenship" are interchangeable terms. - 'Nationality' has reference to the jural relationship which may arise for consideration under international law. On the other hand 'citizenship' has reference to the jural relationship under municipal law. In other words, nationality determines the civil rights of a person, natural or artificial, particularly with reference to international law, whereas citizenship is intimately connected with civic rights under municipal law. Hence, all citizens are nationals of a particular State, but all nationals may not be citizens of the State. In other words, citizens are those persons who have

full political rights as distinguished from nationals, who may not enjoy full political rights and are still domiciled in that country (vide P. Weis-Nationality and Statelessness in International Law pp. 4-6; and Oppenheim's International Law, Vol. 1. pp. 642, 644).

54. The Act and the policy refer to the notion of 'citizenship' and not 'nationality'. Theoretically it may be possible to argue that nationality and citizenship are not necessarily one and the same thing. But where the requirement in terms of Article 9 of the Constitution of India read with Section 7B of the Act is to demonstrate that the person is an Indian citizen within the meaning of that statute, it is not enough to show that the person is an Indian 'national'. Absent an explicit recognition of such status in law, a 'national' may not per se be entitled to the same treatment as a 'citizen'.

.....

56. This Court is unable to accept the above submission. A uniform policy had to be adopted on the question of permitting PIOs and OCIs to represent India in international sporting events. To reiterate, it is possible that this departure from the past practice might prove to be detrimental to some of the PIOs and OCIs who were expecting to represent India in international sporting events for all times to come. However, the mere fact that it would adversely affect some persons does not make a uniform policy that is based on rational criteria, arbitrary or unreasonable. The entire life of a sportsperson does not hinge only on representing a country in an international sporting event. In each field of sports, there are several competitive tournaments held throughout the year all over the world where participation does not hinge on nationality.

The Delhi High Court in the above cited judgment has concluded that OCI or a person of Indian origin cannot claim any right to represent India in international events.

22. In the considered opinion of the Court, the above cited judgment is fully applicable to the facts of the case in W.P.No.2559 of 2011. In fact BFI, by exhibiting fairness, also sought clarification from the second respondent and the second respondent sent a communication dated 18.11.2014 to the first respondent stating among other things that only players, who are citizens of India, are eligible to be part of national team and walk under the Indian flag. Admittedly, no challenge has been made to the

above said letters/circulars dated 26.12.2008 and 12.03.2009 issued by the second respondent.

23. No doubt, the team 'TEXAN ACES' in which Mr.G.Venkatesh was a member/leader of the team, participated in selection trials and came out with flying colours and it is pertinent to point out at this juncture that by virtue of the interim orders passed in M.P.No.1 of 2011 in W.A.No.483 of 2011, Mr.G.Venkatesh was permitted to participate in the selection trials held during April 2011 for 'Bermuda Bowl World Championship'.

24. In State of Assam v. Barak Upatyaka D.U. Karmachari Sanstha [(2009) 5 SCC 694], the object and scope of Interim/Interlocutory Orders/Injunction/Stay came up for consideration and it is relevant to extract para 21 of the said decision:

"21. A precedent is a judicial decision containing a principle, which forms an authoritative element termed as ratio decidendi. An interim order which does not finally and conclusively decide an issue cannot be a precedent. Any reasons assigned in support of such non-final interim order containing prima facie findings, are only tentative. Any interim directions issued on the basis of such prima facie findings are temporary arrangements to preserve the status quo till the matter is finally decided, to ensure that the matter does not become either infructuous or a fait accompli before the final hearing."

25. It is well settled position of law that an interim order does not finally and conclusively decide the rights of the parties and is subject to the final decision of the main case.

26. W.A.Nos.482 and 483 of 2011, which were disposed of by a common judgment dated 09.03.2015, has noted the fact that by virtue of the interim orders passed in the writ appeals, nothing survives for consideration in the writ appeals, as they become infructuous. The Division Bench also noted that M.P.No.1 of 2014 in W.A.No.483 of 2011, praying for direction directing the first respondent to permit Mr.G.Venkatesh to participate in '2015 Bermuda Bowl Bridge Championship' due to be held in Chennai between 26.09.2015 and 10.10.2015, is a different relief unconnected to the writ appeal and he has to approach the Writ Court in the pending Writ Petition in W.P.No.2559 of 2011.

27. The participation of the first respondent as a member of the team 'TEXAN ACES', which won the selection trials, will not cloth any right to participate through the

first respondent in any international events under the Indian National Flag in the light of the factual reasons and legal position. The decisions relied on by the learned Senior Counsel appearing for the petitioners are not applicable to the facts of this case in the light of Article 9 of the Constitution of India and the decision of the Delhi High Court in Karm Kumar case (cited supra).

28. It is the submission of the learned Senior Counsel appearing for the petitioner that the first respondent, being a private and independent organization, is not bound to follow the circulars/guidelines issued by the second respondent. Admittedly, the first respondent is affiliated to Indian Olympic Association and there is no prohibition or restriction in following the above said circulars of the second respondent as they are merely clarificatory in nature and the relevant statutory provisions also makes it very clear that the right of participation in international events under the Indian National Flag, has not been conferred on OCI cardholders.

29. It is also well settled position of law that this Court cannot sit as a Court of Appeal of the decision of the first respondent and interference is warranted, if the said body acts without jurisdiction or does not act in good faith or acts in violation of the principles of natural justice. In the light of the Constitutional provisions coupled with the provisions of the Citizenship Act that the Overseas Indians are having certain limited rights and privileges, this Court cannot interfere with the impugned communication issued by the first respondent.

30. In the considered opinion of the Court, the Writ Petition viz., W.P.No.2559 of 2011 is devoid of merits and therefore, it is dismissed. No costs.

W.P.No.11431 to 11433 of 2015

31. Mr.V.T.Gopalan, learned Senior Counsel appearing for the petitioners would contend that since the team 'TEXAN ACES' captained by the third respondent had won the selection trials for the 'Bermuda Bowl World Championship 2015', it is having all the right to represent India in international events and even for the sake of arguments that the third respondent, being an OCI, is disqualified to represent the first respondent association under the Indian National Flag, the team cannot be disqualified and in the place of the disqualified member, substitution can be done. The learned Senior Counsel appearing for the petitioners would contend that one of the team players, namely Mr.J.M.Shaw was asked by the first respondent to withdraw from the above team to play the senior level tournament for the very same team in international events and did not disqualify the team on account of the said reason and the

disqualification of the team citing the reason that one of the member is disqualified is purely on account of malice to favour other teams. As regards the application of the petitioners herein, though they filed writ petitions on 17.04.2015, did not disclose the fact of their filing of the application on 06.04.2015 for the entry of the team consisting of Mr.Raju Tolani, Mr.Ajay Khare, Mr.S.Sundarram, Mr.P.Sridharan, Mr.Swarnendu Banerjee, Mr.J.M.Shaw and Mr.Arun Jain as their captain for participating in the selection trials. It is the further submission of the learned Senior Counsel appearing for the petitioners that it is a practice that the captain of the team will pay the fees and furnish details of the players constituting the team that he is planning and it happens for some time that the captain with or without the consent of other members can change names as he can always make up two changes eventually from the original constitution of the team. The petitioners were informed of the said fact only at later stage by the captain and therefore, it cannot be said that material facts have been deliberately suppressed. It is also the submission of the learned Senior Counsel appearing for the petitioners that dehors the participation of the third respondent, still the till 'TEXAN ACES' is entitled and eligible to participate in the ensuing championship, as the said team was successful during selection trials and the action of the first respondent in going for fresh selection trial negates the spirit of the game and such kind of acts destroys the game itself and hence, the first respondent cannot do so.

32. Mr.Gopal Subramaniam, learned Senior Counsel appearing for the first respondent, in response to the said submission, contended that in the light of the statutory provisions coupled with the circulars of the second respondent dated 26.12.2008 and 12.03.2009, the third respondent is ineligible to represent the association in the ensuing championship. It is the further submission of the learned Senior Counsel that one of the members, namely Mr.Swarnendu Banerjee, invoked the jurisdiction of the District Munsif Court at Alipore by filing a suit for the very same relief and was unsuccessful in getting the interim orders and the petitioners knowing pretty well about the fact, tried their luck before this Court by filing the present writ petitions and thereby having indulged in 'Forum Shopping'. Admittedly, the application was filed on 06.04.2015 for framing a fresh team and though these writ petitions were filed on 17.04.2015, the said fact has been suppressed. The learned Senior Counsel appearing for the first respondent has also invited the attention of this Court to the clarification sought for by the first respondent, vide letter dated 25.10.2014, addressed to the second respondent clarifying on the following points from the second respondent:

1. Allow team Texan to go ahead without G.Venkatesh;

Its team event G.Venkatesh efforts winning the trial cannot be marginalized;

2. If Formidables are allowed to represent the country;

Team Shree Cement losers in semis to Texan are denied their chances;

3. We are left with last option to reply the trial without Team Texan;

33. The second respondent, in response to the letter of the first respondent, has informed that the third respondent being an OCI is ineligible to represent India in international events. The first respondent has also written a letter dated 04.04.2015 to the petitioners and Mr.Swarnendu Banerjee stating among other things that the first respondent is constrained to cancel the selection trial -2014 on account of the national policy of the Government of India and emerging current legal position in the various courts and suggested that instead of having any grouse, the petitioners and Mr.Swarnendu Banerjee can still strive to participate in the selection trial to be held in 2015 for selection of a team to represent India in the 'World Cup Bermuda Bowl 2015' and wished them all the best. The above letter, according to the first respondent, reflects fairness in which the first respondent is carrying on its activities and it is not at all appreciated by the petitioners.

34. As regards the submission made by the learned Senior Counsel appearing for the petitioners that the first respondent, being an independent and private party, need not take cognizance of the circulars issued by the second respondent, it is the submission of the learned Senior Counsel appearing for the first respondent that the Indian Olympic Council has recognized the first respondent Association and the second respondent has also released grant and aid in favour of the first respondent for senior, junior and sub-junior championship which was held at Benaras on 25.08.2013 and therefore, it cannot be said that, it is not bound by the circulars issued by the second respondent. The second respondent has also recognized the first respondent as National Sports Federation which are included in Olympics and in the light of the Constitutional provisions coupled with the statutory requirements and after obtaining clarifications from the second respondent, the third respondent was disqualified.

35. The learned Senior Counsel appearing for the first respondent in response to the submission made by the learned Senior Counsel appearing for the petitioners that in place of the third respondent, substitution should have been

allowed and the team, namely 'TEXAN ACES' should have been allowed to participate in the ensuing World Championship, would submit that but for the performance of all the members, the said team could not have been successful in the selection trials and it is a team game and hence, the disqualification of the third respondent disqualifies the team in which he was a member and also the captain and therefore, issued the impugned proceeding calling for fresh trials and also informed them that they can participate as a team for selection trials also and in the light of the fairness exhibited by the first respondent, their acts cannot be deemed as malafide or vitiated on account of extraneous reasons/considerations and prays for dismissal of these writ petitions.

36. This Court, while deciding W.P.No.2559 of 2011 filed by the third respondent namely Mr.G.Venkatesh gave a finding that the participation of the team 'TEXAN ACES' in which the third respondent is the captain, was pursuant to the interim orders passed in M.P.No.1 of 2011 in W.A.No.483 of 2011 and when W.A.Nos.482 and 483 of 2011 were taken up for final disposal, the Court recorded the fact that the relief sought for in the writ appeals have become infructuous and also observed that M.P.No.1 of 2014 filed by the third respondent was altogether for a different relief which can be argued in the pending writ petition in W.P.No.2559 of 2011. This Court already recorded a finding that the participation of the team 'TEXAN ACES', with the third respondent as a captain in the selection trials, was purely on account of the above said interim orders passed in W.A.No.483 of 2011 and it is only an interim arrangement, pending final adjudication of the writ appeals, which have been dismissed as infructuous.

37. In the considered opinion of the Court, participation and success of the team 'TEXAN ACES' on account of interim orders, cannot confer any right or give permanent solution, as the said interim order is subject to the result of the final orders. The Constitutional provisions as well as the provisions of Citizenship Act, 1955, have not cloth the third respondent with any right to represent the first respondent to participate in any international events under the Indian National Flag and the notifications issued from time to time also have not given any such relief. Even the OCI card issued to the third respondent also would indicate that his nationality is U.S.A.

38. No doubt, the team 'TEXAN ACES' consisting of third respondent and the petitioners herein, performed well and was successful in the selection trials and the success of the said team was on account of team effort and independent members played their role also. The Supplementary Conditions

of Contest of Indian team Selection Trial 2014 would also indicate that qualified teams shall have Bridge players of Indian Nationality, who can carry Indian flag at international competitions and comply with the norms laid down by the Ministry of Sports and Youth affairs and replacement/addition/deletion of any of the members pertains to re-selection trials only.

39. The first respondent, in its letter dated 23.12.2010, addressed to the third respondent, also indicated that the status of OCI does not precluded him from participating in international events and however, if his team qualifies for the selection trial, his presence on the team would disqualify the team and accordingly, the impugned letter/communication came to be issued for selection of Indian Open Team for the ensuing event, namely 'Bermuda Bowl 2015' and it cannot be faulted with.

40. The Hon'ble Supreme Court of India, in T.P.Daver v. Lodge Victoria [AIR 1963 SC 1144], has considered the issue relating to interference by Court with regard to expulsion of members of Masonic Lodge and it is relevant to extract paras 9, 16 and 17 of the said judgment:

"9. The following principles may be gathered from the above discussion. (1) A member of a masonic lodge is bound to abide by the rules of the lodge; and if the rules provide for expulsion, he shall be expelled only in the manner provided by the rules. (2) The lodge is bound to act strictly according to the rules whether a particular rule is mandatory or directory falls to be decided in each case, having regard to the well settled rules of construction in that regard. (3) The jurisdiction of a civil court is rather limited; it cannot obviously sit as a court of appeal from decisions of such a body; it can set aside the order of such a body, if the said body acts without jurisdiction or does not act in good faith or acts in violation of the principles of natural justice as explained in the decisions cited supra.

.....

16. The argument that the members of the Lodge were both the prosecutors and the judges, and therefore the principles of natural justice have been violated has not much force in the context of the present enquiry. We are dealing with a case of a Lodge and not with that of a tribunal or a court. It is true that the earlier resolution, Ex. 114, shows that 11 members of the Lodge were not well disposed towards the appellant; but here we are concerned with the

complaint filed by the 2nd respondent. Notice of the complaint was given to all the members of the Lodge. It may be that some of them did not like the appellant, and one of them is the complainant himself. But 22 members of the Lodge met and unanimously held, after considering the complaint and the answer given by the appellant that he was guilty. If the appellant had any objection for one or some of the members taking part in the meeting, he could have raised an objection, but he did not do so. The rules governing tribunals and courts cannot mutatis mutandis be applied to such bodies as lodges. We have to see broadly in the circumstances of each case whether the principles of natural justice have been applied. In the circumstances of this case, particularly when we find that the appellant had not raised any objection, we cannot say that the resolution passed by the Lodge Victoria is bad for violating any principles of natural justice.

17. Lastly an attempt was made to persuade us to resurvey the entire material to ascertain the correctness or otherwise of the decision of the Lodge. As we have pointed out earlier, civil courts have no jurisdiction to decide on the merits of a decision given by a private association like a Lodge. Both the courts below have held that the Daughter Lodge has acted in good faith in the matter of the complaint against the appellant. That is a concurrent finding of fact; and it is the practice of this Court not to interfere ordinarily with concurrent findings of fact. There are no exceptional circumstances for our departing from the said practice."

41. The World Bridge Championship - apex body, in its communication dated 12.05.2015, addressed to the President of the first respondent, has indicated that it cannot interfere with the legitimate application of a Federation's internal Rules and Regulations for selecting the players of its national representatives to participate a World Championship and the Credential Committee of the WBF has only the duty, after the registration of the representatives by a National Federation, to control that all the members fulfill the WBF eligibility requirements which allow them to participate in the event. Therefore, in the light of the legal position as laid down in the above cited decision, coupled with the communication of the World Bridge Federation-apex body dated 12.05.2015, this Court is not in a position to interfere in the impugned communication. The correspondences exchanged between the third respondent and the petitioners on one side and the first respondent on the

other side also reveal that the first respondent has acted in a bonafide manner while deciding this complex issue and gone by the circulars issued by the second respondent.

42. This Court, on thorough application of mind to the entire materials placed before it, is of the view that these writ petitions lack merit. In the result, W.P.Nos.11431 to 11433 of 2015 are also dismissed. No costs. Consequently, connected miscellaneous petitions are closed and Interim Orders already granted shall stand vacated.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jvm
To

- 1.The President,
Bridge Federation of India
A Society registered under
Societies Registration Act, 1860
1-F, Ammaiammal Street,
Ayyavoo Colony, Aminjikarai,
Chennai-600 029.
- 2.The Secretary,
Ministry of Youth Affairs and Sports
Government of India, Department of Sports,
Room No.504, B-Wing, Shastri Bhawan, New Delhi-110 001.
- 3.The Secretary,
Ministry of Home Affairs
Government of India, North Block, Central Secretariat,
New Delhi-110 001.
- 4.The Secretary,
Ministry of Overseas Indian Affairs,
Government of India,
Akbar Bhawan,
Chanakya Puri, New Delhi-110 021.

+4ccs to M/s. Srinath Sridevan, Advocate, S.R.No.30808,
31081, 30806, 30807.

+1cc to M/s. Su Srinivasan, Advocate, S.R.No.30974

+2ccs to M/s. R. Meenal, Advocate Sr.31103

+3ccs to M/s. K. Moorthy, Advocate Sr.30969

SAI (CO)

EU(26/06/2015)

in W.P.Nos.2559 of 2011 and
11431 to 11433 of 2015