

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.174 OF 2017

ORDER:

Hyderabad Cricket Association (HCA), Uppal, Ranga Reddy District, is the revision petitioner.

The revision petitioner challenges order dated 23.12.2016 in I.A.No.899 of 2016 in O.P.No.1254 of 2016 in the Court of the V-Additional District Judge, Ranga Reddy.

The order under revision reads as follows:

"No prejudice would be caused to either side, if the commissioner for the elections is appointed and the respondents also submitted no objection for appointment of an Commissioner for conducting election. *(emphasis added)*. Therefore this Court holds that the petitioner is entitled for the relief of appointing Commissioner for conducting elections. Any observations made herein is only for the purpose of disposal of this Interlocutory Application and the parties are at liberty to urge all contentions as available in Law in the main Original Petition. The observations made at this Interlocutory stage will not bind on main suit. Accordingly, this point is answered.

In the result, this Interlocutory Application is allowed by appointing Sri K.Rajeevreddy, Advocate as Commissioner for conducting elections of the Respondent No.2 after issuing voter's list and voter ID cards in accordance with the resolution dt.20.11.2016 and declaring results. His fees is fixed at Rs.15,000/- payable by the petitioner directly and for report".

Heard Mr. Vedula Venkata Ramana, learned senior counsel for petitioner, Mr.Mir Masood Khan for 1st and 2nd respondents and Mr.K.SMurthy for 3rd respondent.

On 21.12.2016, respondents 1 and 2 herein filed, under Section 23 of the A.P. Cooperative Societies Registration Act, 2005, O.P.No.1254 of 2016 in the Court of the V-Additional District Judge, Ranga Reddy praying for a decree:

- i. declaring the acts/actions of respondent No.1 in not complying with the resolutions of special general body meeting held and conducted on 20.11.2016 by members of 2nd respondent HCA and not following the Justice Lodha Committee recommendations in terms of judgments in 2015 S.C 3194, Civil Appeal No.4236/2014 dated 15.5.2014 and order in Civil Appeal No.4236/2014 dated 18.7.2014 as arbitrary, violative, ultra vires, mala fide, illegal, non est, null and void.
- ii. direct the respondent No.1 and 2 to scrupulously to follow the bye laws and recommendations of Justice Lodha Committee in terms of judgment of Supreme Court stated above by fixing, conducting election of HCA, notifying time place of election.

Respondents 1 and 2 filed I.A.No.899 of 2016 for appointment of Commissioner for performing ministerial acts or administrator to conduct elections of HCA on the fixed date or by fixing any other date by issuing voters list, voters ID cards and declare the results by implementing resolutions/decisions dated 20.11.2016, taken in the Special General Body Meeting of HCA/petitioner herein pursuant to notice No.HCA/SGM dated 29.10.2016. The learned trial Judge ordered urgent notice to petitioner and 3rd respondent herein. Counsel for respondents 1 and 2 herein served notice on *Ad hoc* Committee of HCA. The *Ad hoc* Committee/3rd respondent herein entered appearance through Mr.B.Suresh and counter affidavit was filed by opposing the prayer for appointment of Commissioner.

As already noted with emphasis in the order dated 23.12.2016, the counsel representing petitioner and respondent No.3 consented to appointing Commissioner for carrying out the resolutions.

Having regard to the factual and legal objections raised by the petitioner herein against appearance by petitioner, record in O.P.No.1254 of 2016, including I.A.No.899 of 2016, was summoned. The record is perused and at appropriate stage of this order, the contents in this record are adverted.

The case of respondents 1 and 2 is that despite the law declared by the Apex Court in *BOARD OF CONTROL FOR CRICKET IN INDIA v. CRICKET ASSOCIATION OF BIHAR AND OTHERS*¹, the acceptance of the recommendations of Justice Lodha Committee by the Apex Court and the categorical undertaking given by the petitioner herein as respondent No.3 in W.P.No.16606 of 2016, the judgment and recommendations of Justice Lodha Committee are not implemented or elections to HCA are conducted. The various acts of commission or omission by the former committee have put the larger interest of HCA, the club members, cricket and cricket lovers in jeopardy. It is admitted by the parties to the revision that notice No.HCA/SGM dated 29.10.2016 was issued to the club members of petitioner for convening meeting on 20.11.2016. The agenda item reads thus:

“to consider directions of the Justice (Retd) Lodha Committee to carry out necessary amendments to the memorandum, rules and regulations of the HCA to bring them in terms with

¹ AIR 2015 SC 3194

the judgment of the Hon'ble Supreme Court in Civil Appeal No.4235 of 2014 (Board of Control for Cricket in India v. Cricket Association of Bihar and others) dated 18.07.2016”.

This Court hastens to add that on the resolution said to have been passed in the Special General Meeting held on 20.11.2016, the parties join issue. The petitioner, represented through Secretary, relies upon minutes of Special General Meeting filed at Page No.299 in the paper book filed in this revision and whereas respondents 1 and 2 rely upon document No.11 filed in O.P.No.1254 of 2016. After examining the record in O.P.No.1254 of 2016, at the outset, I would like to remark that the copy of minutes of meeting relied upon by the petitioner is not the document basing on which respondents 1 and 2 have moved the Court for directions. The trial Court after taking note of consent of contesting parties appointed Commissioner for the purpose of conducting elections etc. Hence, the revision.

Sri Vedula Venkata Ramana, appearing for petitioner, contends that the prayer for appointing Advocate Commissioner to conduct elections of petitioner Association is substantially same and similar to the main prayer in O.P.No.1254 of 2016. Therefore, the interlocutory application could not have been heard and disposed of by the trial Court. According to him, under Chapter IX of the byelaws of petitioner Association, the Association shall sue and be sued in its name, represented by the Secretary. Respondents 1 and 2 are aware of the requirement of byelaws, but the petitioner Association was not represented by its Secretary. The petitioner,

therefore, did not have opportunity to represent before the trial Court and on that ground, the order impugned in the revision is liable to be set aside. He further contends that on 29.05.2016, in the Annual General Meeting of the Association a resolution was passed to the effect that the elections to Executive Committee would be held on the last Sunday of May 2017 as a one time measure by amending the Memorandum, Rules and Regulations of the HCA. Thus, by virtue of the resolution passed on 29.05.2016, the petitioner herein is represented by the Executive Committee, then in office and the Association shall be represented by its Secretary. Therefore, there is no room for appointing *Ad hoc* Committee. According to him, the byelaws do not provide for constituting *Ad hoc* Committee and, therefore, the *Ad hoc* Committee is illegal and has no legal standing to implement the resolution dated 20.11.2016. The learned senior counsel has stated that in this revision the validity or otherwise of the resolutions on which the respective parties are relying upon cannot and could not be gone into, as the members aggrieved by the resolution are yet to challenge the resolution relied upon by respondents 1 and 2. He contends that the appointment of Commissioner to conduct elections is contrary to the very recommendations accepted by the Apex Court, for the elections to HCA shall be conducted under the supervision of an officer of the State Election Commission. He prays for setting aside the order appointing Advocate Commissioner and the further steps taken by Advocate Commissioner pursuant to the interim order dated 11.01.2017 in the instant revision.

Mr.Mir Masood Khan, appearing for respondents 1 and 2, contends that the term of last elected Executive Committee was 2013-2016 and the resolution dated 29.05.2016 extending the term of office of the outgoing Committee was not accepted by the competent authority. The resolution cannot automatically extend the term of Executive Committee. In other words, according to him, it expired by 2016. According to him, the letters dated 23.11.2016 and 14.12.2016 of the District Registrar, Ranga Reddy refuse the amendments proposed in the Annual General Meeting held on 29.05.2016 as repugnant to the byelaws of the HCA. He specifically draws the attention of the Court to the conclusion of District Registrar that the amendments proposed through resolution dated 29.05.2016 were made without proper notice to members. Amendments made in Annual General Meeting held on 29.05.2016 are null and void. In view of the non-acceptance of amendment to byelaws, the term of the Committee was over.

He contends that in the Special General Meeting dated 20.11.2016, several decisions for implementation of directions of Apex Court were taken, an interim Chairman was appointed to preside over the meeting and as per the unanimous view of the members, *Ad hoc* Committee was appointed to conduct elections. The *Ad hoc* Committee consists of Mr.Prakash Chand Jain, Interim Chariman, Dr.Anil Kumar of Mahaboob College and Mr.Naresh Sharma of EMCC as members to oversee the Association till the conduct of elections, was constituted. Therefore, he contends that the OP was filed by specifically arraying *Ad hoc* Committee as

respondent No.1 and then the HCA/petitioner herein as respondent No.2. According to him, with the resolution passed on 20.11.2016 by the General Body of the Association, the former Executive Committee members have no right to represent the Association because of the posts held by them. The Association is represented by *Ad hoc* Committee. He further submits that if OP was filed by showing Secretary as representing the Association, then the same would go contrary to the resolutions passed on 20.11.2016 on which respondents 1 and 2 rely upon. In this background, he contends that the description or arraying of parties is strictly in accordance with the resolution of General Body and, therefore, the objections pointed out by petitioner through former Secretary are untenable.

Mr.Mir Masood Khan contends that the revision at the instance of former Executive Committee member is not maintainable; that the 3rd respondent who was authorized by the General Body through its Advocate reported no objection for appointment of Advocate Commissioner to carry out and complete the resolutions dated 20.11.2016. It is urged that the appointment of Commissioner is for conducting elections and HCA, as Society, should not have objection.

Respondents 1 and 2 further contends that once it is admitted that the resolutions now relied upon by the 1st and 2nd respondents herein are not under challenge by either the former Executive Committee or by any of the members of petitioner Association, the appointment of Advocate Commissioner with the consent of *Ad hoc* Committee, cannot be faulted or irregularity or

illegality is pointed out warranting interference under Article 227 of the Constitution of India. In other words, one Committee cannot give consent before the trial Court and another body claiming legitimacy cannot challenge the consent order. In reply to the argument of Mr.Vedula Venkata Ramana that byelaws do not provide for constitution of *Ad hoc* Committee, he contends that the General Body of petitioner Association consists of representatives of the clubs, and District Associations who are members and office bearers of the Association. Keeping in view the judgment of the Apex Court, the timelines stipulated by Justice Lodha Committee and the consequences of failure to adhere to timelines, the General Body has constituted the *Ad hoc* Committee. According to him, firstly the constitution of *Ad hoc* Committee is not under challenge and secondly there is no prohibition for the General Body to take a decision to further the object of byelaws of Association. As there is no prohibition, the power to constitute an *Ad hoc* Committee is implicit in the overall power and function of General Body. In reply to the argument of petitioner that the appointment of Commissioner to oversee the election process is contrary to the very recommendations of Justice Lodha Committee, he contends that the Advocate Commissioner is not appointed to conduct election, but is appointed only to assist the *Ad hoc* Committee etc., for issuing election notification, conclude the election within the schedule. By drawing the attention of the Court to the election notification issued, he submits that the Advocate Commissioner has taken the assistance of a representative from State Election Commission and conducted the election. He prays for dismissing

the revision by vacating the stay granted for declaring the results of elections held on 17.01.2017.

Mr.K.SMurthy contends that the *Ad hoc* Committee was constituted through the resolution dated 20.11.2016 and the *Ad hoc* Committee entered appearance for itself and HCA in the trial Court. He does not dispute the observation of the trial Court viz., respondents also submitted no objection for appointment of Commissioner for conducting elections. He prays for dismissing the revision.

I have perused the material available on record and noted the submissions of counsel appearing for the parties.

The point for consideration is – whether the appointment of Commissioner for conducting elections of HCA/petitioner in terms of resolution dated 20.11.2016 warrants interference or not?

The petitioner, represented through Secretary, now challenges the appointment of Commissioner for conducting elections and declaring results. The case of petitioner is that on 29.05.2016, a resolution was passed by the Annual General Meeting extending the term of Executive Committee till May 2017 and the filing of OP without properly showing the petitioner viz., represented through Secretary, therefore, is illegal. On the other hand, the case of respondents 1 and 2 and also 3rd respondent is that on 20.11.2016, the General Body of HCA has deliberated all the recommendations of Justice Lodha Committee, passed resolution accepting the recommendations and *Ad hoc* Committee was

constituted to supervise till elections are conducted and completed. Though I have perused the respective resolutions on which these rival groups are relying upon, having regard to the submission of Mr.Vedula Venakata Ramana that resolution relied upon by the parties as on date since is not put to issue either in the Court below or by independently challenging the same, this Court considers it appropriate to proceed to examine this objection with the list of documents filed along with the OP, but not by relying upon resolutions filed by petitioner. Once for the purpose of disposing of this revision the documents filed along with the OP are considered, it is evident that notice on the respondents in the Court below was ordered and notice was served. From the original record, it is evident that the *Ad hoc* Committee and also the HCA, represented by Chairman of *Ad hoc* Committee filed vakalat by engaging Mr.B.Suresh. The Chairman of *Ad hoc* Committee filed counter affidavit opposing the prayer for appointment of Commissioner. But the order shows that the respondents in the course of hearing of interlocutory application reported no objection for appointment of Commissioner for conducting elections. Unless the members of Executive Committee (erstwhile) *prima facie* show that the amendment to byelaws, made through resolution dated 29.05.2016, was registered by the District Registrar and the amended byelaws is in operation; the objections on petitioner represented by Secretary now raised are not tenable. Therefore, this Court is unable to accept the first contention raised by petitioner viz., at the instance of the Secretary of Executive Committee.

The next contention of petitioner is that the byelaws of HCA do not provide for constitution of *Ad hoc* Committee till elections are conducted. It is urged that conducting elections under the supervision of a Commissioner is not in line with Justice Lodha Committee, for elections to HCA ought to be with the assistance of an Officer from Election Commission. On the other hand, the case of respondents is that the timelines stipulated by the Apex Court are fast approaching, the amendment to byelaws was not accepted by the competent authority and, therefore, the General Body which has authority to take a decision compatible to the requirement, constituted *Ad hoc* Committee, and alternatively for constitution of *Ad hoc* Committee, byelaws do not prohibit and the power to take such decisions is implicit in the General Body. This Court is of the view that the appointment of Commissioner is sought to carry out the resolutions passed on 20.11.2016. In W.P.No.16606 of 2016, the Association has undertaken to comply with all the directions contained in the e-mail issued by Gopal Sankaranarayanan on behalf of the Committee constituted by the Supreme Court headed by the Retired Chief Justice of India Sri R.M.Lodha in BCCI case (supra) and would adhere to the timeline laid down in the said email communication with regard to the conduct of elections for State Associations etc., and also any further direction which may be issued by the said Committee to the petitioner Association.

On 20.11.2016, the General Body has resolved to implement orders of the Hon'ble Supreme Court and recommendations of

Justice Lodha Committee. From the chronology dates and events referred, nothing happened till 21.12.2016. Respondents 1 and 2 on 21.12.2016 approached the Court below for appointment of Commissioner to carry out the resolution dated 20.11.2016. The HCA represented through Chairman of *Ad hoc* Committee for all purposes consented to appointment of Commissioner resulting in the order impugned in the revision. The constitution of *Ad hoc* Committee or appointment of Commissioner to carry out resolution dated 20.11.2016 cannot be found fault on these grounds. It is the case of all parties that if time limits are not adhered to HCA, its members suffer loss and prejudice. It is hence in the fitness of things that the Commissioner was appointed, election to HCA was conducted on 17.01.2017 and counting was stayed. This Court is further of the view that let the path of Executive Committee through election be completed instead of getting into these objections at this stage.

For the above reasons, no exception to the appointment of Commissioner is made out. All objections against the elections held on 17.01.2017 or result if aggrieved by a member can be challenged separately. The resolution dated 20.11.2016 further refers to implementing various recommendations of Justice Lodha Committee. A mistake in the implementation of recommendations, if noticed, constitutes separate cause of action for challenge in petition filed challenging the outcome of elections.

Having regard to the above findings, this Court is of the view that the revision fails and is, accordingly, dismissed. There shall be no order as costs.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

S.V.BHATT, J

30th March 2017

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