

This order shall dispose of a batch of 5 cases bearing CWP Nos.12808 of 2013 titled as “Netball Association of Chandigarh and

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another vs. Union of India and others” (for short “first petition), CWP No.26817 of 2013 titled as “Netball Association of Chandigarh and another vs. Union of India and others” (for short “second petition”), CWP No.23855 of 2014 titled as “Netball Association of Chandigarh and others vs. Union of India and others”, COCP No.1079 of 2014 titled as “Netball Association of Chandigarh and another vs. Shri Vagish Pathak and another” (for short “fourth petition”) and CWP No.9256 of 2015 titled as “Netball Association of Chandigarh vs. Union of India and others” (for short “fifth petition”).

The petitioner-Netball Association of Chandigarh (for short “NAC”) is a member of the Netball Federation of India (for short “NFI”) since 2002. NAC is a society registered under the Societies Registration Act, 1862, getting no funds from the Government and is aimed at to encourage, promote, control and regulate the game of netball.

The controversy in the first petition started with a show cause notice dated 23.04.2013 issued by the NFI to Gurbir Singh Sandhu that while he was the President of the NFI, he did not submit the utilization certificate of the financial assistance of ₹25,95,427/- provided by the Ministry of Youth Affairs and Sports (for short “MYAS”) for the preparation of Indian team for CWG-2010 for training program held in Sydney (Australia) from 12th February to 13th March, 2010, in the absence of which, the NFI was not getting the financial assistance from the MYAS. Thus, he was asked to show cause as to why the membership of the NAC may not be cancelled/terminated. Reply to the show cause notice dated 23.04.2013 was sent by Gurbir Singh Sandhu by an e-mail on 29.04.2013

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and it was brought to the notice of the respondents that Gurbir Singh Sandhu had resigned from the post of President of the NAC on 07.04.2013. However, vide another show cause notice dated 06.05.2013, the NAC was asked as to why it be not removed from the membership of the NFI as per Article 13 of the Constitution of the NFI and asked for its reply. The show cause notice dated 06.05.2013 was duly replied by the NAC (petitioner), alleging that since personal allegations have been made against Gurbir Singh Sandhu, who had already resigned on 07.04.2013, therefore, the action against the NAC by the NFI was uncalled for. However, on 19.05.2013, the NFI passed the order of suspension of the NAC.

The NAC has, thus, challenged the order of its suspension dated 19.05.2013 in the first petition, in which notice was issued on 31.05.2013 and operation of the suspension order dated 19.05.2013 was stayed.

After notice, separate replies have been filed by respondent No.1 and respondents Nos.2 and 3.

In the reply filed by respondent No.1, it is averred that MYAS recognize only one federation for each sport discipline at the national level. The recognized National Sports Federation (NSF), in turn, is responsible for the promotion and development of the sport. The NSF has to discharge the responsibility in accordance with the principles laid down in the Olympic Charter, Charter of Indian Olympic Association (IOA) or the relevant International Federation. The MYAS supplements the efforts of the NSFs by providing financial assistance for participation in international events

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abroad, conducting national/international tournaments and training/coaching of national teams under Indian and Foreign Coaches/Experts etc. It is further averred that the NFI is a recognized NSF and is an autonomous body responsible for promotion of netball sport in the country. The MYSA does not interfere in the day-to-day functioning of the NSFs including NFI. The Government has framed a National Sports Development Code (NSDC) of India, which is effective from 31.01.2011, to bring transparency and accountability in the functioning of the various NSFs for healthy development of sports in the country. The NSFs are required to comply with the provisions of the NSDC for getting various concessions from the Government. It is also averred in the reply that on 28.01.2013, MYAS wrote a letter to the Secretary of the NFI, endorsed to Gurbir Singh Sandhu, former President of the NFI, for early settlement of accounts. Gurbir Singh Sandhu, vide his letter dated 06.05.2013, forwarded the documents in respect of grants given to the NFI under the scheme for preparation of team for CWG-2010. The Utilization Certificate and the accounts etc., submitted by Gurbir Singh Sandhu, were examined in the Ministry and was requested vide letter dated 14.06.2013 to deposit the unspent amount of ₹78,500/- plus interest in the account of the Government and submit the original receipt(s)/vouchers of boarding, lodging and local conveyance, but neither Gurbir Singh Sandhu nor the NFI had returned the money to the Government.

In the reply filed by respondents No.2 and 3, they reiterated the stand of maintaining the impugned order on the ground that Gurbir Singh

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Sandhu did not submit the Utilization Certificate and, therefore, the MYAS has refused them the grant.

The petitioner has also filed rejoinder to the reply filed by respondents No.2 and 3, alleging that the allegations are personal to Gurbir Singh Sandhu and have no concern with the NAC.

The second petition is against the order dated 02.10.2013 by which the NAC has been put under suspension again by the NFI. It is mentioned in the said order that after receiving complaints from Gaurav Malik and Sidhant Sehgal, the NFI had constituted a Disciplinary Committee on 10.07.2013, to enquire into the allegations of illegalities and irregularities during 29th and 30th Senior National Netball Championships against the NAC. The Disciplinary Committee placed its preliminary report on 04.08.2013 before the Executive Committee meeting held on the same day, i.e. on 04.08.2013, and the Executive Committee, in the same meeting, directed the Disciplinary Committee to further investigate the matter by issuing notice to the NAC. The Disciplinary Committee placed its report dated 02.10.2013 to the President of the NFI and the NFI, in its meeting held on the same day i.e. 02.10.2013, agreed with the Disciplinary Committee that the NAC did not cooperate with the Disciplinary Committee and did not submit any record asked by it during enquiry and even did not reply to the show cause notice dated 17.09.2013 issued to the NAC and as per Article 13 of the Constitution of the NFI, amended on 30.03.2013, the Executive Committee of the NFI unanimously decided to suspend the affiliation of the NAC and to file an FIR against Gurbir Singh Sandhu,

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President, R. Sharan, General Secretary, Dr. GP Pal, Joint Secretary and members of the Executive Committee and the Selection Committee of the NAC and the players involved in the abovesaid offences. The impugned order, in the second petition, has been passed during the pendency of the first petition when respondent No.3 issued a fresh show cause notice dated 09.08.2013, alleging that one person, namely, Ratinder Singh, presumably the Women's Team Manager, had impersonated one player called Amit Malhotra in the Championship held at Sonapat between 26.03.2013 to 29.03.2013.

According to the petitioner, the NAC had initiated the inquiry into the alleged incident at its own level and the coach accompanying the team was questioned. It was felt that the incident could have been a planted one as the coach was none other than Dr. Prasanta Kumar Das i.e. the person appointed by respondent No.3 as convener for the Adhoc Committee of the NAC.

In any case, at the time of issuance of notice in the second petition, the following order was passed by this Court:-

“Learned counsel for the petitioner relies upon the order dated 31.5.2013 passed by this Court in CWP No.12808 of 2013 filed by the present petitioners, whereby this Court stayed the operation of the order dated 19.5.2013, which was appended at Annexure P-8 in that writ petition and has been placed on record as Annexure P-5 in the present writ petition, to contend, inter alia, that the impugned order dated 2.10.2013 (Annexure P- 15) has been passed in most arbitrary manner. He also refers to page 139 of the paper-book to contend that alleged ex-parte enquiry even if was conducted and report thereof was submitted on 2.10.2013, the impugned order came to be passed on the same day and that too in

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a meeting of Executive Committee of National Federation of India, which comprises 30 members from all over India. The entire action has been initiated and concluded at the back of the petitioners, thereby glaringly violating the basic principle of natural justice. He also submits that the impugned order dated 2.10.2013 (Annexure P-15) is also derogatory to the above-said order dated 31.5.2013 passed by this Court.

Notice of motion for 12.2.2014.

In the meantime, operation of the impugned order dated 2.10.2013 (Annexure P-15) shall remain stayed till the next date of hearing.

To be heard alongwith CWP No.12808 of 2013.”

After notice, respondent No.1 and respondents No.2 and 3 filed their separate replies. The petitioner also filed rejoinder to the reply filed by respondents No.2 and 3.

The third petition is filed by the NAC, Punjab Netball Association, U.P. Netball Association and Bihar Netball Association, challenging the various amendments made in the Constitution and Bye-laws of the NFI.

According to the petitioners, the NFI uploaded on its website two amended versions of the Constitution causing the following amendments:-

- i) Article 2 pertaining to the registered office and jurisdiction.
- ii) In Article 3, sub clause 9(a) has been inserted.
- iii) Article 4 has been amended.
- iv) Clause L of Article 4 which provides the term of office bearers to be four years and creates restrictions on further re-election has been amended. Valid version at page 21, illegal amendment at page 22. The said amendment is also contrary to the Government guidelines.
- v) Article 5 pertaining to membership (page 23). Sub clause 5 of Article 5 has been completely amended and the President

and the Secretary General have been given the power to make golden members with voting rights. This is again contrary to the Government guidelines.

- vi) Article 5A has been inserted, restricting the right to contest elections to the posts of President, Secretary and Treasury (page 25). Article 8 has also been amended wherein it has been stated that the President, Secretary General and Treasury shall be elected from only amongst the Executive Committee members.
- vii) Article 12 pertaining to the right to grant membership (page 33). The right has been usurped from the Federation and given to the President and Secretary. Further, right to interfere in the functioning of member units has also been inserted.
- viii) Article 13 pertaining to removal has also been amended.
- ix) Article 17 pertaining to the very power of amending the constitution has been amended.

In this case, at the time of notice of motion, it was ordered to be heard along with the first petition. The pleadings of this case are also complete.

The fourth petition is filed for initiating contempt proceedings against Vagish Pathak and Hari Om Kaushik for the alleged willful disobedience of the order dated 06.12.2013 passed in the second petition and also for setting aside the order dated 14.12.2015. At the time of issuance of notice in this case, it was also ordered to be heard along with CWP No.26817 of 2013.

In this case, it is averred that a meeting of the General Council of the NFI was held on 14.12.2013 at Tau Devi Lal Stadium, Gurgaon and since the suspension of the NAC had been stayed by this Court on both occasions but when Gurbir Singh Sandhu, as President of the NAC, went to

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attend the meeting, the alleged contemner asked him to leave the meeting on the premise that NAC had already been suspended. On 14.12.2013, Gurbir Singh Sandhu sent an e-mail to the NFI, reiterating the events which occurred during the meeting of 14.12.2013 but the respondents have not sent any reply to it. It is also averred that in the said meeting, not only Gurbir Singh Sandhu was removed but a life time ban was imposed upon him to take part in any activity of the netball game. On 07.01.2014, the respondents permitted a team selected by the Adhoc Committee to participate in the games at Mehsana in Gujrat despite the fact that the interim order passed by this Court also stayed the appointment of the Adhoc Committee.

The fifth petition is filed to challenge the order dated 24.04.2015 by which membership of the petitioner-NAC has been terminated and respondent No.4, namely, Netball Association Sports Promotion, Chandigarh has been affiliated with the NFI.

The brief facts of this case are that the IOA held the national games at Kerala. It was a multi discipline event where teams from all over India participated. The Chandigarh contingent was also comprised of several players, participating in various disciplines, including the game of netball. The petitioner selected a team for the game of netball and forwarded the list to the Chandigarh Olympic Association, who further forwarded it to the IOA. The IOA prepared the accreditation cards in advance as it was not possible to prepare those cards on the last day as thousands of players arrive at the game venue. One player, namely, Pulkit Sood did not join the

contingent by rail and stated that he would arrive by air later on. Hence, his name was retained in the list and his accreditation card was also prepared by the IOA. On 02.02.2015, the NAC team participated in two matches without Pulkrit Sood. On finding that one player was missing, the coach himself sent a request for cancellation of the accreditation card on 02.02.2015 itself but on 04.02.2015, respondent No.3 roughed up the coach of the NAC (Amit Kumar) so much that he had to go to the hospital and get himself medically examined. On the same day, the FIR was registered against office bearers and players of the NAC and in February, 2015 itself, on a plain piece of paper, the Competition Director, namely, Lalit Jeewani, disqualified the NAC team and disaffiliated the NAC from the membership of the NFI. When the petitioner sought clarification about the authenticity of the aforesaid letter whereby the NAC was dis-affiliated, the NFI sent an e-mail dated 29.03.2015, affirming the action taken by Lalit Jeewani and was informed for the first time that a new unit, namely, Netball Association Sports Promotion, Chandigarh (respondent No.4) has been given the membership.

In the fifth petition, notice of motion and notice regarding stay was issued on 21.05.2015 and on 27.07.2015, an order was passed by this Court that the elections of the Netball Federation of India be not held till the next date of hearing. In this case also, replies have been filed and the pleadings are complete.

From the resume of the aforesaid facts in all the five cases, it is clear that the NAC is the petitioner and basically the NFI is the respondent.

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Since all the petitions were ordered to be heard with each other when they were filed one after the other, therefore, these were heard together and are being decided by this common order. However, I would deal with every petition separately on the basis of the issue(s) involved therein.

Starting with the first petition in which the NAC has challenged the order of its suspension dated 19.05.2013 on the ground that the erstwhile President of the NFI Gurbir Singh Sandhu did not submit the Utilization Certificate to the MYAS and hence, the NFI is not getting the financial assistance from the MYAS, as stated in the reply filed by the MYAS, it is alleged that the said Gurbir Singh Sandhu did not deposit the un-spent amount of ₹78,500/- out of allocated amount of ₹25,95,427/- for training of the Indian team at Sydney for CWG-2010.

Counsel for the petitioner has argued that the NFI has 55 members, out of which 27 members are of the State units and 28 are the executive members. The NFI is governed by the Netball Federation of India (Constitution & Bye-laws), in which Article 4(c) defines the “Council” as under:-

“c. **Council** – shall mean the General Council of the Federation and shall include the office bearers, members E.C. and accredited delegates- one from each affiliated unit. They shall be citizens of India.”

Article 6 deals with the Council, which reads as under:-

“Council

I. The Council shall be the Supreme Authority of the Federation at all its meetings. It shall elect the President and other members of the committee. It may delegate authority to the president to nominate other members of

- Committee. The Presidents or in his absence a senior vice president or one of the vice President nominated by the president or one elected by the house, shall preside over the meeting as chairman before proceeding to the business. The chairman shall have a casting vote in the event of a tie.
- II. The council shall meet at the time of Nationals at the venue to be fixed by the committee or the Secretary General with the consultation of the president. The Secretary General shall give 21 days notice to all the members of the council and shall circulate along with the notice a copy of the agenda of the meeting. The 21 days notice shall mean 21 days from the date of posting.
- III. One third of the members on the up-to-date list and entitled to vote shall constitute the quorum. To start the proceedings of the council, if the quorum is not formed within half an hour of the appointed time, the meeting shall be adjourned and it shall subsequently meet at the same venue and date after half-an-hour.
- IV. The business of the council shall be to elect committee and all the executive powers shall rest with the committee.”

The “Committee” is defined under Article 4(d), which reads as under:-

- “d. **Committee-** shall mean the Executive Committee of the federation consisting of office bearers and members E.C..”

The powers of the Committee are defined in Article 7, which reads as under:-

“Committee- its powers and duties

1. To admit the membership of the Federation, associations and patrons applying for the same, in accordance with the rules of the Federation.
2. To appoint Sub-Committees.
3. To appoint auditors and fix their remuneration.
4. To adopt the annual report of the committee.
5. To adopt the audited statements of accounts.

6. To hold control and administer the funds and properties of the Federation.
7. To make and amend the rules of the Federation as and when considered necessary.
8. To make bye-laws in accordance with the rules of the federation as and when considered necessary and instructed by Inter-national Federation of Netball Associations.
9. To delegate its powers to the President who might delegate the same to any Sub-Committee or an individual at his/her discretion.
10. To consider and decide matters not covered by the rules of the Federation.
11. To appoint a paid Assistant Secretary, if necessary.
12. To take such steps as may be necessary or expedient to carry into effect the objects of the Federation.
13. To consider any resolution where of notice is given in writing to the secretary by any member at least fifteen clear days before the date of meeting.
14. To transact any other business, permitted by the President.”

The office bearers of the NFI are the President, Senior Vice President, Secretary General, Treasurer, Associate Secretaries and the Liaison Officer. Article 8 of the Constitution deals with the Secretary General, which reads as under:-

“Secretary General

The Honorary Secretary General shall be responsible for carrying out the orders and instructions of the Council/Committee and the President. He/she shall issue all circulars on behalf of the Federation keeping in confidence by the President. He/she shall see it that the rules of the Federation and the IOA and AICS are observed by all members and their affiliated units. He/she shall be empowered to draw Rs.5000/- at a time without the prior permission of the President and afterwards he will get sanction from the president. He/she shall in no case draw money exceeding Rs.5000/- unless the President has sanctioned the amount already drawn in anticipation of the President sanction. He shall carry on

all correspondence of the Federation and give effect to all the resolutions of the Committee or the Council as the Executive Officer. He/she shall issue notices of meetings and record minutes of the same and shall be responsible for the maintenance of the other records and registers as well as the custody of all papers of the Federation and for carrying out other duties that may be entrusted to him by the Federation from time to time. He/she shall issue show cause notices and suspension orders for violation of rules of the Federation and all such action must be confirmed by the Committee or the council at its next meeting. The accounts of Federation shall be operated by the President, Secretary General and treasurer of the Federation.”

Article 13 is about the removal, which reads as under:-

“Removal

A member unit whose conduct is deemed to be inimical or detrimental to the welfare of the Federation may be removed from membership by the affirmative vote of two-third of those present at the relevant meeting of the council. All members of the Committee shall continue normally for full term. A member of the Committee except the President, if he/she is elected by the Council, shall be liable to be removed by a simple majority of the total members of the Council. A nominated member by the President can be removed under his/her own authority.”

Article 14 is about the right to appeal and is reproduced as under:-

“Right of appeal

- a.) There shall be a right of appeal against any decision on any matter whatsoever of the Executive Committee to the Council. Any such appeal against a decision of the Executive Committee shall be heard at a meeting of the Council before an Appeal Committee of five persons. Such Appeal Committee shall be appointed by the Council from the persons present at the Council Meeting and who are not members of the same member association as the appellant or members of the Executive Committee. The decision of

the Appeal Committee shall be deemed to be the decision of the Council and shall be final.

- b.) All Appeals shall be conducted in a fair and impartial manner, having regard to the principles of natural justice. All interested parties shall be entitled to be heard or to make written submissions, to cross examine any witness called and to be represented by legal counsel. The appellant shall open the appeal and call such evidence as he/she or it shall think fit. The Executive Committee shall then call such evidence as it thinks fit and the appellant shall then have the right of reply. The decision of a simple majority of the persons hearing the appeal shall be a sufficient decision.
- c.) Any notice of appeal to the Council against the decision of the Executive Committee shall be made in writing to the Honorary Secretary General not less than three calendar months before the Council meeting at which such appeal is to be heard, accompanied by a fee of Rs.100/- which shall be forfeited should the appeal be deemed to be frivolous.
- d.) Pending the decision on any appeal, all penalties imposed shall be operative unless otherwise directed by the Executive Committee.
- e.) The Federation will in no way be responsible for any expenses incurred by the applicant or the defendant.”

Article 17 is regarding the amendment to the Constitution and Bye-laws and reads as under:-

“Amendments to Constitution and Bye-Laws.

Any amendment to the Constitution and Bye-Laws of the Federation may be proposed by a member Association with full membership or by the Executive Committee. Amendment may be made to the Constitution at any meeting of the Council by a two third majority of those present and entitled to vote.

Bye-Laws may be amended by a simple majority decision. Notice of proposed amendments must be made, in writing, to the Honorary Secretary General of the Federation at least one year prior to the date of the Council Meeting.

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At least nine months prior to the date of the meeting the Honorary Secretary General shall circulate to all Member Associations any proposed amendments to the Constitution or Bye-Laws.”

According to the petitioner, the impugned order dated 19.05.2013 in the first petition is an order of suspension, suspending the petitioner, while proceedings for removal under Article 13 were undertaken. According to the impugned order, on the submission of the report by the Disciplinary Committee, the Executive Committee of the NFI decided in its meeting on 14.05.2013 to suspend the membership of the petitioner with immediate effect and appoint Ad-hoc Executive Committee of the petitioner-NAC to look after its affairs.

It is submitted by learned counsel for the petitioner that the power of suspension does not vest with the Executive Committee of the NFI as its powers are specifically spelt out in Article 7 of the Constitution and a member unit can only be removed by two-third majority of those present at the relevant meeting of the Council. The power of suspension exercised by the Secretary General/respondent No.2 has to be confirmed by the Executive Committee or the Council in its next meeting, whereas there is no such confirmation conveyed to the petitioner as the entire action is alleged to have been taken in the meeting held on 14.05.2013. It is also stated that there is no such provision as per which the Executive Committee can decide to appoint the Ad-hoc Executive Committee of the petitioner.

On merits, it is argued that the respondents have taken action against the petitioner for some alleged act of maleficence on the part of the erstwhile President of the NAC when he was the President of the NFI,

which has no relation with the working of the NAC.

Counsel for the respondents have argued that the writ petition is pre-mature because the final decision regarding removal of the petitioner is under consideration and suspension of the Executive Committee is an interim measure. The petitioner has a right of appeal under Article 14 of the Bye-laws, therefore, the writ petition is not maintainable. In respect of the grounds taken in para no.9 of the writ petition, the respondents have only submitted that the contents of para 9 and its sub-paras are wrong but nothing has been explained as to how the argument raised by the petitioner does not support his case for quashing of the impugned order. All that has been said is that since Gurbir Singh Sandhu did not submit the Utilization Certificate of ₹25,95,427/- to the MYSA and due to this reason, the NFI is not getting the financial assistance from the MYSA, therefore, the NAC has been suspended and its Ad-hoc Executive Committee has been appointed.

I have heard learned counsel for the parties and perused the record.

There is no dispute that the impugned order, suspending the petitioner, has been passed during the proceedings to be carried out under Article 13 of the Constitution of the NFI on the allegation that Gurbir Singh Sandhu, earlier President of the NFI itself, did not submit the Utilization Certificate of the amount of ₹25,95,427/- taken from the MYSA despite repeated reminders. Actually, this allegation has nothing to do with the NAC which is a State unit and the aforesaid amount sanctioned by the MYSA to the NFI was for the training of its team at Sydney for the CWG-

2010. The Union of India has though admitted in its reply that except for ₹78,500/-, un-spent amount plus interest thereon, which has not been deposited by Gurbir Singh Sandhu with the Government, the other amount has been spent but he had not submitted the original vouchers/receipts. In this regard, Gurbir Singh Sandhu had taken the stand that income and expenditure account of the training of Netball team, trained in Sydney during February-March, 2010 has been accounted for through Chartered Accountant Manjani Associations.

Be that as it may, the question which still arises is as to whether the Executive Committee of the NFI can suspend the NAC and appoint its Ad-hoc Executive Committee?

There is no power shown to the Court flowing from the Constitution and the Bye-laws of the NFI of putting the Executive Committee of a member unit under suspension except for Article 8 in which it is provided that the Secretary General could issue a show cause notice and suspension order if there is violation of rules of the federation but such action is required to be confirmed by the Executive Committee or the Council of the NFI in its next meeting. Nothing has been brought on record by the respondents that the action of suspension was further confirmed after it has been taken and there was any power to appoint Ad-hoc Executive Committee. As regards objection raised by the respondents that the petitioner should have file appeal under Article 14 of the Constitution of the NFI, it is suffice to mention that the said appeal could have been filed only when the action of suspension taken by the Executive Committee of the NFI

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was confirmed in the next meeting by the Executive Committee or the Council and in the absence of any such order having been passed, there was no occasion for the petitioner to file appeal.

Thus, in these facts and circumstances, the first petition succeeds and the order of suspension of the petitioner dated 19.05.2013 is hereby quashed.

The second petition is also against the order of suspension. The Disciplinary Committee was constituted by the NFI on the complaint made by Gaurav Malik and Sidhant Sehgal to look into the allegations in respect of the illegalities and irregularities committed during 29th and 30th Senior National Netball Championships by the NAC. The Disciplinary Committee placed its preliminary report on 04.08.2013 before the Executive Committee meeting held on the same day. The Executive Committee directed the Disciplinary Committee to further investigate the matter by issuing the notice to the NAC. The Disciplinary Committee placed its report dated 02.10.2013 and the NFI, while agreeing with the Disciplinary Committee, recommended for action to be taken against the President, General Secretary, Joint Secretary and members of the Executive Committee and the Selection Committee of the NAC and the players involved in the abovesaid offences, because it was alleged to be a case of impersonation. The Disciplinary Committee issued show cause notice to the General Secretary of the NAC for proposed recommendation of suspension on behalf of the Executive Committee and on the basis of Article 13, amended on 30.03.2013, the Executive Committee suspended the affiliation of NAC

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and ordered for registration of the FIR against its office bearers. The Executive Committee also decided the formation of an Ad-hoc Executive Committee of the NAC.

Counsel for the petitioner has submitted that the impugned action has been taken on the basis of an amendment of Article 13, which empowers the Executive Committee to place a member unit under suspension, but the said amendment has not been carried out according to the procedure provided under Article 17 of the Constitution of the NFI which has been separately challenged in the third petition. It is also submitted that the respondents have also violated the principle of natural justice because the relevant documents, which form basis of the impugned action against the petitioner, were not supplied to the petitioner before taking such action and it also suffers from personal bias because respondent No.3 had chaired the Disciplinary Committee meeting and also participated in the meeting of the Executive Committee. There was no power with the respondents to appoint the Ad-hoc Executive Committee of the NAC.

On merits, it is submitted that the issue of impersonation is personal in nature to the coach and players involved and cannot be attributed to the NAC on the basis of which the impugned action has been taken.

On the other hand, the respondents have argued that the action has been taken of suspension as per the amendment of Article 13, which covers the power of removal as well as suspension.

At this stage, I would also deal with the third petition which has

been filed to challenge the power of amendment in the Constitution of the NFI and its Bye-laws. It is provided in Article 17 that any amendment to the Constitution or Bye-laws of the NFI may be proposed by a member Association with full membership or by the Executive Committee. The amendment may be made to the Constitution at any meeting of the Council by a two third majority of those present and entitled to vote, whereas the Bye-laws may be amended by a simple majority decision. Notice of the proposed amendments must be made, in writing, to the Honorary Secretary General of the Federation at least one year prior to the date of the Council meeting and at least nine months prior to the date of the meeting, the Honorary Secretary General shall circulate to all Member Association any proposed amendments to the Constitution or Bye-Laws.

It is argued by learned counsel for the petitioners that the proposed amendment was never circulated to the members of the Federation, giving them nine months time. It is rather submitted that the material changes have been brought in the Constitution by amendments dated 30.03.2013 and 04.03.2014 by which the amendments have been brought in Articles 2, 4, 5, 5A, 12, 13 and 17 of the Constitution.

Counsel for the respondents have submitted that the amendment in the Constitution of the NFI took place in the manner as stipulated in Para 1 of Article 17 and as the Council passed the amendment by 2/3rd majority, to which paras 2 and 3 of Article 17 was not applicable.

Un-amended Article 17 of the constitution which gives power for the amendment in the Constitution and the Bye-laws says that any

amendment to the Constitution and Bye-Laws of the Federation may be proposed by a member Association with full membership or by the Executive Committee. The amendment may be made to the Constitution at any meeting of the Council by a two third majority of those present and entitled to vote, whereas the Bye-laws may be amended by a simple majority decision but at the same time, it also provides that the notice of the proposed amendment must be made, in writing, to the Honorary Secretary General of the Federation at least one year prior to the date of the Council Meeting and the Honorary Secretary General shall circulate to all member associations any proposed amendments to the Constitution or Bye-Laws nine months prior to the date of its meeting.

In view of the categorical provisions made for amendment in the Constitution and in the absence of any evidence brought on record by the respondents that any notice was given for the proposed amendment, in writing, to the Honorary Secretary General of the Federation at least one year prior to the date of the Council meeting and that any such notice was given by the Honorary Secretary General to all Member Associations of any proposed amendments to the Constitution or Bye-Laws, it would not be difficult for this Court to hold that the amendment has been brought by the respondents totally in violation of the provisions of Article 17 of the Constitution of the NFI.

Hence, the third petition is hereby allowed and it is held that the amendment made by the respondents in the Constitution and the Bye-Laws, in violation of Article 17 (un-amended), is illegal.

Once it is held in the third petition that the very amendment in the Constitution and Bye-Laws of the Federation is illegal, the second petition is also hereby allowed, holding that the order of suspension of the petitioner was totally illegal and the same is hereby quashed.

In view of the decision taken in the first, second and the third petitions, the fourth petition has become redundant and the same is disposed of as such.

As regards the fifth petition, the respondents have taken the impugned action on the basis of an order passed by Lalit Jeewani, Competition Director of the Netball Organization Committee.

Despite asking repeatedly by the Court about the provisions under which the power has been exercised by Lalit Jeewani, no plausible answer has been given because the team was disqualified by Lalit Jeewani in terms of letter Annexure P-10 available on record. Moreover, in the Annual General Meeting of the NFI, the matter regarding disqualification/removal of the petitioner by Lalit Jeewani was not circulated as an agenda.

It is argued by learned counsel for the petitioner that a member unit can be removed only in terms of Article 13 of the Constitution which have not been followed by the respondents, which provides that a member unit can be removed by the affirmative vote of two-third of those present at the relevant meeting of the council. The respondents have allegedly sent an e-mail dated 24.04.2015 to the petitioner, claiming that in the Annual General Meeting dated 29.03.2015, the action of Lalit Jeewani has been

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affirmed/ratified. It is submitted that since the action of Lalit Jeewani was illegal and impermissible at the threshold, therefore, it could not have been ratified and otherwise also, the agenda dated 08.03.2015 circulated for the above Annual General Meeting did not contain the agenda item for removal of the NAC and could not have been covered by the last agenda which was meant for miscellaneous item. It is further submitted that the miscellaneous head could only cover those items which are emergent in nature and were not known at the time of preparation of the agenda, whereas in the instant case, the letter written by Lalit Jeewani was handed over on 03.02.2015 and the agenda was prepared on 08.03.2015. Thus, there was no reason for the respondents to have excluded the agenda item pertaining to removal of the NAC in case the respondents wanted the General Council to vote on it because the important issue like removal of a member unit could not have been taken up under the miscellaneous head. It is further submitted that the respondents did not circulate the minutes and also did not given a copy of the same, rather it is argued that the respondents have not even attached the minutes with their reply. It is further submitted that on 05.10.2015, the matter was taken up and heard and counsel for the NFI took time to address further arguments. This Court adjourned the matter to 06.10.2015 and on that day, the counsel for the NFI did not turn up and the matter was adjourned to 12.10.2015 and for the first time on 20.10.2015, counsel for the NFI produced the alleged minutes of the Annual General Meeting. It is, thus, submitted that the said minutes have been fabricated after seeking adjournment only to counter the argument raised by the petitioner about the

authority of the Competition Director to pass the order of removal. It is also submitted that the respondents have violated the principle of natural justice as no show cause notice was served upon it nor any opportunity of being heard was granted before removing it from the membership of the NFI.

Counsel for the respondents has argued that even if the Competition Director has no jurisdiction to remove/disqualify the petitioner from the membership, the actual decision has been taken in the Annual General Meeting on 29.03.2015, ratifying the action of the Competition Director. The rest of the allegations made by the petitioner have been denied.

From the aforesaid facts and circumstances, it is apparent that the Competition Director, who had passed the order of removal of the petitioner from the membership of the NFI on an un-dated letter, had no jurisdiction much-less competence to pass such an order. However, the question would be as to whether the said action taken by the Competition Director has rightly been affirmed/ratified in the Annual General Meeting, which was held on 29.03.2015.

In this regard also, it would be relevant to mention that the respondents did not include the item of removal of the petitioner from the membership in the agenda though it was an important agenda item which should have been specifically mentioned and circulated to the members so that they could have come prepared for deliberations and voting on the said agenda item and it could not have been taken up under the miscellaneous head because the miscellaneous head is only meant for those items which

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are emergent in nature and are not known at the time of preparation of agenda, whereas the Competition Director had handed over his letter dated 03.02.2015 to the NFI and the agenda for the Annual General Meeting was prepared on 08.03.2015, almost after a month, therefore, there was no reason for the respondents to have excluded the agenda item pertaining to removal of the petitioner from the membership of the NFI so that the General Council could have deliberated upon it before voting. The respondents have also violated the principle of natural justice as no opportunity of hearing much-less show cause notice was given before its removal from the membership.

Thus, in view of the facts and circumstances narrated here-in-above, I am of the considered opinion that the action of removal of the petitioner from membership of the NFI and appointment of the ad-hoc committee is totally illegal and hence, the fifth petition is also allowed, as prayed for.

March 15, 2015
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(Rakesh Kumar Jain)
Judge