

\$~23,33&34

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
W.P.(C) 4535/2016 & CM No.18911/2016 (for stay)
TAEKWONDO FEDERATION OF INDIA Petitioner
Through: Mr. Sudhir Nandrajog, Sr. Adv. with
Ms. Himakshi Nanda, Adv.
Versus
INDIAN OLYMPIC ASSOCIATION Respondent
Through: Mr. Aditya Singh, Adv. IOA.
AND
W.P.(C) 4560/2016 & CM No.19034/2016 (for stay)
STATE TAEKWONDO ASSOCIATION
OF TELANGANA AND ANR Petitioners
Through: Mr. Ankit Sharma, Adv.
Versus
INDIAN OLYMPIC ASSOCIATION AND ORS Respondents
Through: Mr. Aditya Singh, Adv. IOA.
AND
+ W.P.(C) 4561/2016 & CM No.19036/2016 (for stay)
ALL ASSAM TAEKWONDO
ASSOCIATION AND ANR Petitioners
Through: Mr. Rahul Bakshi, Adv.
Versus
INDIAN OLYMPIC ASSOCIATION AND ORS Respondents
Through: Mr. Aditya Singh, Adv. IOA.
CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% **18.05.2016**

CM No.18910/2016 in W.P.(C) No.4535/2016
CM No.19033/2016 in W.P.(C) No.4560/2016
CM No.19035/2016 in W.P.(C) No.4561/2016 (all for exemptions)

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

W.P.(C) 4535/2016, W.P.(C) 4560/2016 & W.P.(C) 4561/2016

3. All the three petitions concern the election to the Executive Council of Taekwondo Federation of India (TFI) and are a sequel to the order dated 30th March, 2016 in W.P.(C) No.2753/2016 titled *Taekwondo Federation of India Vs. Indian Olympic Association*.

4. W.P.(C) No.2753/2016 supra was filed impugning the communication dated 2nd March, 2016 of Indian Olympic Association (IOA) directing the said elections to be held at the earliest. It was the contention of TFI in the said petition that the elections were then not due and the IOA could not direct the elections to be held.

5. Finding that there was a dispute as to the management of TFI and a challenge to the election earlier held and in which those who had filed the petition had been elected, W.P.(C) No.2753/2016 was disposed of vide order dated 30th March, 2016 by directing fresh elections to the Executive Council of TFI to be held after preparation of the fresh electoral roll by a retired Judge of this Court appointed as the Commissioner for the said purpose.

6. The Commissioner so appointed has prepared the electoral roll and it appears that IOA has now appointed another retired Judge of this Court as the Returning Officer (RO) for holding the election and which RO has issued notification dated 11th May, 2016 notifying the elections and the schedule thereof, with the election being held at Ranchi.

7. The contention of the senior counsel for the TFI in W.P.(C) No.4535/2016 impugning the notification dated 11th May, 2016 is that IOA cannot appropriate to itself the task of holding the election to the Executive Council as the said election has to be held in accordance with the

Constitution of the TFI and which Constitution does not permit IOA to perform a role as IOA is performing including of appointment of a RO for the said election. It is also the contention that the elections cannot be held at Ranchi and all past elections have always been held at Delhi.

8. The counsel for the sole respondent IOA appearing on advance notice in W.P.(C) No.4535/2016 states that the RO has been appointed in accordance with the earlier order dated 30th March, 2016 supra (particularly para 15(iii) thereof) and the RO has notified the election to be held at Ranchi as Mrs. Renu Mahant and / her husband have in the past manipulated the elections held at Delhi owing to the considerable clout exercised by them, resulting in either of them being elected as President of TFI. It is otherwise also stated that even the IOA holds its Annual General Meetings (AGMs) at different places by rotation and there is no reason why the election of the Executive Council of TFI which represents the entire country should be confined to Delhi only. Apprehensions are again expressed with respect to the fairness of the election if permitted to be held at Delhi.

9. As per the Constitution of TFI, the office of TFI is at Delhi. Admittedly all past elections have been held at Delhi, without any objection. I am of the view that neither is the IOA empowered to direct elections to be held outside Delhi nor is there any material before the Court to hold that elections, if permitted to be held at Delhi, will not be fair. I have thus enquired from the counsel for the IOA as to what safeguards can be put in place to ensure that the outcome of the elections if held at Delhi is not affected by any influence which is alleged to be exercised by Mrs. Renu Mahant and her husband who also represents the TFI.

10. The counsel for IOA informs that the office of TFI at Delhi is at the residence of Mrs. Renu Mahant and thus the election would be held at the said office only.

11. The senior counsel for TFI has no objection to the election being held at any neutral venue, as long as the same are held in Delhi.

12. The senior counsel for TFI also states that to avoid any controversy, this Court may appoint a RO for holding the election.

13. Though time was given to senior counsel for TFI and counsel for IOA to mutually agree on the name of a former Judge of this Court as RO, but they have been unable to and have left it to this Court to nominate a former Judge as RO.

14. W.P.(C) Nos.4650/2016 & 4561/2016 have been filed by the State Taekwondo Association of Telangana and All Assam Taekwondo Association respectively being aggrieved from the report of the Court Commissioner appointed vide order dated 30th March, 2016 to draw up the electoral college for the election aforesaid. The petitioner in W.P.(C) No.4561/2016 states that the Court Commissioner has appointed the office bearer of the rival faction to participate in the election, being guided by the order of the Civil Judge No.1 Ramroop (Guwahati) when the said order has been stayed by the High Court of Assam. Similarly, the counsel for the petitioner in W.P.(C) No.4560/2016 has contended that the office bearers of the rival faction which held the election five days after the election were held, have been found by the Court Commissioner as eligible to participate in the election aforesaid.

15. Having heard the counsels, I am of the opinion that this Court cannot go into the *inter se* disputes in the various constituents of TFI. It was for this reason only that in the order dated 30th March, 2016 in W.P.(C) No.2753/2016 appointing the Court Commissioner, it was clarified that the report of the Court Commissioner shall be treated as an admission and shall not be open to challenge. Of course, the petitioners in W.P.(C) Nos.4560/2016 and 4561/2016 were not parties to W.P.(C) No.2753/2016 and technically may not be bound by such admission but the fact remains that this Court has no jurisdiction to deal with the *inter se* disputes in the various constituents of TFI and the said disputes have to be adjudicated locally. All that can be done is to observe that if any Court, in a dispute between the rival factions of the State unit, nominates any particular faction / person to participate in the election to the Executive Council of the TFI, the said order would override the report of the Court Commissioner, if received within the schedule laid down for the elections.

16. Accordingly, W.P.(C) No.4535/2016, 4560/2016 & 4561/2016 are disposed of with the following directions:

- (i) Justice M.L. Mehta (Retd.) is appointed as the Returning Officer to hold the elections to the Executive Council of TFI and is authorised to fix his own terms, including of emoluments, in consultation with the parties;
- (ii) Resultantly, the election notification dated 11th May, 2016 impugned in the petition is of no avail;
- (iii) The Returning Officer so appointed to hold the elections before the end of July, 2016 and to issue the election notification latest

by 7th June, 2016;

- (iv) The elections be held at B-29, Qutab Institutional Area, New Delhi being the office of IOA;
- (v) IOA to make appropriate arrangements as may be directed by the Returning Officer for holding of the said election;
- (vi) The elections be held in accordance with the Constitution of TFI and on the basis of the electoral college as per the report of the Court Commissioner appointed vide order dated 30th March, 2016 supra;
- (viii) However if in any *inter se* dispute between the rival factions of any of the constituents of TFI, the Court makes an order permitting a person other than that whose name finds mention in the report prepared by the Court Commissioner aforesaid as entitled to participate in the election, the said Court order shall override the report of the Commissioner, subject of course to the certified copy thereof being furnished to the Returning Officer within the relevant time as per the schedule of the election to be fixed by the Returning Officer.

Dasti.

RAJIV SAHAI ENDLAW, J

MAY 18, 2016

‘gsr’..