

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 267 OF 2018

IN

WRIT PETITION NO. 1286 OF 2018

Mumbai Cricket Association ... Applicant

In the matter between :

Nadim Memon ... Petitioner

Versus

Mumbai Cricket Association and Ors. ... Respondents

Mr.Chaitanya Bhandarkar for the petitioner.

Mr. A.S. Khandeparkar a/w Mr. Vikas Warerkar i/by M/s. Warerkar and Warerkar for respondent no. 1.

Mr.Devesh Juvekar a/w Mr. Mayur Shetty i/by M/s. Rajani Associates for respondent nos. 2 and 4.

Mr. Adarsh Saxena i/by M/s. Cyril Amarchand Mangaldas for respondent no. 6 BCCI.

Mr.Abhay Patki, AGP for respondent no. 5.

Mr. S.G. Kudle for applicant in NMW (L) No. 391 of 2018.

**CORAM : SHANTANU KEMKAR &
NITIN W. SAMBRE, JJ.**

DATE : JUNE 15, 2018

P.C.:

Parties through their counsel.

2. Heard on the Notice of Motion No.267 of 2018. Through this

Notice of motion, the Mumbai Cricket Association through the Committee of Administrators appointed by this court is seeking the following reliefs :

- “(a) that directions given by this Hon’ble Court to the Committee of Administrators (COA) to hold a General Body meeting of the members of Respondent no.1 Association on or before 15th June, 2018 and to complete the entire process, including the process of holding elections to the new Managing Committee on or before 31st July 2018 may be extended further and it may be directed to hold a General Body meeting within two months and further hold elections on or before four months from the date of the Supreme Court order permitting amendment of the Constitution of Board of Control for Cricket in India (BCCI) and holding elections.*
- (b) that this Hon’ble Court may be pleased to clarify its order dated 6th April, 2018 stating therein that the fees, which are payable to the Committee of Administrators (COA), are exempted from payment of tax under the provisions of the Central and Maharashtra Goods and Service Tax Act, 2017 and that the Committee of Administration is not liable to pay tax on the fees payable to them under the provisions of the said Acts.*
- (c) Or in the alternative, the High Court may be pleased to declare that G.S.T. if payable on the service rendered, shall be payable by the recipient of the service i.e. MCA.”*

3. Learned Counsel for the respondent no.6 i.e. BCCI has pointed out that in the similar circumstances, the Division Bench of Andhra Pradesh High Court has passed the order on 12/6/2018 observing that the Association cannot discharge itself of its obligation to comply with the recommendations of Justice R.M. Lodha Committee as directed by the Supreme Court in the case of

Board of Control for Cricket Vs. Cricket Association of Bihar and Ors. (2016) 8 SCC 535 unless and until the said orders are modified by the Supreme Court during its hearing scheduled on 05.07.2018, or on any other date thereafter. His contention is that in the circumstances, the applicant may not hold the elections for the now but the applicant can amend the constitution so as to bring it in conformity with the recommendations of Justice Lodha Committee. He also submits that if there is any discrepancy in the amended constitution, the same can be modified subsequently making it in conformity with the orders as may be passed by the Supreme Court in that regard.

4. Having considered the aforesaid submissions made by the learned counsel for the parties, we dispose of this notice of motion by ordering that the time to hold the election is extended for the period of three months from today. As regards the amendment of the constitution, the applicant to amend the same. However, the time to carry out the amendment is extended by two months from today. The amended constitution shall then be modified further, if required so as to bring it in conformity with the order as may be passed by the Supreme Court.

5. As regards prayer clause (b) and (c) is concerned, we deem it

appropriate not to express our views on the said prayer and we grant liberty to the applicant to seek appropriate remedy as may be available in accordance with law. All contentions in that regard are kept open.

6 Notice of motion No. 267 of 2018 is disposed of.

7. List Notice of Motion (L) No. 391 of 2018 on 13/07/2018.

(NITIN W. SAMBRE, J.)

(SHANTANU KEMKAR, J.)