

CWP No.20868 of 2015

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.20868 of 2015
Date of decision:19.10.2015**

Gurbaj Singh ...Petitioner
Versus
Union of India and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Puran Singh Hundal, Sr. Advocate, with
Mr. Abhishek Sethi, Advocate, for the petitioner.

Mr. Anil Chawla, Advocate,
for respondent No.1.

Mr. Parveen Goyal, Advocate,
for respondent No.2.

Mr. Akshay Bhan, Sr. Advocate, with
Mr. Alok Mittal, Advocate, for respondents No.3 to 6.

Rakesh Kumar Jain, J.

The petitioner started his career in Indian Hockey when he represented Indian team in Sub-Junior Asia Cup in which the Indian team won the gold medal and the petitioner was declared Man of the Match twice. It followed his entry in under-21 Junior India Men's Hockey Team which won Junior Challenge Cup Hockey Tournament in Poland. In the year 2004, the petitioner played for the country in 4-Nations Tournament held in Gifu, Japan, Indo-Australia Test Series at Perth, Australia and Indo-Malaysia Test Series in India and the Junior India Men's Hockey Team won

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the Indo-Malaysia Test Series. In 2005, the petitioner represented the Junior India Men's Hockey Team in the 4-Nations Tournament held in Lahore, Pakistan where the Indian team was the runners-up. The petitioner also played the 6-Nations Tournament held at Kualalumpur, Malaysia and the team won the Bronze medal. He was selected in the Senior India Men's Hockey Team in the year 2006 and represented the Indian team at the Asian Games held at Doha, Qatar, where the Indian team won the gold medal. He further represented India at the South Asian Games at Colombo, where the Indian team won the silver medal. In the year 2007, the petitioner played the Senior Asia Hockey Cup held at Chennai and represented India at the Champions Challenge tournament held in Belgium and won the Bronze medal. In the same year, the petitioner participated in the Sultan Azlan Shah Cup held in Malaysia, where also the Indian team won the Bronze medal. In the year 2008, the petitioner captained the Indian team at the Junior Asia Cup held at Hyderabad, in which the team India won the gold medal. The team India also won the test series against Belgium and was runners-up at the Sultan Azlan Shah Cup held in Malaysia. The petitioner represented India in 4-Nations Tournament at Australia and the Olympic Qualifier held in Chile in the year 2008. In the year 2009, he played for India in the Sultan Azlan Shah Cup held at Malaysia, where the team India won the cup. The petitioner also played in the test series against New Zealand and Canada. The team was runners-up in the 4-Nations Punjab Gold Cup held at Chandigarh in the same year. He also participated in the Europe Test Series which was played against Spain, Holland, Belgium and

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England as well as the Asia Cup held at Malaysia. In 2010, the petitioner represented the Indian team and won the Sultan Azlan Shah Cup held in Malaysia. He also played for India in 2010 in the Commonwealth Games held at Delhi, where India got silver medal. He also played for India in the Asian Games held at Guangzhou, China where the team India won the Bronze medal. He also played for India in the World Cup held at New Delhi as well as the Panasonic Cup held in Germany. In the year 2011, the petitioner also played for India at the First Asian Champions Trophy held in China and won the gold medal. He again represented India at Champion Challenge-1, Johannesburg, South Africa where the Indian team was the runners-up. He also played for India at the Sultan Azlan Shah Cup held at Malaysia, 4-Nations Men's International Super Series-Perth, Australia (AUS/IND/NZL/PAK), 3-Nations Men's Challenge I Tournament-Busselton, Australia- (AUS/IND/PAK) and the 3-Nations Men's Challenge II Tournament-Bunbury, Australia – (AUS/IND/PAK). The petitioner then played in the London Olympic in the year 2012 and also represented India at the Sultan Azlan Shah Cup held at Malaysia where the India won the Bronze medal. The petitioner represented the team India in the 3-Nations Tournament held in Spain and in the Test Series against France. He also participated in the Punjab Festival Games held at Lahore, Pakistan where the team India won the gold medal. In 2013, the petitioner played for the Delhi Wave Riders in the Hero Hockey India League and also played in the 62nd All India Police Hockey Championship, 2013 held at Bangalore and was declared Man of the Match twice. In 2014, the petitioner won more

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laurels for the Delhi Wave Riders and won the Hockey India League. He also helped the Indian team in winning the gold medal at the 17th Asian Games at Incheon, South Korea and he was also a member of the Silver Medal winning Indian team at the 20th Commonwealth Games (Men), Galsgow (Scotland). He also participated in the Men's Rabobank Hockey World Cup, 2014 held at Hague, Netherland. The petitioner was given the Best Player Award in the Sultan Azlan Shah Cup held at Malaysia, 2010. He was also adjudged as Man of the Match in the World Cup, 2010 on four occasions and on the basis of his outstanding performance, he was selected as a member of the Asian All Stars Hockey Team by the Asian Hockey Federation at the Asian Games at Guangzhou, China in the year 2010. He was also awarded with the Maharaja Ranjit Singh Award by the Punjab Government and represented the State of Punjab in the National Games, 2011 held at Ranchi as a Captain and won the gold medal. The petitioner also represented the State of Punjab in the Senior National Championship, 2012 held at Bangalore and in the 61th All Indian Police Championship, 2012 held at Jammu. The petitioner has already been appointed as Deputy Superintendent of Police in the Punjab Police w.e.f. 13.12.2011. He has completed his police training in the year 2013 with flying colours where he topped his batch in Rifle Shooting. Besides this, it is alleged that having played in about 200 International Matches, the T.G. Frankenthal Germany Hockey Club was pleased to sign him for playing for the club.

The petitioner, with the aforesaid bio-data to his credit in the game of hockey, has filed this petition for seeking a writ in the nature of

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certiorari for quashing the order dated 10.08.2015 passed by the Hockey India/Hockey India Athletes Grievances Redressal Committee (hereinafter referred to as the “Committee”), banning the petitioner from playing Competitive Hockey (All Hockey India AHF & FIH sanctioned tournaments) for a period of nine months w.e.f. 10.08.2015 till 09.05.2016 and the order dated 18.09.2015 by which order dated 10.08.2015 has been upheld in appeal.

The petitioner was summoned to appear on 10.08.2015 in the 2nd meeting of the Committee, which was held under the chairmanship of Mr. Harbinder Singh, to discuss his alleged untoward behaviour and conduct on the representation of Mr. Jude Felix, who was the Coach with the Indian Senior Men's Team. The report of the players, coaches and support staff in relation to incidents happened during the 2012 Olympic Games was also placed before the members of the Committee. According to the respondents, the petitioner was dropped from the Men's National Team on account of his misconduct in the 2012 London Olympic Games but it was clarified that the petitioner returned to the National Men's Team in March 2014 at the request of Mr. Roelant Oltmans, Director High Performance and Mr. Terry Walsh, Chief Coach, Indian Men's Team, with an assurance that the petitioner would not repeat the untoward behaviour and attitude shown during the 2012 Olympic Games.

According to the petitioner, respondent No.6 informed the Committee about the following points regarding the petitioner:-

“Mr. Jude Felix informed the following points to the Committee:

- a) Mr. Gurbaj Singh as a general rule shows a lack of respect

to Coaches and other Support Staff attached to the national programme. He only listens to the Chief Coach and does not act in a professional way or follow the instructions of other Coaches and Support Staff. He also encourages other Members of the Team to show discontent and disregard for Coaches and Support Staff. Mr. Jude Felix further said that during training, when the Chief Coach was present then he would be serious, however when the session was supervised by other Coaches and Support Staff, Mr. Gurbaj Singh was casual and not serious.

b) Sultan Azlan Shah Tournament. During the tournament, Mr. Gurbaj Singh was not serious about his own training and was observed distracting other players and showing disrespect to the Support Staff. One example was when Mandeep Singh had injured his ankle during the tournament and was rested for approx. 4 days. The team physiotherapist was treating Mandeep on the sidelines during a training session. Mr. Gurbaj Singh and remaining players were in a group training session on the field when Mr. Gurbaj Singh was yelling out from the field the following in Punjabi. Quote "You don't have to do any running just walk". This then caused issues with the physiotherapist, who is a quiet individual, as he felt insulted and ridiculed in front of the entire players.

Mr. Jude Felix is of the opinion that this behaviour shows a lack of professionalism and concentration of Mr. Gurbaj Singh and advised he should not interfere in the business of a qualified individual and should concentrate on his own training. The arrogance of Mr. Gurbaj Singh was obvious in this situation.

c) Preparatory Camp for Japan vs India Series. The preparatory camp for the Japan vs. India series was held in Delhi from 22 April to 30 April 2015. The boarding and lodging for the camp was provided in DLTA in Delhi.

Mr. Jude Felix advised that the hospitality provided at DLTA is some of the best available to teams for national camps.

On one of the days of the camp, Mr. Gurbaj Singh had a problem with the food served during one of the meals and complained to Col Chauvan the Incharge of DLTA about the Chief Cook Mr. Dharmendar. It was widely known in the camp at this time that Mr. Dharmendar had just returned to DLTA from the

funeral for his wife. With Mr. Gurbaj Singh complaining to Col. Chauvan this caused undue further distress to Mr. Dharmendar during a dramatic time that could have been resolved if Mr. Gurbaj Singh had informed Mr. Jude Felix or other Coaches or approached Mr. Dharmendar directly. During this time, Mr. Gurbaj Singh showed “a total lack of emotion and empathy towards Mr. Dharmendar who serves the team on a daily basis without any self interest”. Mr. Jude Felix further advised that he has seen on many previous occasions Mr. Gurbaj Singh being ill-mannered and rude towards waiter, workers and staff. This behaviour and lack of respect also rubs off on other players in the team.

d) Mr. Jude Felix informed that the incidents mentioned at Points 12(b) and 11(c) of the Minutes of these meetings were brought to the notice of Chief Coach Mr. Paul Van Ass. During one of the one-on-one player interactions, Mr. Gurbaj Singh was scheduled for meeting number 4, however was called for the first meeting to address the above points. Being the Coach with the team, Mr. Jude Felix informed that he was also present in the meeting.

The incidents with the physiotherapist during the Sultan Azlan Shah Tournament and Mr. Dharmendra from DLTA was brought up by Mr. Paul Van Ass who was hard on Mr. Gurbaj Singh and wanted to be clear with him that he did not tolerate such misbehaviour. Mr. Gurbaj Singh denied both the incidents totally and in the opinion of Mr. Jude Felix was not convincing at all in his explanation. Since Mr. Jude Felix was present and witnessed the incident with the physiotherapist during the Sultan Azlan Shah, he told Mr. Gurbaj Singh that he was there when this took place and that Mr. Gurbaj Singh should not lie.

Mr. Jude Felix informed that Mr. Gurbaj Singh did not like the he stepped in and confronted him on his lie and since then has shown total disregard for the Coach no respect and goes, to the extent of trying to ignore him. Mr. Jude Felix again reiterated that he believes that since he and other Coaches/Support Staff are not the Chief Coach then Mr. Gurbaj Singh does not need to worry or show them any respect.

e) World League Semi Finals 2015. Mr. Jude Felix advised that during the World League Semi Finals in Antwerp, Belgium, it was obvious within the team that Mr. Gurbaj Singh was not happy to be playing in the position of right midfield as had been instructed by the Chief Coach. The Chief Coach, Mr. Paul Van Ass explained to Mr. Gurbaj Singh that his defence was not good enough to play right back, however, his attacking hockey was strong and it was beneficial to the team to play in the right midfield position and hence he was allocated to play that position.

Mr. Paul Van Ass also wanted to demonstrate to Mr. Gurbaj Singh his defensive errors from video footage from previous matches to which Mr. Gurbaj Singh agreed that he also wanted to see. Mr. Paul Van Ass requested that Mr. Jude Felix was present for the meeting to translate, however, Mr. Gurbaj Singh tried to get the Video Analyst to translate, however, Mr. Paul Van Ass insisted that the translation was done by the Coach Mr. Jude Felix.

Mr. Jude Felix explained that during the meeting Mr. Gurbaj Singh was very adamant in not wanting to take a translation as it was coming from Mr. Jude Felix. Mr. Gurbaj Singh then wanted to say a simple sentence and decided to do it in English, to which Mr. Paul Van Ass could not understand. Mr. Jude Felix believes that this is simply because Mr. Gurbaj Singh did not want him to translate due to the points mentioned above in Point 11(d). So in the end this meeting ended up being a complete waste of time, with Mr. Gurbaj Singh not understanding what Mr. Paul Van Ass was trying to tell him but instead just agreeing with everything to get the meeting over and done with.

Mr. Gurbaj Singh's attitude towards playing in the position of right midfield did not improve during the tournament.

f) Communication with Other Players

Mr. Jude Felix advised the Members that whilst communicating on the field with players that except for his small group of friends, Mr. Gurbaj Singh is harder on mistakes of other players and does not possess any team spirit, instead he tries to cause friction and negativity in the team. This was evident for example during one of the team meetings whereby Sardar Singh

the Captain scolded Mr. Gurbaj Singh for addressing the entire team with bad/negative words.

g) Mr. Jude Felix said that he submitted these points in regards to Mr. Gurbaj Singh in his report to Hockey India and the Committee as he believes that these are not being taken seriously by the current Coaches, Support Staff and players and who are not fully comprehending the negative impact caused and the influence that Mr. Gurbaj Singh is having within the team environment.

Mr. Jude Felix further went on to say that during his time with the Senior Men Team during 2014 and 2015 there was no observation of Mr. Gurbaj Singh's misbehaviour improving.

Mr. Jude Felix wanted to place on record that he is said to see such a talented player being so arrogant and ignorant of the fact that he needs to show respect to everyone i.e. Coaches, Support Staff and fellow players and not only the Chief Coach.”

Counsel for the petitioner has argued that the Hockey India has provided Code of Conduct (Players & Officials) and its other regulations, in which Appendix-12 sets out three levels of offences and eventualities in which disciplinary action can be taken against any player or official. Appendix 12, Code of Conduct-Guideline Sanctions, providing three levels of offences and consequential punishments is reproduced as under:-

“APPENDIX 12

FIH CODE OF CONDUCT-GUIDELINE SANCTIONS

LEVEL 1

The penalty for a Level 1 offence shall be an official reprimand and/or a suspension of the individual for a minimum of one match.

Examples of behaviour which may result in a Level 1 penalty:-

- verbal abuse or hostility towards any other participant, person or any other member of the public;
- disputing/protesting, reacting in a provocative or disapproving manner in an inappropriate way toward any decision made by an umpire or official;

- charging or advancing towards an umpire or technical official in an aggressive manner when appealing;
- excessive appealing of an umpire's decision;
- throwing a stick or ball at or near a player, umpire or official in an inappropriate and/or dangerous manner;
- inappropriate and deliberate physical contact between players in the course of play;
- using rude or abusive language, gestures or hand signals gestures which are considered to be obscene, offensive, or insulting;
- abuse of hockey equipment or clothing, venue equipment or fixtures and fittings;
- making statements in a public forum which are unfair, not constructive, inappropriate or unreasonable and which may involve a personal attack on a player, umpire, appointed official or administrator;
- failure to attend media conferences as requested.

LEVEL 2

The penalty for a Level 2 offence shall be a suspension of the individual for a minimum of two or more matches.

Examples of behaviour which may result in a Level 2 penalty:

- threat of assault on an umpire;
- physical assault, without injury, of another player, umpire, official or spectator;
- any act of violence on the field of play; - Using language or gestures which seriously offends, insults, intimidates, threatens, disparages or vilifies another person on the basis of that person's colour, race, descent or national or ethnic origin, religion, gender or sexual orientation.
- Recurrent breaches of Level 1 behaviour.

LEVEL 3

The penalty for a Level 3 offence shall be a suspension of the individual for a minimum of five or more matches.

Examples of behaviour which may result in a Level 3 penalty:

- physical assault causing bodily injury to another player, umpire,

- official or spectator;
– recurrent breaches of Level 2 behaviour.

FIH Tournament Regulations:
Outdoor Competitions – March 2015.”

It is further submitted that because of the ban of 9 months w.e.f. 10.08.2015 till 09.05.2016, the petitioner would be out of Hockey Circuit and would not be able to play either domestic or international games, the list of which, appended with the petition, is also reproduced as under:-

“True Copy of International Schedule Men and Women 2015 (September 2015 to 2016) as is available at the website of Hockey India.

Date	Event	Location
Sep 05 – Sep 13	7 th Women's Junior Asia Cup	Changzhou, China
Oct 02 – Oct 11	India vs New Zealand Test Series (Men)	New Zealand
Oct 11 – Oct 18	5 th Sultan of Johor Cup (Jr. Men)	Johor Bahru, Malaysia
Nov 05 - Nov 18	Proposed International Competition (Jr. Women)	TBC
Nov 14-Nov 22	8 th Junior Men's Asia Cup	Kuantan, Malaysia
Nov 20 - Nov 23	India vs. Australia Test Series (Men)	Raipur, India
Nov 22-Dec 04	Proposed International Competition (Women)	Argentina (TBC)
Nov 27-Dec 06	Hero Hockey World League Raipur 2015	Raipur, India
Dec 10-Dec 20	12 th South Asian Games	Guwahati & Shilong (India)

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Date	Event	Location
Jan 18-Feb 21	Hockey India League	India
Feb 07-Feb 18	Proposed International Competition (Jr. Women)	TBC
Feb 16-Mar 02	India vs. South Africa Test Series (Women)	South Africa
Mar 05-Mar 17	South Africa Tour (Jr. Women)	South Africa
Apr 11-Apr 19	Hawkes Bay Cup 2016 (Women)	New Zealand
Apr 12-Apr 24	25 th Sultan Azlan Shah Cup Invitational Tournament	Ipoh, Perak, Malaysia
May 19-May 27	Proposed International Competition (Jr. Men)	TBC
Jun 07-Jun 19	Proposed International Competition (Women)	Australia
Jun 11-Jun 19	FIH Men Champions Trophy	Argentina
Jul 10-Jul 22	Pre-Game Training (Women)	Argentina/ Brazil
Jul 13-Jul 26	Proposed International Competition (Jr. Men)	TBC
Jul 10-Jul 22	Pre-Game Training (Men)	Argentina/ Brazil
Aug 05-Aug 21	XXXI Olympic Games (Men)	Rio, Brazil
Aug 05-Aug 21	XXXI Olympic Games (Women)	Rio, Brazil
Oct 08-Oct 20	Proposed International Competition (Jr. Men)	India
Dec 01-Dec 11	Men's Hockey Junior World Cup	TBC, India

“True Copy of National Schedule Men and Women 2015 (September 2015 to 2016) as is available at the website of Hockey India.

Date	Event	Location
Sep 01-Sep 29	MHA Super Division League	Mumbai
Sep 19-Sep 23	All India Baba Farid Gold Cup Hockey Tournament	Faridkot, Punjab

Date	Event	Location
Sep 27-Oct 06	9 th All India Maharaja Ranjit Singh Hockey Tournament	Shivaji Stadium, New Delhi
Oct 01-Oct 11	120 th All India Beighton Cup Hockey Tournament	Kolkata, WB
Oct 07-Oct 11	3 rd All India Prize Money Sri Satguru Jagjit Singh Ji Junior Hockey Tournament	Ludhiana, Punjab
Oct 08-Oct 18	22 nd Nehru Girls Hockey Tournament (U-17)	Delhi
Oct 10-Oct 20	2 nd Banglore Cup (Men & Women)	Bangalore
Oct 18-Oct 25	III Chotanagpur Tribals Women Hockey Tournament	Simdega (Jharkhand)
Oct 18-Oct 30	33 rd Nehru Sub-Junior Boys Hockey Tournament (U-15)	Delhi
Oct 18-Oct 27	50 th All India Bombay Gold Cup Hockey Tournament	Mumbai
Oct 25-Nov 01	13 th Shaheed Bhagat Singh Memorial Master Cup All India Hockey Tournament	Gwalior, MP
Oct 30-Nov 14	44 th Nehru Junior Boys Hockey Tournament (U-17)	Delhi
Oct 31-Nov 10	32 nd Surjit Hockey Tournament	Jalandhar, Punjab
Nov 14-Nov 25	52 nd Nehru Senior Men Hockey Tournament	Delhi
Nov 25-Nov 29	All India Inter School Hockey Championship (U-19)	Uttar Pradesh
Dec 08-Dec 18	23 rd Nehru University Hockey Tournament (Sr. Men)	Shivaji Stadium, Delhi
Dec 10-Dec 23	74 th Mahant Raja Sarweshwardas Memorial All India Hockey Tournament	Rajnandgaon, Chhattisgarh
Dec 27-Jan 03	26 th Lal Bahadur Shastri Hockey Tournament	Shivaji Stadium New Delhi
Feb 01-Mar 31	V Chotanagpur Tribal Men Knock-out Hockey Tournament (Sr. Men) (Saturdays & Sundays)	New Delhi
Feb 02-Feb 07 TBC	6 th Hockey India Sub-Junior Women National Championship (Division B)	Nagaon, Assam

Date	Event	Location
Feb 09-Feb 14TBC	6 th Hockey India Sub-Junior Women National Championship (Division A)	Guwahati, Assam
TBC	6 th Hockey India Senior Men National Championship (Division A)	Saifai, Uttar Pradesh
TBC	6 th Hockey India Senior Men National Championship (Division B)	Saifai, Uttar Pradesh
TBC	6 th Hockey India Senior Women National Championship (Division A)	Bengaluru, Karnataka
TBC	6 th Hockey India Senior Women National Championship (Division B)	Bengaluru, Karnataka
TBC	6 th Hockey India Junior Men National Championship (Division A)	Rajnandgaon, Chhattisgarh
TBC	6 th Hockey India Junior Men National Championship (Division B)	Rajnandgaon, Chhattisgarh
TBC	6 th Hockey India Junior Women National Championship (Division A)	Ranchi, Jharkhand
TBC	6 th Hockey India Junior Women National Championship (Division B)	Ranchi, Jharkhand
TBC	6 th Hockey India Sub-Junior Men National Championship (Division A)	Imphal, Manipur
TBC	6 th Hockey India Sub-Junior Men National Championship (Division B)	Imphal, Manipur”

Counsel for the petitioner has argued that the imposition of ban, that too for such a long period, is not only a punishment contemplated in the Code of Conduct (Players & Officials) but also a stigma on the player of international repute, therefore, the Committee has exceeded its jurisdiction in awarding the punishment to the petitioner. It is further argued that the charges levelled against the petitioner find mentioned in Points 12(b), (c)

and (d) for which explanation of the petitioner was solicited without any substance and in any case they are not of such a nature which could attract the extreme punishment of imposition of ban. It is also submitted that the petitioner has not been found guilty of violating the Hockey India Regulations & Policies on Anti-Doping, Age-Fraud, Sexual-Harassment, Anti-Racism, Anti-Corruption or any other such policy which may be termed as a grievous conduct to attract the punishment imposed, which is allegedly totally disproportionate to the charge, even if, for the sake of arguments, accepted to be correct. It is also submitted that except for the allegations contained in Clause 12(b), (c) and (d), nothing else has been put to the petitioner seeking his explanation, therefore, any other material cannot be used against him for which he was not granted any opportunity of giving his reply/explanation.

It is also submitted that the allegations contained even in Points 12(b), (c) and (d) have not been proved by the person(s) concerned, rather sweeping statements have been made against the behaviour of the petitioner without defining his misbehaviour, bringing it within the four corners of the Code of Conduct (Players & Officials), which has to be assessed at the 3 levels as per the facts and circumstances of the case.

The respondents have raised preliminary objection of territorial jurisdiction of this Court and availability of alternate remedy of further appeal before the Hockey Congress to non-suit the petitioner. It is submitted that the authorities passing the impugned order is located at New Delhi and Hockey India has its registered office at New Delhi, therefore, no

part of the cause of action has taken place within the jurisdiction of this Court. In support of this contention, counsel for the respondents have relied upon a judgment of the Supreme Court in the case of **Alchemist Limited and Anr. vs. State Bank of Sikkim and others**, 2007 AIR (SC) 1812.

It is also submitted that the ban has been imposed in terms of Hockey India Code of Conduct (Players & Officials).

In order to justify the imposition of ban, the respondents have also placed on record following minutes of the meeting of the Hockey India Disciplinary Committee(s):-

1. Minutes of meeting of the 2nd Hockey India Disciplinary Committee held on 13.03.2014;
2. Minutes of meeting of the 4th Hockey India Disciplinary Committee held on 13.03.2014;
3. Minutes of meeting of the 5th Hockey India Disciplinary Committee held on 13.03.2014;
4. Minutes of meeting of the 9th Hockey India Disciplinary/Disputes Committee (Athletes & Members) held on 06.05.2014;
5. Minutes of meeting of the 13th Hockey India Disciplinary/Disputes Committee (Athletes & Members) held on 17.06.2014;
6. Minutes of meeting of the 16th Hockey India Disciplinary/Disputes Committee (Athletes & Members) held on 17.06.2014; and

7. Minutes of meeting of the 19th Hockey India Disciplinary/Disputes Committee (Athletes & Members) held on 26.07.2014.

It is further submitted that the conduct of the petitioner during the 2012 London Olympics and the report made by respondent No.6 has been considered by the Committee after giving due opportunity to the petitioner from whom the explanation was sought and then a speaking order has been passed, therefore, the petitioner cannot make a complaint of non-observance of principal of natural justice.

In rebuttal, counsel for the petitioner, while dealing with the objection of territorial jurisdiction of this Court, has submitted that part of the cause of action has arisen within the jurisdiction of this Court as the petitioner has been banned for playing games even in the State of Punjab and in this regard, he has relied upon a judgment of the Supreme Court in the case of **A.V. Venkateswaran, Collector of Customs, Bombay vs. Ramchand Sobhraj Wadhwani and another**, 1961 AIR (SC) 1506 and a Division Bench judgment of the Karnataka High Court in the case of **D.L.Suresh Babu and etc. vs. Institute of Chartered Accountants of India and others**, 1983 AIR (Karnataka) 43.

In respect of the contention of the alternate remedy raised by the respondents, counsel for the petitioner has relied upon a judgment of this Court in the case of **Mukesh vs. State of Haryana and others**, 2012(4) R.C.R. (Civil) 547.

It is further submitted that in the case of off-spinner Harbhajan

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Singh, who slapped Srisanth during the IPL Match in Mohali, the Indian Cricket Board had imposed the ban of 5 One-Day International Matches and not for a period as long as 9 months, whereas the petitioner has not committed any such offence of assaulting the member of the team during tournaments. It is submitted that the respondents have failed to show imposition of such a long ban in a case akin to the case of the petitioner as all the examples quoted in the reply are of physical assault etc.

I have heard learned counsel for the parties and examined the available record with their able assistance.

In the beginning, it is to be noticed as to what are the allegations against the petitioner on the basis of which his explanation was sought by the Committee, who had imposed the ban. It is evident from para 16 of the impugned order passed on 10.08.2015 that the Committee had sought explanation of the petitioner on the points reported by respondent No.6 at Points 12 (b), (c) and (d).

The allegations in Point 12(b) are that the petitioner was not serious about his own training and was observed distracting other players and showing disrespect to the other staff, which was amplified with the example that one Mandeep Singh had injured his ankle during Sultan Azlan Shah Tournament and rested for approx. 4 days. The team Physiotherapist was treating Mandeep Singh during training session. At that time, it is alleged that the petitioner had yelled from the field that Mandeep Singh was not supposed to run but just to walk. This act on the part of the petitioner caused embarrassment to the Physiotherapist who felt insulted. Although

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the respondents have not shown that the Physiotherapist had made any complaint in this regard but respondent No.6 was of the opinion that behaviour of the petitioner, interfering in the business of other individual, was unwanted.

The allegations contained in Point 12(c) is that when the petitioner was attending preparatory camp for Japan Vs. India Series, he made a complaint to Col. Chauvan, In-charge of the DLTA, about the quality of food. The allegation was that the Chief Cook Mr. Dharmendar had just returned to DLTA after the funeral of his wife and because of the complaint made by the petitioner, he felt distressed. Thus, the allegation is that the petitioner showed a total lack of emotion and empathy towards Mr. Dharmendar.

The third and last allegation against the petitioner, contained in Point 12(d) is that the incidents mentioned in Points 12(b) & (c) were brought to the notice of the Chief Coach Mr. Paul Van Ass and the petitioner denied both the incidents and because of lying, the petitioner is alleged to have shown disregard to the Coach(s).

No other charge was put to the petitioner for his explanation but the Committee also took into account the alleged behaviour of the petitioner during the 2012 London Olympics.

These incidents, even if are taken to be true, though refuted by the petitioner, cannot be brought within the ambit of serious misconduct in order to attract the punishment of a ban of 9 months, especially when the respondents have failed to show from the Rules and Regulations the

provisions of the punishment of ban except for certain orders passed in various meetings of the Hockey India Disciplinary Committee. Even if the said minutes of meetings of the Hockey India Disciplinary Committee, on which the respondents have relied upon and attached as Annexure R-3/3 with the reply is also considered, the petitioner is not found to have committed a serious misconduct in order to attract the punishment of ban because in the 2nd meeting Hockey India Disciplinary Committee held on 13.03.2014, the incident was *“in relation to an altercation between three players, namely, Mr. Sarvanjit Singh and Mr. Karamjit Singh, players for Punjab & Sind Bank and Mr. Gurpreet Singh, player Air India, and issuance of a red card to each during the match due to a physical assault on a fellow player”*. In this background, the ban of nine months was imposed.

In the 4th meeting of the Hockey India Disciplinary Committee held on 13.03.2014, the allegation was that *“as per the incident reports submitted by the Tournament Umpires and Tournament Director on the 57th minute of the match a free hit was awarded to Punjab & Sind, Indian Army player Mr. Bachitter Singh claimed for a penalty corner and rushed towards on-field umpire Virender Singh and pushed and assaulted him for not giving a penalty corner”*. On this account, ban was imposed upon Bachitter Singh for six months.

In the 5th meeting of the Hockey India Disciplinary Committee held on 13.03.2014, the incident was *“in relation to a decision taken by one of the on-field umpires during the match between Haryana XI and NC Railways on 28 February 2014 where the team objected to the decision of*

the umpire. As stated in the reports, following the protest of the team, the Manager and Coach of the team refused to allow the players to return to the field and as such, the match was ruled in favour of Haryana XI'. In this background, the ban was imposed.

In the 9th meeting of the Hockey India Disciplinary/Disputes Committee (Athletes & Members) held on 06.05.2014, the incident was “*in relation to Rajnandgaon XI player Mr. Rahul Yadav (shirt number 4) where he assaulted a player from the SEC Railway team and given a red card. Further to this Rajnandgaon XI Manager, and registered Hockey India umpire, Mr. Koshor Diwar used foul language towards the umpires and technical table and on two occasions walked the Rajnandgaon XI team off the field during the match*”. The ban was imposed because of the aforesaid reasons.

In the 13th meeting of the Hockey India Disciplinary/Disputes Committee (Athletes & Members) held on 17.06.2014, the allegations were that “*as per the incident reports submitted by the Tournament Officials and Tournament Director on the 9th minute of the match, Bashu Dev fell to the turf and while falling his stick struck player Dheraj Vats. As the umpire took a time out to caution the players, both players clashed and started manhandling each other. It was also noted that Delhi Hockey Manager was witnessed as confining players of Hockey Himachal Pradesh on the Delhi Hockey bench and was seen holding the stick and manhandling a player from Hockey Himachal Pradesh*”. In that background, the ban of 6 months was imposed.

In the 16th meeting of the Hockey India Disciplinary/Disputes Committee (Athletes & Members) held on 17.06.2014, the players were found to be over-aged from the medical test and, thus, a ban was imposed.

In the 19th meeting of the Hockey India Disciplinary/Disputes Committee (Athletes & Members) held on 26.07.2014, the players had allegedly abused and threatened the officials and, thus, the ban was imposed.

From the above, it is found that the bans were imposed in the past but in the circumstances where the players either have assaulted, had an altercation with the umpire and left the field and did not return back, found over-aged, used abusive language or showed utmost disrespect to the officials during the match.

Are these the allegations against the petitioner?

The answer is 'no', because the petitioner has been asked to explain his conduct only in respect of the allegations contained in Points 12(b), (c) and (d), which have already been discussed in detail in earlier part of the judgment.

Then the question would arise as to whether the punishment imposed upon the petitioner is disproportionate to the offence committed or does it commensurate with it?

As a matter of fact, in the Guideline Sanctions provided in Appendix-12 the Code of Conduct (Players & Officials), on which the respondents have also placed reliance, there are three different levels of offences and punishments. Offences of Level-1 attract minimum

punishment of suspension from one match, offences of Level-2 attract suspension of two or more matches and the offences of Level-3 attract suspension for five or more matches.

The respondents cannot act arbitrarily in imposing the punishment and travel beyond the Code of Conduct-Guideline Sanctions available in Appendix 12, as these are provided to keep a check on the arbitrariness on the part of the Committee while imposing punishment as it is a salutary principal of criminal jurisprudence that the punishment imposed should commensurate with the offence committed.

Insofar as the question of territorial jurisdiction is concerned, the judgment relied upon by learned counsel for the respondents in **Alchemist Limited's case (supra)** is rather in favour of the petitioner because in that case, it has been held that *“it is no doubt true that even if a small fraction of the cause of action arises within the jurisdiction of the Court, the Court would have territorial jurisdiction to entertain the suit/petition.”*

I am satisfied that the part of the cause of action has arisen in the State of Punjab enabling the petitioner to move to the jurisdiction of this Court under Article 226 of the Constitution of India and hence, the present writ petition is maintainable and for that, I am relying upon the judgments referred to by counsel for the petitioner in **A.V. Venkateswaran's case (supra)** and **D.L.Suresh Babu's case (supra)**.

As regards the issue of alternate remedy, the respondents have alleged that the petitioner should have availed the remedy before the Indian

Hockey Congress by preferring an appeal etc., but in the given facts and circumstances where with the passing time, the Indian Hockey Team continues to represent the country in various matches, it is not found to be a speedy and efficacious remedy and in this regard, I rely upon the decision of this Court in **Mukesh's case (supra)** in which it has been held that “*the alternate remedy has to be equally efficient and adequate. It is equally well settled that existence of an alternate remedy is not an absolute bar to grant relief under Article 226. It is a circumstance which the court has to take into consideration in exercising its discretionary power but it does not take away the jurisdiction of the court to grant relief under Article 226, that too in exceptional circumstances. Thus, where the alternative remedy, may be of appeal, revision or review, is too dilatory or difficult to give quick relief, then it would not be a bar to relief under Article 226*”.

Thus, the facts and circumstances discussed here-in-above lead to an irresistible conclusion that the impugned orders dated 10.08.2015 (Annexure P-3) and 18.09.2015 (Annexure P-5), imposing ban of 9 months upon the petitioner, are patently illegal, arbitrary and unreasonable and hence, both the impugned orders are hereby set aside.

However, the matter is remanded back to the Hockey India/Hockey India Athletes Grievances Redressal Committee, who would convene a meeting within a period of one week from the date of receipt of certified copy of this order and shall take a decision in that meeting for imposition of punishment/penalty upon the petitioner, if need be, as per Levels 1, 2 and 3 of the Code of Conduct-Guideline Sanctions provided in

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Appendix-12 of the Code of Conduct (Players & Officials), which shall also commensurate with the allegations/charges levelled against the petitioner in Points 12(b), (c) and (d), as mentioned in the minutes of 2nd meeting of the Hockey India/Hockey India League Athletes Disputes and Grievance Redressal Committee held on 10.08.2015. The decision taken by the Committee shall be intimated to the petitioner within two days thereafter.

October 19, 2015
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(Rakesh Kumar Jain)
Judge