

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.3765 of 2016
Date of decision:26.8.2016**

Prabhjot Kaur Bajwa

...Petitioner

Versus

Union of India and others

...Respondents

CWP No.5038 of 2016 (O&M)

Mr.Rishab Singh and another

...Petitioners

Versus

Union of India and others

...Respondents

CWP No.7564 of 2016 (O&M)

Shanti Kumar Singh

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Girish Agnihotri, Sr. Advocate with
Ms.Saroj Makkar, Advocate for the petitioner(s) in
CWP No.3765 and 5038 of 2016.
Mr.Vivek Singla, Advocate for respondent No.1.
Mr.K.S.Khehar, Advocate for respondent No.2.
Mr.Gitish Bhardwaj, Advocate for respondent No.3.
Ms.Monika Chhiber Sharma, DAG, Punjab.
Ms.Supriya Garg, Advocate for
Mr.Aditya Singh, Advocate for Indian Olympic Association-
respondent No.5 in CWP No.3765 of 2016.

RAMESHWAR SINGH MALIK, J. (Oral)

These three identical writ petitions bearing CWP Nos.3765,
5038 and 7564 of 2016, are being disposed of vide this common order, as

the issues involved therein are overlapping and learned counsel for the parties agree for disposal by this common order.

When these matters came up for hearing before this Court on 6.6.2016, following order was passed:-

“This order is in continuation of the orders dated 02.03.2016 and 30.03.2016 passed by this Court. Two rival factions of Federation of India have ventured to hold '24th Rhythmic Gymnastics National Championship' at different places. Both the factions claimed themselves to be the authorised faction of the Federation. Owing to the holding of championship, at one point of time, it was thought appropriate that some senior officer from the Ministry of Sports and Youth Welfare, India be directed to hold a joint meeting of all the factions so as to decide the issue amicably in the context of holding '24th Rhythmic Gymnastics National Championship' as a common event.

Concededly, election of office bearers of the Federation took place on 12.08.2015 and the same is not in issue in the present writ petition(s). In addition to the aforesaid Championship, other events were also sought to be held by the rival factions on different dates.

In considered opinion of this Court, the orders were passed on 02.03.2016 and 30.03.2016 with a view to resolve impending tussle between the rival factions of the Federation. This Court was of the view that two events under the same title cannot be permitted to be held separately by the rival factions. Restraint order was passed that none of the factions of the Federation will hold '24th Rhythmic Gymnastics National Championship' and other events. Thereafter on consensual basis the Secretary, Ministry of Sports and Youth Welfare, India was directed to hold joint meeting of all factions or to appoint some senior officer preferably of the Joint Secretary on his behalf in order to take decision in respect of fixing of date and venue of holding meeting of all the constituent members of

the Federation. It appears that on the date fixed for meeting, one of the faction raised objection with regard to participation of Dr. S.Shanti Kumar Singh, General Secretary, Gymnastic Federation of India in the meeting held on 21.04.2016 in the office of General Secretary, Gymnastic Federation of India. The meeting could not bring out the required result. Now both the parties are ad idem that a general body meeting of the Gymnastic Federation of India be ordered to be held under the supervision of Secretary, Ministry of Sports and Youth Welfare, India after giving requisite notice to all the constituent members of the Federation. The issue with regard to holding of different Championships/Events be debated and every endeavour be made to harmonise the impending tussle going on between the factions of the Federation. The issue of suspension of Dr. S. Shanti Kumar Singh, General Secretary be also debated in the meeting of the constituent members so convened under the supervision of the Secretary, Ministry of Sports and Youth Welfare, India. This Court is quite hopeful that the meeting shall be held in a congenial atmosphere and outcome of the meeting be intimated way of an affidavit to this Court by the next date of hearing. The Secretary, Ministry of Sports and Youth Welfare, India would be at liberty to submit report in connection with any other issue which according to him also touches the core issue, of course, after proper debate in the meeting.

Adjourned to 12.07.2016.”

No desired result came out of the meeting held in compliance of above-said order. Allegations and counter-allegations against each other were being levelled by both the fighting factions. Thereafter, on 12.7.2016, on the joint request made by the learned counsel for the parties, case was adjourned by passing the following order:-

“Learned counsel for the parties jointly pray for a short adjournment to seek instructions and give the names of at least

three persons, out of whom one could be appointed as an Arbitrator.

On their joint request, adjourned to 15.7.2016.”

During the course of resumed hearing today, learned counsel for the parties could not agree on any one name who may be appointed as an Arbitrator. However, learned counsel for Indian Olympic Association has pointed out that such a fact situation is squarely covered by para 27(iii) and (iv) of the Constitution of Gymnastics Federation of India. The relevant clauses (iii) and (iv), available at page 50 of the paper-book, read as under:-

iii) All unresolved disputes arising within the GFI shall be referred by the Federation to the IOA for settlement by the IOA under the Arbitration Act, 1940. For this purpose, the IOA shall elect a panel of Arbitrators to be decided by the IOA General Assembly at their Annual General Meeting out of whom parties to the disputes in a National Federation will elect one Arbitrator each and the third Arbitrator of the said panel will be mutually agreed upon by the two arbitrators. The arbitration proceedings shall be completed within the period specified under the Arbitration Act or with the time extended by the Arbitrators with the consent of the parties.

iv) In the event of dispute within an affiliated unit of the GFI which affects normal working of the unit and prevents preparation and training of the sport team under the charge of the unit for purpose of international/ representation/ competition under the aegis of the IOC, the IOA will constitute an ad-hoc body from with the members of the General Assembly associating such person from outside as may be necessary, to continue with the work of preparation and training of that particular sport/team until the dispute within the unit is resolved.”

Learned counsel for the parties are ad idem that since the issues involved in all these three writ petitions would be taken care of by the

procedure provided in the above-said clauses (iii) and (iv) of the Constitution of Gymnastic Federation of India, let the matter be referred to the Indian Olympic Association through its General Secretary, with a direction to him to proceed further in the matter, without any loss of time, so that day to day affairs of Gymnastics Federation of India are run smoothly.

However, at this stage, learned senior counsel for the petitioners has rightly pointed out that the Secretary, Ministry of Sports and Youth Welfare, Government of India, may also be directed to monitor the progress, so that a workable solution is found and such kind of unpleasant situation may also not arise in future.

Learned counsel for Union of India submits that although Ministry of Sports and Youth Welfare, Government of India, is providing financial assistance of huge amount to the recognised National Sports Federations, under the Scheme of Assistance to NSFs' as per the norms prescribed in the Scheme, but the Ministry has no control on the day to day affairs of all these Federations. If that is so, it is very unfortunate. It is so said because after providing financial assistance of huge amount from the public funds, Ministry of Sports and Youth Welfare cannot put its hands off in such a casual manner.

In fact, once the huge amount from the public funds is being provided as financial assistance to all these Sports Federations in the country, Ministry of Sports and Youth Welfare, Government of India, is not only duty bound but under legal obligation as well, to see as to whether the management, including day to day affairs of these Federations, are being run properly or not. It would have every right and responsibility to see as to whether the financial assistance being provided to these Federations, is also

being spent diligently or not.

In view of the above-said undisputed fact situation of these cases in hand, this Court is of the considered opinion that it is high time that the Ministry of Sports and Youth Welfare, Government of India, must come forward to take immediate remedial measures. Let the appropriate regulations/guidelines be framed at an early date, putting in place an effective mechanism, which must be made binding on all these Federations, who are receiving financial assistance from the Ministry of Sports and Youth Welfare, Government of India. Admittedly, it is the public money and every penny thereof must be spent diligently and should also be subject to periodical audit.

In fact, present one is not the only case. In the recent past, it has been experienced that inter-se fight amongst the members of these Federations has been going on and ultimately the sufferers are the sportspersons of the country. The issue is very sensitive and of great importance which will have far reaching consequences in the field of sports. Once Government of India is the pay master, it must have pervasive control also. In fact, any citizen of this great country would be at pains to see that how cruel joke is being played with our players, at the hands of our sport federations, like the present one. Hardly any sportsmanship is visible in these sport federations, if one may see it in the context of enormous and avoidable litigations, which are being pursued in the courts for and against these federations. Can Government of India afford to say no? No, it cannot. And it must not. Sooner the better. Its interference is overdue. It is more than enough. Now, let the Government act.

So far as the instant set of writ petitions is concerned, the

matter forthwith stands referred to Indian Olympic Association, in view of the above-said clauses (iii) and (iv) of para 27 of the Constitution of Gymnastics Federation of India. Indian Olympic Association through its General Secretary is directed to proceed further without any loss of time and take all possible remedial measures in a time bound manner and at the earliest. Let the needful be done within a period of three weeks from the date of receipt of a certified copy of this order. Indian Olympic Association shall also impress upon the Arbitrator to conclude the arbitration proceedings at an early date.

Let the Secretary, Ministry of Sports and Youth Welfare, Government of India, also take immediate steps. Let appropriate regulations/guidelines be put in place at the earliest possible time and in any case within a period of six months from the date of receipt of a certified copy of this order. After doing the needful, Secretary, Ministry of Sports and Youth Welfare, Government of India, shall file his own affidavit, along with action taken report, before this Court.

Under the above-said compelling circumstances created by the undesirable and unwarranted activities of these type of federations, operating from different parts of the country, it has become the compulsive necessity for this Court to issue these directions. This Court hope and trust that the Government of India will rise to the occasion and shall put in place an effective and purposeful mechanism, with a view to ensure objective and smooth functioning of all the sport federations in the country, so as to achieve the great object of excellence in the field of sports, enabling our sportspersons to compete with their counterparts from different countries, in one and all events of international level.

Registry is directed to list only one writ petition bearing CWP No.3765 of 2016 (Prabhjot Kaur Bajwa Vs. Union of India and others), on 15.3.2017 for compliance.

A copy of this order, under the signatures of Special Secretary attached to this Bench, be given dasti to the learned counsel for the Union of India as well as learned counsel for Indian Olympic Association, for onward transmission to the authorities concerned, for compliance thereof.

With the above-said observations made and directions issued, all these writ petition stand disposed of, however, with no order as to costs. All the pending applications also stand disposed of.

26.8.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No