

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

C.R.P.Nos.1443, 1484,1867 and 1972 of 2016

COMMON ORDER:

C.R.P.No.1443 of 2016

The revision petitioners M/s. Bharat Cricket Club (for short, 'the BCC') rep. by its Secretary T. Shesh Narayan, and said Shesh Narayan in his individual capacity, maintained the revision under Article 227 of the Constitution of India, against four respondents viz; 1) the Hyderabad Cricket Association (for short, the HCA') represented by its President Sri Arshad Ayub, 2) said Arshad Ayub by individual capacity, 3) John Manoj, Secretary, HCA; and 4) Prakash Chand Jain, Chairman of Disciplinary Sub-Committee of the HCA.

2. The revisions petitioners maintained S.O.P.No.2 of 2016 on the file of the learned III Addl. District Judge, Ranga Reddy at L.B.Nagar, under Section 23 of the Societies Registration Act,2001 (for short, 'the Act'), with a prayer to declare the operation of suspension letter dated 30.12.2015 vide proceedings No.HCA/ GEN, issued by the 3rd respondent rep. the 1st respondent as illegal, arbitrary, unjust, null and void and against the principles of natural justice and not binding on the petitioners 1 and 2. Along with the main petition supra, the petitioners maintained I.A.No.7 of 2016 under Order XXXIX Rules 1 and 2, read with Section 151 of CPC, and Section 23 of the Act, to suspend the operation of the suspension letter dated 30.12.2015 supra, pending disposal of the

declaratory relief against said suspension letter, in the interest of justice.

3. The averments in the main petition vis-à-vis the temporary injunction application pending disposal of the main relief referred supra in nutshell from the supporting affidavit of said Shesh Narayan in his individual capacity as Secretary of the BCC and also as member of the 1st respondent-HCA, to which it is affiliated as one among various Cricket Clubs affiliated time to time in all about 216 clubs, are that these cricket clubs by virtue of their affiliation to the HCA participated in electing Committee once in two years and each club, either by proxy representative or President and Secretary got one casting vote therein, the HCA has to function to achieve its aims and objectives guided by the provisions of the Act, Memorandum of Association, Rules and Regulations, that as per Chapter-2, Rule 2, Committee Members and Office Bearers consisting of 12 Executive Members including President, 5 Vice Presidents, Honorary Secretary, Two Honorary Joint Secretaries and Honorary Treasurer and it shall be mandatory for the general body of Members amongst the affiliated clubs of the HCA to cast vote to each of the 12 Executive Members to be elected as Managing Committee/ Office Bearers for a term of two years and that Sub Committee is to be constituted by the Committee for the 11 defined activities of a to k including Disciplinary Sub Committee under Activity-b, the previous elections were conducted on 07.09.2014 for two years therefrom, elected wherein 2nd respondent-Arshad Ayub as President, 3rd

respondent-John Manoj as Honorary Secretary and 4th respondent-Prakash Chand Jain as Vice President. While so, on 31.12.2015 2nd petitioner- T. Shesh Narayan supra received a letter vide reference No.HCA/ GEN, dated 30.12.2015, i.e. Ex.A.4=R.6 from the 3rd respondent as Secretary of 1st respondent-HCA mentioning therein that pending enquiry, the Executive Committee in its meeting held on 27.12.2015, has decided to suspend his club (it includes the 2nd petitioner-Shesh Narayan).

4. It is further averred that the allegations leveled in the impugned suspension letter dated 30.12.2015, are false, fabricated and concocted and the 3rd respondent has to prove each and every allegation made therein strictly. On 22.07.2015, vigilance cell of APTS registered a case by Crime No.1279 of 2015, against the HCA for pilferage of electricity. To the terrible shock and surprise and flagger basted of the 2nd petitioner- T. Shesh Narayan and other members of HCA for all are collectively working to keep the prestige of HCA and when they questioned the President and Secretary of HCA (R.2 and R.3), they very casually replied of it was a mischief done by some intruders. In fact, the Rajiv Gandhi International Cricket Stadium (for short, 'RGICS') premises is even a protected area and the entire stadium including the building is manned by security department under CCTV surveillance(at a CCTV surveillance cost of Rs.65 lakhs p.a.) with a Chief Security Officer, (who is in charge and responsible for overall security of the stadium being paid with 6 lakhs p.a.), apart from 33 security personnel of Agile Security Services (at a cost of Rs.65 lakhs p.a.),

with strict watch of all ingress and egress including any kind of suspicious person to be handed over to local police, thereby no one can pass through any part of stadium unnoticed and the electrical high tension three face meter with connective line is at a conspicuous place, for except electricity staff of the stadium no one can be allowed to enter to that place and all are under the control of the President and Secretary of the HCA. Needless to say even a small rat or reptile can be left unnoticed and when electricity metre is kept under the lock and key under the direct custody of the Secretary of HCA. In June, 2015 the electricity in charge of RGICS was removed from service and one D.S.Verma, suspended employee of A.P.TRANSCO was appointed in his place and in between 24.06.2015 to 05.07.2015 Rs.60,000/- was paid to said Verma, said Verma purchased certain wires and accessories which were used in the pilferage and from all this the pilferage of electricity could be no other than by President and Secretary of HCA and as Vigilance Department of APTS went hand in glove with them. The 2nd petitioner-Shesh Narayan filed a private complaint before the III Metropolitan Magistrate, Cyberabad who referred the same to Uppal Police, who registered it as Crime No.1077 of 2015 vide Ex.A.6 and it is therefrom R.3-John Manoj, the Secretary of HCA, enraged on the 2nd petitioner- T. Shesh Narayan alleging he launched frivolous petitions to tarnish the image of HCA, though it is APTS that registered the pilferage case against the HCA and slapped with a fine of Rs.1,60,13,725/- that demeaned the HCA to the shock of not only the Members but also the general public.

The suspension orders dated 30.12.2015 supra are its outcome abruptly and without any show cause notice and to save the skin of 2nd respondent-Arshad Ayub and 3rd respondent-John Manoj even the other members stated to decide from taking illegal action covered by suspension order supra. It is further averred that 2nd respondent-Arshad Ayub is involved in criminal cases including one registered by ACB, CCI, Hyderabad under Ex.A.7-FIR in Cr.No.14 of 2014, besides Cr.Nos.495 to 500 of 2015 of Miyapur Police Station, under Exs.A.8 to A.13. The HCA earlier even tried to scuttle the voice of the 2nd petitioner- T. Shesh Narayan highhandedly and suspended him by order dated 10.06.2013 and said suspension order was suspended on 10.07.2013 by the I Additional District Judge, Ranga Reddy, in I.A.No.1186 of 2013 pending the O.P.No.518 of 2013 filed by him impugning it. Chapter X Rule 13 of the Memorandum, Rules and Regulations, 2012 of HCA provides that in case if any disciplinary action is warranted against any of the Members of the Association, the Committee shall refer the matter to the Disciplinary Committee who in turn should issue a show cause notice to the delinquent calling upon him as to why an enquiry should not be held and thereafter cause such an enquiry and make recommendation to the Committee for further action. Mr. Pradeep Chandra IAS Officer, who conducted enquiry against the 2nd petitioner- T. Shesh Narayan found that he is not guilty of any misconduct and absolved him from all charges leveled against him earlier, vide official communication by letter of HCA, dated 21.07.2014 (Ex.A.14), and even suppressing the same, impugned

proceedings of suspension of T. Shesh Narayan were issued by John Manoj(R.3 of HCA) with a malafide intention allegedly of preceded by the Executive Committee meeting dated 27.12.2015, the impugned order dated 30.12.2015 is arbitrary, against the principles of natural justice, contrary to law and contrary to Memorandum, Rules and Regulations of HCA and thereby without jurisdiction or locus standi, but for with a view to eliminate them from the HCA to make their illegal activities unquestioned by anybody and is therefore liable to be set aside and also thereby liable to be stayed by granting ad interim injunction, to enable the petitioners to attend the HCA affairs rather depriving to participate in the matches or tournaments, for avoiding irreparable loss and hardship to the petitioners pursuant to the illegal proceedings.

5. The counter affidavit filed by 3rd respondent-John Manoj dated 07.01.2016 in the I.A.No.7 of 2016 in opposing the petition claim, is with the contentions that the petition averments are false and baseless, the injunction petition is not maintainable, that T. Shesh Narayan is a chronic litigant with a history of filing plethora of cases and vexatious proceedings against the HCA to blackmail them and to succumb to his atrocious demands and by abuse of process. The 2nd petitioner- T. Shesh Narayan who contested for the post of Vice President was miserably defeated and therefrom became more vehement in opposing the present elected Executive Body of HCA and by defying norms and decency and civility, besides misbehaving with Office Bearers and sending derogatory

messages through SMS to disrepute HCA and its Members by hiring his views in the media even. On 19.04.2013 during IPL matches between Sunrises and Kings XI Panjab held at RGKS, at Hyderabad, Shesh Narayan barged into the room of P. Yadagiri, the then Vice President of the HCA, hurled abuses at the then president-G.Vinod and Office Bearers and even hurled his slipper at Yadagiri and from his complaint to the President dated 22.04.2013 under Ex.R.1, the Executive Committee of HCA authorized the then President-Vinod vide minutes of the meeting dated 31.05.2013 under Ex.R.3 to take action. He maintained earlier the O.P.Nos.836,1538 and 2495 of 2002 besides 268 and 1213 of 2003 before the Chief Judge, City Civil Court and withdrawn those vide letter dated 16.06.2003 under Ex.R.4. The reputation of Office Bearers of HCA has also been sullied by Shesh Narayan over the years and under garb of freedom of speech by mudslinging against every successive Executive Committee and filing suits at the drop of a hat are his feeble and weak attempts to muzzle the voice of the Election Committee of HCA and to prevent them from taking disciplinary action against him as per the Memorandum, Rules and Regulations. Shesh Narayan infact is not a Member of R.1-HCA but for its affiliated club, the R.1-HCA is affiliated to the Board of Control for Cricket in India to promote organize, manage and conduct game of cricket in the area covered by the Association by way of conducting various tournaments in Cricket, acquisition and maintenance of playgrounds, for that and to maintain general control of game of cricket under its jurisdiction and give its decision in all matters

concerning the game either when referred to by clubs or institutions or suo-motto, to add, delete, alter, maintain and enforce rules for the control and governance of the game and to maintain discipline amongst players, officials and clubs under its jurisdiction, all the 10 districts of Telangana including Hyderabad/ Secunderabad/ Cyberabad with 216 clubs affiliated to it as on today providing voting rights and with costing right to the President and honorary Secretary in case of tie in election to the Executive Committee and denied the averments in paras-4 to 6 for not fully correct. As can be seen from the Memorandum, Rules and Regulations; the averments in para-7 of the affidavit are nothing but to malign the HCA and for sending scurrilous and derogatory messages (sms) about Office Bearers of HCA and other acts of misconduct and flouting the rules of HCA, thereby the Executive Committee in its meeting held on 27.12.2015, suspended the petitioners as per the Memorandum, Rules and Regulations and sent the suspension letter dated 30.12.2015, the contents of which are self-evident and other allegations in paras-8 to 10 of the affidavit contra to it are untrue. It is contended further that the 1st petitioner- Shesh Narayan has to put forth their case before the Disciplinary Committee which is duly constituted consisting of a retired District Judge and former Test Cricketer and ex-interim President of the BCCI. The persons inimical to the HCA and unable to stomach the resounding victory of the Members of the present Executive Committee elected with overwhelming majority, indulged in the acts of vindictiveness, tampering of metre is one

such instances, the crime No.1279 of 2015 proceedings against the HCA is stayed by the High Court pending the W.P.No.26249 of 2015 dated 19.08.2015 under Ex.R.7. The Electrical Department headed by the Electrical Engineer-Sri Shishpal Reddy under whose control entire electrical installations and its working lies and Sri Nadeem, electrician working in that Department at the time of pilferage, were the henchmen of Shesh Narayan, and the contra allegation of he and his staff are working under control of R.2 and R.3 is absurd and untrue and the allegation against D.S.Verma is falsely made since replaced Shishpal Reddy while suspending said Nadeem pending enquiry and the respondents 2 and 3 reserved their right to take appropriate action for defamatory and scurrilous allegations made by 1st petitioner- Shesh Narayan including for his filing private complaint falsely. H.C.A. filed a complaint in respect of electrical metre tampering pending as FIR in Cr.No.828 of 2015 under Ex.R.8, HCA is vexed with the tantrums, devious mentality and obnoxious behavior of Shesh Narayan with no civility and a nuisance to every organization he has been involved. He has been banned from representing the Fathe Maidan Club (for short (the 'FMC') and FMC filed O.P.No.1372 of 2015 against him which is pending on the file of XXIV Addl. Chief Judge, City Civil Court, Hyderabad and Exs.R.10 and 9 are copies of the petition and summons. The suspension orders dated 30.12.2015 is strictly in compliance with the Memorandum, Rules and Regulations of HCA which he deserves as per the General Body Members and contra allegations are false and baseless. The 2nd respondent is a reputed

international Test Cricketer and recently appointed as a Manager of the Indian Cricket Team for the Test Series against Australia and for the World Cup, 2015. The petitioner is a blackmailer. In the previous enquiry against him conducted by the Disciplinary Committee headed by Pradeep Chandra IAS, even allegedly found not guilty of misconduct or to be absolved of the charges, the minutes of the Executive Committee meeting show the petitioners had not been absolved of the charges. The petitioners ought to have participated in the enquiry to be conducted by the present Disciplinary Sub Committee affording opportunity of showing cause and without inviting report of the Enquiry Committee. The maintaining of the petition is premature and the petitioners have no prima facie case or balance of convenience and suffered no irreparable loss to get the injunction in the mandatory form and thereby not entitled to the relief to stay the suspension order dated 30.12.2015. The respondents 2 to 4 have been unnecessarily impleaded in individual capacity even no relief sought against them and the petition is misconceived, bad for mis-joinder and is liable to be dismissed with exemplary costs.

6. The 4th respondent, being Vice President of HCA filed a separate counter affidavit, while saying contents of the petition affidavit of Shesh Narayan at para Nos. 1 to 5, 18 to 20 and 30 to 34 require no specific reply and of para Nos. 6, 9 to 15 and 17 are borne by record and of para-16 are not within his personal knowledge to give any specific reply, by further saying the contents of para-15 are correct to the extent of a fine being

imposed by the Vigilance Cell, APTS against R.1-HCA for alleged pilferage of electricity in RGICS which is widely covered in print and electronic media. It is not only the 2nd petitioner but several members have disagreed with the unilateral decisions being taken by the Respondents 2 and 3 and have shown their dissent. The suspension letter dated 30.12.2012 issued against the petitioners as rightly contending by the petitioners is violative of bye-laws and without following Rules and Regulations of R.1-HCA and no enquiry is initiated or pending with the Disciplinary Sub Committee and even no show cause notice was issued by it and no report was submitted against the petitioner No.2 by its Executive Committee to take such a recourse and thereby the suspension proceedings are not lawful. The 4th respondent is though not against the suspension of any Member; if same is required, the HCA Rules and Regulations need to be strictly followed and thereby he raised dissent in the Executive Committee meeting regarding the new procedure adopted bypassing the Rules, Regulations and byelaws, being the Chairman of the Disciplinary Sub Committee and out of 18 Members attended the meeting on 13.09.2015, 12 members protested including by him by disagreeing with the decision chosen to take by the respondents 2 and 3.

7. From above pleadings and the documents exhibited by both sides marked for reference sake as Exs.A.1 to A.15, R.1 to R.10 as referred supra, including Ex.R.15 copy of order in O.S.No.528 of 2013 dated 12.07.2013; the learned III Additional District Judge, Ranga Reddy district in the impugned order dated

30.01.2016, having held in answering the point formulated at para-4 particularly by referring at para-6 Chapter 10 Rule 13(a) requirements, before taking action of suspension under Ex.P.4, why not followed not known, from careful perusal of the record the Ex.P.4 suspension order does not disclose that the respondent Nos. 2 and 3 of 1 followed the procedure laid down therein. However, at para-7 of the order, it is observed that the 4th respondent supported the case of the petitioners that also discloses that respondent Nos. 2 and 3 failed to follow the procedure laid down under the by laws while suspending the 2nd petitioner. Therefore, the learned Ill Addl. District Judge was of the considered view that a clear picture made out of procedure was not followed by the respondent Nos. 1 to 3 in suspending the petitioners 1 and 2. It is at this stage having so held, the learned District Judge observed in directing the respondent Nos.2&3 to refer the matter of the petitioners to a Disciplinary Sub Committee forthwith by constituting a separate Disciplinary Sub Committee replacing 4th respondent for said purpose to issue show cause notice within three days after receipt, for the petitioners to submit explanation to the Sub Committee within three days thereafter and to complete the enquiry within 20 days thereafter and to submit the report to the respondents for necessary action and by submitting a copy of the same to the Court and both the parties meanwhile directed not to give any statements and discuss the contents mentioned in the petition and counters before media and anywhere, with a direction to both the parties to cooperate to

dispose of the main S.O.P.No.2 of 2016 within one month by 01.03.2016, to maintain decency in the gentlemen game of cricket and giving opportunity by the Disciplinary Sub Committee and to take all necessary steps regarding entire proceedings of the enquiry and the order of suspension under Ex.B.4 is suspended from 30.01.2016 to 29.02.2016 and accordingly disposed of the petition.

8. It is impugning the same, the petitioners maintained the C.R.P.No.1443 of 2016 with the contentions vis-à-vis oral submissions that the counter of 3rd respondent on behalf of the respondent Nos.1 to R.3 at paras 6 to 8 is related to the earlier complaint dated 22.04.2013 of Yadagiri and alleged suspension dated 10.06.2013 by it's the then President G.Vinod (covered by enquiry explanation report of Pradeep Chandra IAS) which was subject matter of O.P.No.528 of 2013, vide order dated 12.07.2013 under Ex.A.15, that the lower Court/tribunal held that the action of respondent Nos. 1 to 3 is prima facie against the rules in suspending the same by the *ex parte* injunction order granted till 30.07.2013 pending notice and as such there is no meaning not to place reliance on it for the impugned suspension letter dated 30.12.2015 preceded by alleged meeting dated 27.12.2015, which is passed by gross violation of the Byelaws, Rules and Regulations particularly of Chapter 10 Rule 13(1)(a), that the lower Court/Tribunal has transgressed the jurisdiction in passing the order directing to constitute fresh sub-committee without participation of main petition 4th respondent-Prakash Chand Jain

(even he the Chairman of the validly constituted and existing Disciplinary Committee of R.1-HCA while same in force) in fixing schedule and by usurping the powers of Byelaws of the association. The tribunal grossly erred in passing the impugned order being travesty and miscarriage of justice, as the Court directed 4th respondent, who is the Chairman of the disciplinary committee, not to be function and in directing the respondent Nos. 2 and 3 to constitute a fresh committee, in spite of the fact that they are also parties to the litigation and filed counter making allegations against the interest of the petitioner which is giving mallet in the hands of the aggressor and even the previous proceedings were withdrawn against the petitioners by the R.1 HCA, by letter dated 21.07.2014 under Ex.A.14 enquiry report of R.1 addressed to the petitioners and thereby sought to allow the revision by setting aside to that extent the impugned order of the lower Court/Tribunal.

9. It is in the factual scenario, the C.R.P.No.1484 of 2016 is maintained by the 4th respondent against self same impugned order of the lower Court/Tribunal, dt.30.01.2016, in I.A.No.7 of 2016, with the contentions that he is the tenure Chairman of the Disciplinary Sub Committee having been selected by the Executive Committee of the HCA's Disciplinary Sub Committee and same is even ratified by the general body as per decisions of the Executive Committee and the order of the tribunal directing to constitute fresh Disciplinary Sub Committee by excluding him is outside the scope of the lis and jurisdiction in SOP 2/ 2016 and when there

being absolutely no allegation or contention of he is either biased or disqualified otherwise to replace the Disciplinary Sub Committee and in excluding him, ignoring the fact that when he was made a party as 4th respondent to the petition lis, he is duty bound to give his reply by filing counter of true facts, which no way enable to exclude him from the Disciplinary Sub Committee and thereby the order of the Court below to that extent is liable to be set aside by allowing the revision.

10. The C.R.P.No.1972 of 2016 is arising out of the respective impugned orders in I.A.No.339 of 2016, dated 09.03.2016 in O.P.No.251 of 2016 passed by the learned II Additional District Judge, Ranga Reddy district at L.B.Nagar. The O.P.No.251 of 2016 is maintained by self-same petitioners of O.P.No.2 of 2016 against the self-same respondents 1 to 4 of O.P.No.2 of 2016 supra and also by showing as other respondents among 1-9, the Executive Committee of HCA also represented by its Secretary John Manoj (R2), Sri Burra Venkatesam as Chairman of newly constituted impugned Disciplinary Committee of HCA (as R.6), Sri S.P.Ismail as Member of newly constituted impugned Disciplinary Committee of HCA (as R.7), Sri Shivilal Yadav also as Member of newly constituted impugned Disciplinary Committee of HCA (as R.8) and Sri Adnan Mahamood as a Member of newly constituted impugned Disciplinary Committee of HCA (as R.9), Under Section 23 of the Act, 2001; with a prayer to declare the letter dated 17.02.2016 issued by the 2nd respondent of 1st respondent supra vide proceedings No.HCA/ Dis.Com and consequent to the same letter dated

04.03.2016, vide proceedings No.HCA/ Dis.Com of them as illegal, arbitrary, unjust, violative of principles of natural justice, null and void ab-initio and non-est, and also not binding on the petitioners 1 and 2 and to grant such other reliefs.

11. The 1st respondent HCA rep. by secretary-John Manoj supra filed caveat No.2/ 2016 which was since in force appeared therefrom before the lower Court in the SOP No.251 of 2016 and in the I.A.No.339 of 2016 filed pending the main petition for temporary injunction under Order 39 Rules 1 and 2 r/ w Section 151 of C.P.C. and Section 23 of the Act, with a prayer to grant interim stay of the proceedings supra dated 17.02.2016 & 04.03.2016 and to pass such other just orders.

12. The averments therein which no way requires repetition of what are covered by the averments of O.P.No.2 of 2016 and I.A.No.7 of 2016 detailed supra and from the impugned order of the lower Court therein dated 30.01.2016 discussed supra constituting a separate Disciplinary Committee excluding the then existing Chairman of the Disciplinary Sub Committee, Prakash Chand Jain (R4 in earlier petition and R5 herein) and the proceedings consequent thereto by 2nd respondent appointing the respondent Nos. 6 to 9 supra. From the above, when the injunction application in I.A.No.339 of 2016 came for hearing before the lower Court supra on 09.03.2016, pending notice ordered to take to respondent Nos. 2 to 9 and from appearance of 1st respondent on caveat and from hearing both sides while granting time for counter of 1st respondent, passed the impugned docket order that:-

“This is the matter originally made over to XIII Addl. District Court, Ranga Reddy district and subsequently transferred to this Court today. The petitioners/Bharath Cricket Club and T.Sheshu Narayan filed the OP and this application for interim stay of proceedings in pursuance of letters, dated 17.02.2012 and 04.03.2012 in proceedings No.HCA/Dis.Com pending disposal of the main O.P. the petitioner alleged that the 1st respondent constituted Disciplinary Sub Committee to enquire into the matter of the petitioner T.Sheshu Narayan with regard to his suspension. The petitioner challenged the very disciplinary Sub Committee formed vide letter, dated 17.03.2016 alleging that they are the friends and relatives to one another and somehow they wanted to eliminate the 2nd petitioner by virtue of order to be passed by Disciplinary Sub Committee. The said Sub Committee issued a notice, dated 04.03.2016 stating that enquiry is going to be conducted on today at 4.00P.M. at HCA Office, Jimkana Grounds, Secunderabad and in case the 2nd petitioner failed to attend, the matter will be decided basing on the material available on record. The said letter was issued by Secretary and convener, Hyderabad Cricket Association Disciplinary Sub Committee”

The other side contended that the Committee was duly formed and it is going to conduct enquiry and there is no need to grant any stay of further proceedings.

The contention of the petitioners is that the very constitution of Sub Committee is an abused one and it is deliberately formed for the purpose of eliminating petitioner on the pretext of enquiry and report. In view of such circumstances and the counsel for the 1st respondent asked for time for filing counter for a period of one week or so, it is fit case to grant stay of all further proceedings in pursuance of the above letters, till 21.03.2016.

Issue interim stay of all further proceedings in pursuance of letter dated 17.02.2016 and consequently vide letter dated 04.03.2016 including enquiry scheduled today at 4.00p.m. at Jimkhana grounds, Secunderabad, till 21.03.2016 and issue urgent notice to the respondents 2 to 9 and for counter of 1st respondent by 21.03.2016.”

13. It is thereby the revision is filed by the respondents 1 to 4 of I.A.No.339 of 2016 showing the petitioners 1 and 2 of the I.A.No.339 of 2016 as respondents 1 and 2 of the revision and the respondents 5 to 9 of I.A.No.339 of 2016 as respondents 3 to 7. The contentions in the grounds of revision mainly are that the

Court below ought not to have passed the ex parte order when the 1st respondent represented by its learned counsel and the order amounts to depriving of principles of natural justice and disabling the 1st respondent to file counter affidavit sought for and that too, the Court under the Act, 2001 has no power that of a regular civil Court to pass an ex-parte ad-interim orders and even assuming such jurisdiction, it cannot be exercised without recording reasons for dispensing notice to other respondents and same is violation of Rule 3 of Order 39 of C.P.C., apart from the impugned order no way recorded existence of prima facie case, balance of convenience and irreparable injustice to the petitioners for granting the stay of further proceedings pursuant to the letters dated 17.02.2016 and 04.03.2016, though those are related to conducting of disciplinary action against the Members of R.1-HCA and is an internal affair in which the Court is not supposed to interfere invoking jurisdiction, the Court below should have seen that the disciplinary action should never be stalled by passing orders, when HCA is entitled to take disciplinary action against its member clubs, who should appear and defend in the proceedings which are at intermediary stage as also laid down by the Apex court in State Bank Of Patiala vs S.K.Sharma¹ and the stay of further proceedings passed by the impugned order pre-empted the Committee that is constituted pursuant to the orders of the learned III Addl. District Judge in O.P.No.2 of 2016(I.A.No.7 of 2016), that such an inconsistent order is against judicial discipline

¹ AIR 1996 SC 1669

and the Court below should have seen that every Apex body like every employer, has inherent power and jurisdiction to enforce discipline and enforcement of discipline should not be scuttled by Court orders in the teeth of Section 41 of the Specific Relief Act, and thereby the impugned order is unsustainable. The Court below has not recorded any reasons much less justification for passing the order and on the other hand, the said order is causing serious injustice and loss of morale and reputation of the petitioner/ HCA, thereby to say the jurisdiction vested is the illegal exercise and that too when the petitioners before the lower Court secured interim order from the Court which subjects them to disciplinary proceedings are stopped from stating that the proposed enquiry is going to be passed adverse orders for the Court and not even granted relief and the Court below should have seen that no substantial cause shown to grant relief and the order passed by the Court below in overlooking the earlier Court order and is liable to be set aside by allowing the revision.

CRP No.1867 of 2016:

14. This revision is maintained by the self-same revision petitioners of CRP No.1972/ 2016 who were respondents 1 to 4 among 9 respondents of O.P.No.284 of 2016 filed by revision respondents 1 and 2 as petitioners against them and against revision respondents 3 to 7 (like in I.A.No.339 of 2016) self-same respondents but for the petitioners changed herein is Acrylic Cricket Club, Barkatpura rep. by its Secretary Chitti Sridhar, and also by his individual capacity as 2nd petitioner (for short "ACCB")

and the O.P.No.284 of 2016 is also under Section 23 of the Act, with a prayer to declare the letter dated 17.02.2016 and 04.03.2016 supra issued by the 2nd respondent of 1st respondent with self-same relief and the I.A.No.369 of 2016 for temporary injunction to stay the same and similar thereto sought for ad-interim injunction pending notice and the revision petitioners and respondents 1 to 4 filed caveat and received notice and filed memo in proof of it and there was no representation for them and the revision impugned order passed by Court below therefrom on 11.03.2016 which reads that:-

The contention of the petitioner is that the First Respondent association appointed disciplinary Committee to enquire against the Second petitioner who is running First petitioner club appointed today with regard to enquiry of the allegations made against the petitioner. The petitioner is challenging the Disciplinary Committee appointed by the respondent No. 1 and contended that they are the kith and kin of Secretary of respondent No.1 and they somehow wanted to pass the orders against the petitioner without giving an opportunity and therefore he prayed for stay of all further proceedings.

Perused the record. The proceedings are going to be conducted today on 4.00 P.M. at Gymkhana Grounds, Secunderabad against the petitioners. In view of the contentions raised by the petitioners questioning the very appointment of Disciplinary Committee and issuing of notice by Disciplinary Committee instead of respondent No.1, fixing the date of hearing against the petitioners, it is a fit case to grant stay of further proceedings in the main OP in pursuance of letters, dt. 04.03.2016 and 17.02.2016.

Issue stay of all further proceedings in pursuance of letters, dt.17.02.2016 and consequently vide letter, dt.04.03.2016 issued in proceedings No.HCA/ Dis.Com till 21.03.2016 and urgent notice to Respondent Nos.2 and 3, 5 to 9 and for counter of Respondent Nos. 1 and 4 by 21.03.2016. The petitioner shall comply order 39 Rule 3(a) cpc within 24 hours.

15. The contention of the petitioner in the grounds of revision are self same that of other revision maintained by them and it no way requires repetition.

16. Heard both sides at length in all the four revisions maintained against the respective impugned orders in the course of common hearing and disposal including on maintainability of revisions or appeals respectively, apart from the submissions impugning the orders under revision respectively on legality, correctness and propriety and illegal or irregular exercise of jurisdiction and perused the material on record including the provisions and propositions placed reliance.

17. So far as the revisions in C.R.P.No.1443 and 1484 of 2016 against the orders of the learned District Judge-cum-the lower tribunal dated 30.01.2016 in I.A.No.7 of 2016 in the pending SOP No.2 of 2016 is concerned, the prayer in the injunction application before the lower Court in I.A.No.7 of 2016 is to suspend the operation of the suspension letter dated 30.12.2015 proceeded by the alleged Executive Committee meeting dated 27.12.2015, vide proceedings No.HCA/ GEN pending disposal of the main petition with prayer of said proceedings issued by the 3rd respondent representing the 1st respondent as illegal, arbitrary, unjust, null and void and against the principles of natural justice and thereby not binding on the petitioners 1 and 2. Undisputedly the entity is governed by the provisions of the Act, 2001 and mainly sees within the scope of Section 23 of the Act. The law is fairly settled from the Division Bench expression of the Apex Court in Ch.Rama Rao

Vs. State of AP² that civil Courts or even tribunals have inherent jurisdiction to pass interim orders although there is no specific provision under the Act or the Rules made thereunder. The said expression is quoted with approval by the Full Bench of this Court in P.Sreenivasa Rao Vs. P.Indira³ by referring to several expressions of the Constitution Courts including of the Apex Court. It was held therefrom that the inherent power is such which inheres in every Court or Tribunal from its very constitution and with all elasticity to the necessity and the jurisdiction of the Court/Tribunal to pass an interim order, where even there is no specific provision, invoking Section 151 CPC is no longer *Res integra* and the purpose of granting interim relief in an interlocutory application is only to protect the subject lis pending ultimate determination of the lis and even the Civil Procedure Code confers certain powers on the civil Courts that equally apply to Tribunals unless the application is excluded. In the absence of any special procedure provided thereunder, it no way takes away the inherent power to invoke, to grant interlocutory relief in the absence of specific provision in respect of the area either to prevent abuse of process or to subserve the ends of justice and to enforce giving effect to interim orders of the Court. It is observed the inherent powers of the Court/Tribunal are in addition to the powers specially conferred either by the C.P.C. or any other law in force and the inherent powers saved by Section 151 of CPC are with respect to the procedure to be followed by the Court till

² 2001(4) ALD 554

³ 2002(1) ALD 296 =2001 ALT 667+AIR AP 130

deciding of cause before it. It is also the settled law referring to the provisions of the Act, 2001 that interim orders can be passed by the tribunal despite no specific provision. It is the settled law from several of the expressions that a right to pass an interim order need not always be exclusively conferred by the provisions of a statute such a power can be exercised *ex debito justitiae* as held by the Full Bench in Sreenivasa Rao supra. The Apex Court in Income Tax Officer Vs. M.K.Mahammed⁴ by referring to Union of India Vs. Paras Laminates Private Limited⁵ in dealing with the powers of the tribunals either under Income Tax Act or other enactments, under principles of natural justice held got inherent powers despite no specific provision to pass interim orders and to grant interim relief pending adjudication of the lis finally. Same was also quoted with approval in Srinivasa Rao supra by the Full Bench. Maxwell on interpretation of statutes, 11th Edition, Quoted with erudition that where an Act confers jurisdiction, it impliedly also grants the power of doing all such acts, employing such means, which are as essentially necessary, at every stage of the proceeding and for its implementation. The Apex Court in Rajendra Prasad Gupta Vs. Prakash Chandra Mishra⁶ by quoted with approval the expression of the Allahabad High Court in Raj Narain Saxena Vs. Bhimsen⁷ which quoted with approval earlier Full Bench expression of the Allahabad High Court in Narsingh Das Vs. Mangal Dubey⁸, held that the Courts are to act on the principle that every

⁴ AIR 1967 SC 430

⁵ 186 ITR 722 SC

⁶ AIR 2011 SC 1137

⁷ AIR 1966 All. page 84 at 87

⁸ ILR (1882) 5 163 FB

procedure is permitted, unless expressly prohibited, rather to act on the converse from no even any express provision by presuming prohibition. The Apex Court in *Nawabjung Sugar Mills Vs. Union of India*⁹ held that the inherent power of the Court saved by Section 151 of C.P.C. as it reads with all elasticity and its breadth is co-extensive with the necessity. The Apex Court again in *Popular Muthaiah Vs. State*¹⁰ referring to several expressions held that the inherent power is not confined to procedural or adjectival but even extending to determine substantial rights of the parties and it can be exercised in respect of even incidental or supplemental powers, irrespective of nature of proceedings, as it acts *ex debito justitia* to mean to do real and substantial justice in the lis between the parties for which alone the powers in existence inherently. Needless to say law does not operate in a vacuum, it must flow continuously so as to serve the needs of time and any change in social values and norms are required to be interpreted by recasting the law if need be as a dynamic instrument for the purpose of achieving elimination of conflicts and thereby unusual fact situation posing issues for resolution is an opportunity for innovation to meet the ends of justice. The very Division Bench expression of this Court in *MVVS Chowdary Vs. State of A.P.*¹¹ holds that remedies are the life of rights and it is the availability of a right to sue or be sued in a civil Court that turned the English law into a law of liberty and where new combination of circumstances arise, it is incumbent upon the Court to apply rule of law which

⁹ 1976(1) SCR 803

¹⁰ 2006(3) SCC 245

¹¹ AIR 1989 AP 154

could be derived from the general principles in furtherance of justice. In Jaipur MDS Vs. Commissioner of Income Tax¹² it was held that every Court/Tribunal is constituted for the purpose of rendering justice according to law and must be deemed to possess necessary and inherent power with that of elasticity in its very constitution to do a right or to undo a wrong.

18. The Division Bench expression of this Court in P.Subbalaxmi Vs.P.Ramya¹³ lays down at para-29 that rights of the parties are no doubt to be decided according to the relevant principles of law. However, in the matter of moulding the reliefs, the Court cannot remain oblivious to the facts mentioned alone but also the other attending facts and circumstances of case. No doubt said principle has application to the final orders and not to interlocutory proceedings as laid down by the Apex Court in Sri Jain ST Wid(s) Vs. Thundan Singh¹⁴ particularly at para-10.

19. From the above, it is needless to say from the settled law in South Eastern Coal Fields Vs.State of M.P.¹⁵ that the inherent power of the Court to act does not confine to act as a primary Court but even appellate or other Court.

20. Thus, the Court/Tribunal deciding the lis covered by Section 23 of the Act, 2001 is entitled to pass any interlocutory or interim or supplementary or incidental orders not only confined to the prayer but also by considering the other facts and attending

¹² AIR 1977 SC 1348

¹³ 2011(1) ALT 256

¹⁴ 1999(2) SCC 377

¹⁵ 2003(8) SCC 648 at 664

circumstances to protect the subject matter and to meet the ends of justice.

21. From this, now coming to the correctness of the impugned order of the lower Court in I.A.No.7 of 2015, dated 30.01.2016 concerned, the order is very clear as discussed in the previous paragraphs that there is a clear violation of the bye-laws and rules and the bye-laws of the HCA memorandum, Rules and Regulations speak from Chapter 2(5) provision for constitution of sub committee for disciplinary proceedings and other several matters and the Chapter 10 Rule 13(1) provides with power of the Committee to suspend or expel any member of a club after receiving report from disciplinary sub committee if assigned merits such treatment and before taking any such action, the Member/ Player/ Friend club/ Association shall be given an opportunity by the disciplinary sub committee to show cause why action should not be taken and call for explanation either orally or in writing, that can be submitted and pending enquiry the committee may suspend such member of the Club or Clubs from participating in any tournament or match. So far as the impugned proceedings against the petitioner concerned dated 30.12.2015 received by the alleged Executive Committee meeting dated 27.12.2015, it was not followed by any Member calling for show cause or explanation and it was not even the decision of the existing sub committee and the sub committee has a tenure having been validly and duly elected and constituted as per the bye-laws, Rules and Regulations. When such is the case, even for the lower

Court to bypass, much less to direct constitution of another disciplinary sub-committee, there is no material or basis.

22. The counter filed by the 4th respondent to I.A.No.7 of 2015 no other than the revision petitioner in CRP No.1484 of 2016 no way exhibits any animosity against the HCA and its President or Secretary or other Executive Committee Members and the Executive Committee did not even take recourse after said counter from its averments pointing out what the meeting held on 27.12.2015, for suspension of the petitioners, that too when majority persons opposed even mooted by the respondents 2 and 3, the President and Secretary of the 1st Respondent/ HCA. The petition averments are supported by above material. The decision taken and the suspension order issued are the subject matter of SOP No.2 of 2016 relief of those are null and void and not binding so to declare, that the said impugned orders are contrary to the bye-laws and thereby suspension of the same was also sought in I.A.No.7 of 2016 pending disposal of the SOP No.2 of 2016. Even the revision respondents 1 to 3 in the counter filed through the 3rd respondent did not show how said proceedings are as per the bye-laws when it is specifically referred as how contrary to the bye-laws.

23. Once such is the case, the conclusion arrived by the lower Court by the impugned order dated 30.01.2016 to that extent of said suspension order is contrary to the procedure laid down in the bye-laws, Rules and Regulations and is liable to be suspended in so suspending is correct. However, the lower Court/Tribunal went

wrong in passing further order by went beyond the scope of the lis and same even not sanctioned by law for no factual background much less so to direct exclusion of the 4th respondent as Chairman of the disciplinary sub-committee. The counter of respondents 1 to 3 supra in fact not even made any little whisper against him, much less by the petitioners, pending such an order by the lower Court, for to exclude him much less to suspend the existing disciplinary sub-committee. Further, it cannot be disputed that, the earlier disciplinary proceedings against the petitioners are of the year 2013. Report received of no action is called for and it was ultimately closed for no need of any disciplinary action. When such is the case, that cannot even be a little basis to take any decision on the alleged meeting dated 27.12.2015 much less to pass orders of suspension under the impugned proceedings dated 30.12.2015. Thereby the order of the lower Court to that extent impugned in the revisions, is liable to be set aside as stated above by allowing the revisions in CRP No. 1443 and 1484 of 2006.

24. So far as the contentions as to existence of prima facie case, balance of convenience and the irreparable injury or loss that the petitioners put to make out to grant the interim relief concerned, the facts that the petitioners are the Members not in dispute and the further fact that there is a procedure envisaged as part of internal mechanism by the Memorandum, Rules and Regulations that to be followed is also not in dispute. The fact furthermore that the same were transgressed, when made out and what is required for prima facie case is something more than mere

bona fide contention and a triable issue and not the requirement of ultimate chance of success. What is the balance of convenience to be weighed is the case of both sides, in deciding in whose favour the scale tilts of the hardship with which the parties being subjected from granting or refusing the injunction and it weighs in favour of the petitioners and 4th respondent and against the respondents 1 to 3 to grant the relief from the facts discussed supra and when that is sufficient to say irreparable injury to the petitioners and also pursuant to the further order passed by the lower Court in excluding the 4th respondent/the Chairman of the disciplinary committee from his functioning for irreparable injury or loss does not mean actual loss capable of estimation in terms of money always as a violation of right is suffice to say that makes out irreparable injury. When all the three conditions are satisfied, though not in specific terms stated by the lower Court, from the very order, any contention of the lower Court's order not made out to the extent of suspending and as if made out to the extent of directing to constitute a fresh sub-committee to conduct disciplinary enquiries with timeframe is baseless and unsustainable thereby. Accordingly, the revision is allowed and the order of the lower Court in I.A.No.7 of 2016 is set aside in part to that extent and modifying the same.

25. Coming to contention of appeal remedy bars revision remedy, there is an appeal remedy, the revision can be held maintained when within the scope of Article 227 of the Constitution on its face from the order of lower Court illegal

exercise of the jurisdiction not conferred and non-exercise of jurisdiction conferred and thereby per se unsustainable to that extent to sit in revision despite the appeal remedy as per the settled expressions. In this regard of there is no such total bar from availability of appeal alternative remedy for maintainability and in deciding of revision invoking Article 227 of the Constitution of India, in AP Aryavyshta Mahasabha Vs. Mutyapu Sudharshan¹⁶ by relying on several earlier expressions.

26. Coming to the expression in State Bank of Patiala Vs. S.K.Sharma¹⁷ it was observed at paras-32 to 34 that on account of non-furnishing of copies of statements of witnesses to the charged employee in a disciplinary proceedings claimed as violation of principles of natural justice, when no prejudice shown resulted therefrom by such a violation, it cannot be said disciplinary enquiry against him is not a fair enquiry. It was no doubt further held therein at para-32 that there may be situations where interest of State or public may call for a rule of *audi alteram partem* and in such situations, Court may have to balance public interest with requirement of natural justice and arriving at appropriate decision. Here, it is not the issue of the case on hand and even to say any public interest requires suspension, violation of procedure cannot outweigh the same and thus there is no basis much less any factual foundation for that.

¹⁶ 2015(5) ALD page 1=(2015)(6) ALT 227

¹⁷ AIR 1996 SC 1669

27. In fact as held supra, when the impugned order of the lower Court in I.A.No.7 of 2016 to the extent of excluding the 4th respondent/ Chairman of the Disciplinary Sub Committee and in directing constitution of separate Sub Committee with timeframe, since beyond the scope and such a power is not conferred to grant without prayer that too in an interlocutory application as per the bar laid down in the expressions of the Apex Court discussed supra. Said order since set aside by allowing the revisions in C.R.P.No.1443, 1484 of 2016 from the findings assigned in the previous paragraphs supra and even same is subsisting as on the date, the sub-committee with respondents 6 to 9 and among others if any constituted cannot be given precedence to function when the very order based for such constitution is unsustainable per se. Thus, it cannot be contended pursuant to that order, that in the comity of Courts running inconsistent to that order, the lower Court should not have been granted the suspension of the function of the newly constituted sub-committee for taking disciplinary proceedings. As it can be said that once said order to that extent in I.A.No.7 of 2016 is unsustainable, the passing of the orders in I.A.Nos.369 and 339 of 2016 respectively are sustainable. Thus, the orders in I.A.Nos. 369 and 339 of 2016 in O.P.Nos.284 and 251 of 2016 are neither unsustainable nor newly constituted Disciplinary Sub Committee has to be allowed to proceed with by directing the respective petitioners to submit to their jurisdiction. Said constitution of new disciplinary sub-committee is unsustainable and same is running contrary to the law from what is discussed

supra, when the Court within its inherent powers which inheres from its very constitution to pass any order with all elasticity to the necessity and to subserve the ends of justice in passing the orders in I.A.No.369 and 339 of 2016 there is nothing to interfere with said order, much less to allow the revision petitions in C.R.P.No.1867 and 1972 of 2016. Coming to the impugned orders in I.A.No.369 of 2016 dt.11.03.2016 in O.P.No.284 of 2016 covered by CRP No.1867 of 2016 and dated 09.03.2016 in I.A.No.339 of 2016 in O.P.No.251 of 2016 covered by CRP No.1972 of 2016, no doubt the decision in *Deoraj Vs. State of Maharashtra*¹⁸ outcome of writ jurisdiction under Article 226 of the Constitution of India in granting interim relief pending final disposal of the main writ relief. Even the Apex Court therein observed that such an interim relief can be granted if there is a strong prima facie case, balance of convenience and irreparable injury. Even issuing such interim relief would amount to granting of final relief is not a bar to grant interim relief.

28. Even coming to the prima facie case, balance of convenience and irreparable injury from the law discussed supra, once there is no valid constitution of the said special Disciplinary Sub Committee even under the guise of the orders of the Court to give any life to it and the very order of the Court as stated supra in directing to constitute a new sub-committee by bypassing existing one is once unsustainable and pending determination of the same, the interim order granted cannot be found fault and once there is

¹⁸ 2004(4) SCC 697

an urgency made out from the very order to dispense with notice in passing the *ex parte* order and so far as the caveator concerned when participated through advocate and it is after hearing only, the orders were passed and even sought for time to file counter that opportunity is also given in passing as interim measure in the meantime from the hearing to that extent, there is no any violation of law, when the circumstances exist from the fact to dispense with the notice so far as others and to pass the interim order after hearing the caveator, pending filing of counter, and thereby the order cannot be found fault. The so called newly constituted Disciplinary Sub Committee even headed by any persons allegedly of repute when and the very constitution itself as held supra, no way sustain and the order under which it is constituted when no way sustain, there is nothing by sitting in revision to set aside the order impugned respectively under the two revisions in C.R.P.No.1867 and 1972 of 2016. Even coming to prima facie case, balance of convenience and irreparable injury as discussed supra of the requirements since made out therefrom, as the very special Disciplinary Sub Committee has no locus under the guise of the Court orders even constituted to enquire from what is discussed supra, suffice to say existence of prima facie case and also balance of convenience and irreparable injury that what are required to be made out as per the law since made out. Once such is the case, the same analogy for appeal remedy to maintain revision cannot be applied though otherwise that is not a bar, for the order of the lower Court sustains and there is nothing

perverse or contrary to law or without jurisdiction or otherwise in any manner shown unsustainable per se including from the comity of Courts and much less by any forum shopping from provisions of Section 41 of the Specific Relief Act, as it could be available, had it been the order in I.A.No.7 of 2016 sustainable to grant a relief not prayed for, that too for any basis if at all to suspend the existing and validly constituted disciplinary committee in force either to supersede or and to order constitution of another special sub-committee in its place. Thereby the two revisions in C.R.P.No.1867 and 1972 of 2016 are liable to be dismissed.

29. Having regard to the above, the two revisions C.R.P.No.1443, 1484 of 2016 are allowed by setting aside the order dated 30.01.2016 in I.A.No.7 of 2016 in S.O.P.No.2 of 2016 on the file of the Ill Addl. District Judge, Ranga Reddy.

30. The two revisions C.R.P.No.1867 (filed to set aside the order dated 11.03.2016 in I.A.No.369 of 2016 in O.P.No.284 of 2016) and 1972 of 2016 (filed to set aside order dated 09.03.2016 in I.A.No.339 of 2016 in O.P.No.251 of 2016) are dismissed.

31. Consequently, pending miscellaneous petitions, if any, in these revisions shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date:01.11.2016

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