

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

Pronounced on: 15th January, 2016

+ WP(C) 8734/2014

RAJIV DUTTA

..... Petitioner

Through: Mr.Rajiv Dutta (Petitioner in-person)
with Mr.Danish George, Mr.Shivam
Singh, Mr.Shravan Kumar Yammanur
and Mr.Kumar Dushyant Singh,
Advs.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Monica Arora, CGSC for R1
Mr. Aditya Singh, Adv. for R2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

J U D G M E N T

G. ROHINI, CHIEF JUSTICE:

1. This petition by way of Public Interest Litigation has been filed raising the issue relating to the alleged illegal suspension of the Respondent No.5 from participation in the competitions of Amateur International Boxing Association (AIBA) and the alleged failure of the Respondents 1-3 i.e., Union of India, (Department of Sports), the Indian Olympic Association and Boxing India to challenge the said decision of AIBA.

2. The Respondent No.5 is a Boxer who represented India in the 17th Asian Games conducted by AIBA at Incheon, Korea between 19.09.2014 to 04.10.2014. It is not in dispute that the respondent No.5 had participated through Respondent No.3/ Boxing India, an organization recognized by

AIBA to represent the sport of boxing in India. Alleging discrepancies in the manner of operation of semi final match in which the Respondent No. 5 had participated and non-compliance of Olympic Charter and its Statute, the Respondent No.5 along with her coaches was provisionally suspended by AIBA on 21.10.2014.

3. The present petition came to be filed on 05.12.2014 alleging that no guidelines are in place for settlement of disputes with International Sports Bodies and contending that it is necessary to ensure that clear guidelines are formulated for dispute settlement within the sports bodies that come under the jurisdiction of respondent No.1.

4. From 10.12.2014 the petition was adjourned to 17.12.2014 by which time a final order came to be passed by the Disciplinary Committee of AIBA placing the Respondent No.5 under suspension for a period of one year.

5. On 24.12.2014 we have directed notice to the Respondent No.3. On 05.01.2015, Sh. Chetan Sharma, the learned Senior Counsel appeared on behalf of Respondent No.3 and submitted that no remedy of appeal is available against the order dated 17.12.2014 of AIBA placing the Respondent No.5 under suspension.

6. On 14.01.2015 we have directed notice to the Respondent No.2/ Indian Olympic Association, Respondent No.4/AIBA as well as the Respondent No.5.

7. Both Respondent Nos. 4 and 5 have not chosen to appear. Though appearance has been entered on behalf of Respondent No.2/Indian Olympic Association, no counter affidavit has been filed on its behalf till date.

8. So far as the Respondent No.1/UOI is concerned a short affidavit has been filed on 17.03.2015. In the meanwhile, since the period of suspension of one year had expired on 01.10.2015, it is conceded by the petitioner that the prayer (a) in the petition, i.e. to direct the Respondent Nos.1 and 2 to take immediate steps to avail the appropriate legal remedies against the decision of AIBA dated 21.10.2014 placing Respondent No.5 under suspension does not survive.

9. However, the petitioner seeks a direction to the Respondent No.1/Union of India to take due cognizance of the Rules and Regulations framed by the Court of Arbitration for Sports (CAS) situated at Switzerland and to direct the respective Federations and Associations in India to incorporate the CAS Arbitration clause within their respective rules/regulations/bye-laws.

10. The material placed before this Court shows AIBA is an International Boxing Association registered under the laws of Switzerland. The disciplinary matters applicable to AIBA are governed by Disciplinary Code adopted by the Executive Committee of AIBA. It is also not in dispute that an appeal lies against the decision of the Respondent No.4/ AIBA to the Court of Arbitration for Sports (CAS) and Respondent No.4 recognizes the jurisdiction of CAS.

11. It is pleaded by the petitioner that Rule 61.2 of the Olympic Charter which provides that any dispute arising in connection with the Olympic Games shall be submitted exclusively to CAS in accordance with the Code of Sports related Arbitration applied to Asian Games also since the term “Olympic Games” includes Asian Games.

12. It is contended by Shri Rajiv Dutta/ petitioner appearing in person that in terms of prayer (b) of the writ petition, the respondent No.1/Union of India may be directed to incorporate CAS Arbitration Clause in the Rules and Regulations of the National Sports Federations. It is also submitted by him that the National Sports Code of 2011 which primarily deals with administering the affairs of the various National Sport Federations within India contains a provision of appeal to CAS. It is further submitted by Shri Rajiv Dutta that Article 63.3 of AIBA Statute provides that recourse to the courts of law of a country is permitted where the law of the country mandates such recourse. The petitioner therefore submits that if a provision is incorporated in the National Sports Development Code of India, 2011 providing a remedy of appeal to CAS, it would empower sports persons in India to appeal against the unjust and unlawful decisions of AIBA and other such International sports bodies.

13. In the short affidavit filed by the Department of Sports, Union of India it is explained that series of meetings were convened by the Department of Sports in which representatives of Indian Olympic Association, Boxing India and Sports Authority of India were present and the issue of suspension of Respondent No.5 by AIBA and the feasibility of filing an appeal against the said decision were discussed. The Minister of

State for Youth Affairs and Sports Minister addressed to the President AIBA, to revoke suspension of Respondent No.5. On 12.12.2014 the Disciplinary Commission of AIBA suspended Respondent No.5 from any activity at the National, Confederation and International Levels for a period of one year starting from 1st October, 2014. There is no provision of appeal against the said decision and thus, the decision of Disciplinary Commission of AIBA has become final.

14. We have heard the learned Counsels for both the parties. It is apparent from the material placed on record that no remedy is available as of today to appeal to CAS against the decision of the International Sports Bodies like AIBA. The fact that CAS is the final authority for settlement of disputes arising out of the decisions of International Sports Bodies has not been disputed by the Respondent No.1. It also appears that the National Sports Code of 2011 contains a provision of appeal to CAS against any decision of Sports Federations in India.

15. Though no mandamus can be issued to the Respondent No. 1 to incorporate such provision for remedy of appeal to CAS against the decisions of the International Sports Bodies, in the light of the facts and circumstances that have been brought to our notice in the present case, we deem it appropriate to direct the Respondent No. 1 to consider the contents of this petition as a representation and take an appropriate decision in accordance with law after giving an opportunity of personal hearing to Shri Rajiv Dutta, Senior Advocate/ petitioner herein to substantiate his plea that it is essential to ensure incorporation of a specific provision for dispute

settlement with International sports bodies. The needful may be done within three months from today.

16. Writ petition is accordingly disposed of.

CHIEF JUSTICE

JAYANT NATH, J

JANUARY 15, 2016

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