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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

W.P.(C) 2592/2014

ALAKNANDA ASHOK

..... Petitioner

Through: Mr. Aruneshwar Gupta and Ms. Parul
Bose, Advs.

Versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Bhagvan Swarup Shukla and Mr.
Rachit Goel, Advs. for UOI.

AND

+ W.P.(C) 3326/2014

ALAKNANDA ASHOK

..... Petitioner

Through: Mr. Aruneshwar Gupta and Ms. Parul
Bose, Advs.

Versus

INDIAN KAYAKING AND CANOEING ASSOCIATION
& ORS.

..... Respondents

Through: Mr. Abhay Prakash Sahay, Mr. Syed
Husain Adil Taqvi and Mr. Amit
Kishore Sinha, Advs. for R-6.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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27.04.2016

1. W.P.(C) No.2592/2014 was filed (i) seeking mandamus to the respondent No.1 Union of India (UOI), respondent No.2 Indian Kayaking and Canoeing Association (IKCA), respondent No.3 Dr. P.S. Chauhan, Returning Officer and respondent No.4 Mr. Regunathan, President of respondent No.2 IKCA to hold election of the Governing Council of the

respondent No.2 IKCA; (ii) impugning the order dated 18th April, 2014 communicated to the petitioner on 20th April, 2014 rejecting the candidature of the petitioner for the post of President of the respondent No.2 IKCA; (iii) seeking mandamus for including the name of the petitioner in the form 4 for contesting the election for the post of President of the respondent No.2 IKCA; and, (iv) seeking appointment of an observer for the election.

2. No interim relief was granted to the petitioner and election was held.

3. W.P.(C) No.3326/2014 has been filed by the petitioner (i) for setting aside of the election held on 27th April, 2014 for the Executive Committee and its office bearers; (ii) impugning the election of Mr. Regunathan (respondent No.3 in this petition) as President, of Mr. Balbir Singh Kushwaha as General Secretary and of Mr. Dileep Kumar as Treasurer of the respondent IKCA (respondent No.1 in this petition); (iii) for prohibiting the said persons from acting as President, General Secretary and Treasurer respectively; and, (iv) seeking mandamus for holding of a fresh election.

4. When the matter was listed on 21st March, 2016, the counsel for the petitioner stated that Mr. Regunathan who was elected as the President was due to attain the age of 70 years on 3rd May, 2016 and as per the National Sports Development Code of India 2011 and Memorandum of Association of the respondent IKCA, cannot continue as President beyond the age of 70 years.

5. Today none appears for Mr. Regunathan or for the respondent IKCA. I may notice that on the last date as well as on several previous dates, there has been no representation on their behalf.

6. The counsel for the petitioner states that he confines the relief in these petitions to a direction that upon Mr. Regunathan attaining the age of 70 years on 3rd May, 2016, he shall cease to be the President and in accordance with the Memorandum of Association of the respondent IKCA the vacancy shall be filled up. He however states that it be directed that the said vacancy shall be filled up by holding a fresh election. He has in Court also handed over a copy of the letter dated 5th March, 2015 of the Ministry of Youth Affairs & Sports, Govt. of India to Mr. Balbir Singh Kushwaha, General Secretary of the respondent IKCA to show that the date of birth of Mr. Regunathan is 3rd May, 1946 and that he will be attaining the age of 70 years on 29th May, 2016 (sic for 3rd May, 2016) and that his tenure is till then only.

7. The counsels for UOI state that the said aspects are not part of these writ petitions. He however states that he has no instructions, whether Mr. Regunathan is attaining the age of 70 years on 3rd May, 2016 or not and what is the procedure for filling up the vacancy which will be so created in the post of President.

8. As far as the objection of the counsel for UOI, of this aspect being not subject matter of these petitions, the Court can always mould the relief as per the intervening events. No purpose will be served in deciding the challenge to the election of Mr. Reghunathan, as President to which these petitions are now confined, if the term of Mr. Reghunathan as President is coming to an end.

9. From the letter dated 5th March, 2015 of the Ministry of Youth Affairs & Sports, Govt. of India handed over today and to doubt which there is no reason, the stand of UOI also is that the said Mr. Regunathan will cease to

be the President of the respondent IKCA on 3rd May, 2016. Clauses to the said effect are also shown in the Memorandum of IKCA and in the National Sports Code of India supra.

10. As far as the relief sought by the petitioner, of the vacancy so created being filled up by holding a fresh election, the counsel for the petitioner himself fairly states that it is not so specifically provided in the Memorandum of Association of the respondent IKCA, which only provides that the vacancy shall be filled up for the balance tenure of the Executive Committee. He however contends that the same has to be necessarily filled up by holding a fresh election for the post of the President.

11. No direction in this regard can be given, since the same is not subject matter of these petitions and the respondent IKCA does not have notice of the said aspect and is today not before this Court. All that can be observed is that it will be open to the petitioner to apply to the respondent IKCA as well as to the UOI for initiation of steps for filling up the vacancy in accordance with the Memorandum of Association of the respondent IKCA and National Sports Development Code of India and if remains aggrieved, to take appropriate remedy in accordance with law.

12. The petitions are disposed of with a direction to the UOI, Ministry of Youth Affairs & Sports to ensure that Mr. Regunathan, President of respondent IKCA, on attaining the age of 70 years, if on 3rd May, 2016, ceases to act as the President of the respondent IKCA and/or if does not so demit his office, to take appropriate action in that respect.

13. I may record that the contention of the counsels for UOI also is that the petitioner is not eligible to contest the fresh election and was not eligible to contest the election and it is impugned in the petitions also.

14. The counsel for the petitioner controverts.

15. In the event of fresh election being held and the petitioner being desirous of contesting the same, it will be open to the appropriate authority to take a decision in this respect and if the petitioner is aggrieved therefrom, the petitioner shall have remedy with respect thereto in accordance with law as well.

No costs.

Copy of this order be given *dasti* under the signatures of the Court Master.

RAJIV SAHAI ENDLAW, J.

APRIL 27, 2016

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