

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.11.2017

Pronounced on : 13.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.21925 of 2017

and

WMP.Nos.22963 to 22965, 31425 & 31426 of 2017

Pondicherry State Badminton
(Shuttle) Association

rep. by its President,
Plot Nos.29 & 30, 4th Cross,
Pon Nagar, Reddiarpalayam,
Puducherry-605 010.

... Petitioner

Vs.

1.The Senior Superintendent of Police (L & O),
Puducherry.

2.Puducherry State Sports Council
rep. by its Member-Secretary,
Indira Gandhi Sports Complex,
Uppalam, Puducherry-605 001.

3.K.S.P.Ramesh

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records of the respondents relating to the order of the second respondent in letter No.9955/Badminton/Estt./2017-18/32 dated 20.07.2017 and the consequential order of the first respondent in Notice No.A29/SSP (L&O)-RD/217-140 dated 10.08.2017 and quash the same and forbearing the respondents herein from in any manner preventing the petitioner Association from conducting of Badminton (Shuttle) Championship 2017-18 or any other event(s).

(Prayer amended as per order dated 27.11.2017 by MSRJ in WMP.No.31424 of 2017 in W.P.No.21925 of 2017).

For Petitioner : Mr.K.Doraisami, Sr. Counsel
for Mr.Muthumani Doriasami

For Respondent : Mr. D.Bharatha Chakravarthy
Nos.1 & 2 APP (P)

For Respondent-3 : Mr.D.Ravichander

O R D E R

The prayer in the present writ petition is to quash the order of the second respondent dated 20.07.2017 and the consequential order of the first respondent dated 10.08.2017, wherein the Pondicherry State Badminton Championship 2017-18 scheduled to be held from 11.08.2017 to 20.08.2017 by the Pondicherry State Badminton (Shuttle) Association headed by one faction of the Association under the Presidentship of Mr.J.Arawindhan came to be restrained. Though this part of the prayer has become infructuous in view of the interim orders of this Court dated 24.08.2017, wherein an Observer was appointed for the purpose of conducting the State Level Badminton Championship for the aforesaid period, I am constrained to adjudicate the grounds raised by the petitioner and the third respondent in view of the consequential prayer sought for by the petitioner to refrain the respondents herein from preventing the petitioner from conducting Badminton Championship for the year 2017-18 or any other events.

2.Heard Mr.K.Doraisami, learned Senior counsel for the petitioner and Mr.D.Bharatha Chakravarthy, learned Additional Public Prosecutor (Pondicherry) for the respondents 1 & 2 as well as Mr.D.Ravichander, learned counsel for the third respondent.

3.Before dealing the facts of the present case, it would not be out of place to observe that, our country, of late, have been tremendously improving in the game of Badminton at World Championship and Super Series Events. The young players like Srikanth Kidambi, P.V.Sindhu, Saina Nehwal etc., have been making their mark and making the Indians proud with their world level achievements. The Government have also being creating avenues for young Indian Shuttlers and encouraging them to compete in national and international levels. The Badminton Association of India, which is a governing body of Badminton in the country, has been holding national level tournaments among state members. The intent of the Association is to encourage and recognize the young players with talents and place them to compete in national and international levels of the game.

4.In the present case in hand, the Pondicherry State Badminton (Shuttle) Association has been functioning with two factions, one by the petitioner herein and other by the third

respondent. In consequence to the dispute among these two factions, several players' teams could not participate in the South Zone Inter-State Championship, Pondicherry which was held on 25.08.2017, inspite of the interim orders of this Court. This Court, with dismay, would like to place on record its disappointment in the way which the Association has been functioning and depriving the young players from participating in Inter-State Championship. Since the petitioner has sought for a consequential prayer to continue the functioning of the Association under the leadership of Mr.J.Arawindhan, which is opposed by the third respondent herein, this Court is compelled to render a finding with regard to the rights of these two rival factions, thereby enabling the qualified players through out the Union Territory of Puducherry to participate in national and international levels.

5.It is the case of the petitioner that the petitioner's Association, which has been functioning from 1983 onwards, is the only recognized Association in the Union Territory of Puducherry. According to the learned Senior counsel for the petitioner, on 18.06.2017, the election of the office bearers of the petitioner's Association was conducted in the presence of an Observer deputed by the National Badminton Association of India and Mr.J.Arawindhan was elected as its president for the tenure 2017-21. On 13.06.2017, the petitioner's Association was requested to send players for participation in the South Zone Inter-State Championship, Pondicherry to be held from 27.08.2017 onwards, at which point of time, the Association decided to conduct the Pondicherry State Badminton Championship for the purpose of deputing players to the South Zone Inter-State Championship. At this juncture, the first respondent had issued the order dated 10.08.2017 restraining the Association from conducting the championship in view of the dispute between two factions and hence, the present petition has been filed challenging the said order.

6.According to the learned Senior counsel for the petitioner, the election of Mr.J.Arawindhan as president of the Association was in conformity with the Rules and Regulations of the Association and as such, the third respondent has no authority to interfere with the functioning of the Association under the presidentship of Mr.J.Arawindhan.

7.Mr.D.Ravichander, the learned counsel appearing for the third respondent submitted that Mr.J.Arawindhan, who claims to be the president of the Association, has no locus standi to represent the petitioner's Association and file the present writ petition and hence, the writ petition itself is not maintainable. He further submitted that the term of the elected office bearers is for a period of four years and as such, as per the Rule 12(4) of the Rules and Regulations of the Association, it is mandated that no office bearers shall continue the office

for more than two terms. Since Mr.J.Arawindhan and M.Jagadeesan were elected as president and secretary on 05.09.2004 and also for the second term commencing from 29.07.2009, their tenure in the executive committee concluded in the year 2012 and as such, they cease to be the office bearers of the Association. Hence, the affiliated units of the Association resolved to conduct an election on 08.05.2017, wherein the third respondent was elected as president of the Association. According to the learned counsel, the claim of Mr.J.Arawindhan as president of the Association is illegal since his tenure has ceased on completion of 8 years in the year 2012 itself.

8.At this juncture, the learned Senior counsel for the petitioner submitted that as per the Amended Rules and Regulations of the Association, the restriction of an office bearer to continue for two terms alone has been relaxed and as such, Mr.J.Arawindhan is entitled to hold his office for the period 2017-21, since he has been duly elected for the said period. Opposing the same, the learned counsel for the third respondent submitted that the new amendment relaxing the restriction of the tenure came in the year 2013 and since Mr.J.Arawindhan had ceased to be the office bearer in the year 2012 itself, the amendment itself has no validity and that was brought defunct by the executive committee and is non- est in the eye of law.

9.I have given careful considerations to the submissions made by the respective counsels.

10.The Rule 12(3) & (4) of the Rules and Regulations of the Pondicherry State Badminton (Shuttle) Association reads as follows:

"12(iii) An executive committee shall hold office for a period of 2 years, including the year of election.

12(iv) An office bearer will hold office for one term only. However, he may seek re-election to one of the offices. Provided that he secures 2/3 majority of the General Body. No office bearer may hold office for more than 2 terms."

11.By an amendment dated 29.06.2017, Rule 12 came to be amended as follows:

"Amendment of Rule 12.- In Rule 12 of the Pondicherry State Badminton (Shuttle) Association Rules and Regulations, the existing sub-rule (iv) shall be substituted with the following:

(a) The term of the President shall be for four years unless he resigns before expiry of his term and he can be re-elected for two additional terms of four years each. However, in no case, the total term shall exceed maximum of 12 years with or without break.

(b) The term of the General Secretary shall be for four years unless he resigns before expiry of his term and he can be re-elected for one additional term of four years each. However, in no case, the total term shall exceed maximum of 8 years with or without break.

(c) The term of the Treasurer shall be for four years unless he resigns before expiry of his term and he can be re-elected for one additional term of four years each. However, in no case, the total term shall exceed maximum of 8 years with or without break.

(d) Further, the President, the General Secretary and the Treasurer shall automatically cease to hold their respective posts on attaining the age of 70 years."

12. The amendment dated 29.06.2013 itself is under question.

13. The petitioner's Association came to be registered on 17.06.1983 with the Registrar of Companies, Puducherry. As per the original rules and regulations, the tenure of an office bearer was for a period of two years alone. Mr. J. Arawindhan, and Mr. M. Jagadeesan were inducted into the executive committee of the petitioner's Association as its president and secretary on 28.11.2004 and on the same day, i.e., on 28.11.2004, the resolution came to be passed in the Annual General Body Meeting of the petitioner's Association whereby the term of the executive committee was extended to four years from two years by amending Rule 12(3). Subsequently, Mr. J. Arawindhan was again elected to the post of president for the second term. As such, the second term to the post of president of Mr. J. Arawindhan came to an end in the year 2012. While that being so, Rule 12 came to be amended on 29.06.2013 i.e., after the term of Mr. J. Arawindhan as president had ended. The amendment was pursuant to the Annual General Body meeting held on 29.06.2013. It is in this Annual General Body meeting dated 29.06.2013, that Rule 12(4) of the Pondicherry State Badminton (Shuttle) Association's Rules and Regulations came to be amended, whereby the total term of the president came to be extended to 12 years.

The said Annual General Body meeting was chaired by Mr.J.Arawindhan and Mr.M.Jagadeesan claiming themselves as president and secretary of Pondicherry State Badminton (Shuttle) Association.

14.I am unable to comprehend as to how the amendment could have any validity since Mr.J.Arawindhan and Mr.M.Jagadeesan did not hold the post of president and secretary as on 29.06.2013. In view of the then existing Rule 12 of the Rules and Regulations of the Association, no office bearer was entitled to hold office for more than two terms of four years each. After the second term, the then president and secretary had become defunct and hence no valid or lawful Annual General Body meeting could have been held and in the absence of the any executive committee of the Association, any decision taken in the so-called Annual General Body meeting dated 29.06.2013 is non-est in the eye of law.

15.The learned Senior counsel for the petitioner submitted that after the amendment, regular election to the petitioner's Association was held for the first time in the year 2013, wherein Mr.J.Arawindhan came to be elected as president and accordingly, he has held the office till 2017 and subsequently, he was re-elected on 18.06.2017 for the tenure 2017-21. It is the submission of the learned Senior counsel for the petitioner that since the first regular election came to be conducted in the year 2013, Mr.J.Arawindhan was entitled to hold three tenures from thereon and therefore there is no illegality in his election. As observed above, the decision to amend Rule 12(4) thereby extending the total term to three tenures itself is non-est in the eye of law. The Annual General Body meeting and the election hence conducted in the year 2013 itself is invalid. As such, all activities and resolutions passed by the defunct office bearers of the executive committee of the petitioner's Association has no legal validity. At this juncture, it is brought to my notice by the learned Senior counsel for the petitioner that the Apex Body namely, Badminton Association of India had made certain amendments in the Constitution of Badminton Association of India whereby maximum period for the term of the president was extended to 12 years. By placing reliance on the amendment to the Constitution of Badminton Association of India, the learned Senior counsel submitted that on 18.06.2017, the election was conducted by an Election Officer, who was a retired official of Government of Puducherry, in which, the Joint Secretary of the Badminton Association of India, which is the Apex body, was deputed as an Observer to participate in the election proceedings. It is in view of this election that Mr.J.Arawindhan came to be elected as president and the Observer of the Apex body, namely, the Badminton Association of India had also intimated the election to the second respondent herein evidencing the election of

Mr.J.Arawindhan as president and other office bearers. As I had already held, Mr.J.Arawindhan was incompetent to contest for any election in view of bye-laws as it stood on the date of expiry of the president's second term. The participation of an Observer from the Badminton Association of India or the election conducted by an independent Election Officer who was a retired official of the Government of Puducherry, has no relevance and will not legalize such an election which is contrary to the Rule 12 of the Rules and Regulations of the petitioner's Association. As such, it can only be held that Mr.J.Arawindhan had usurped powers without any legal basis and had indulged in conducting a general body meeting and thereby amending Rule (4) to suite his covetous ambition. Consequently, all resolutions and other activities passed by the petitioner's Association under the presidentship of Mr.J.Arawindhan after the end of his second term of his post of president is illegal and will have no effect. It is brought to my notice that Mr.J.Arawindhan has also ventured to affiliate 12 Badminton Clubs, out of which 9 Clubs were owned by Mr.J.Arawindhan, as he was the Chief Mentor of Aachari Group of Educational Institutions. In view of the fact that the Association did not have a valid executive committee while such affiliations were made, the same would be invalid.

16.Incidentally, the third respondent herein claims to have been elected as a president in an election conducted on 08.05.2017, which election was alleged to have been conducted at the premises Hotel Jayaram at Kamaraj Salai, Puducherry by a letter dated 18.05.2017, the management of Hotel Jayaram had certified that there was no meeting of Pondicherry State Badminton (Shuttle) Association held on 08.05.2017 in their premises. The second respondent in their letters dated 07.07.2017 and 20.07.2017 had also stated that the petitioner's Association was headed by Mr.J.Arawindhan and Mr.K.S.P.Ramesh of the two rival factions and thereby refrained both of them from conducting any tournament or championship in Puducherry. In the said letters, it was also observed that due to the dispute between the two factions, the young budding players were put to disadvantage and their opportunities to compete in the tournament was denied. The alleged election conducted on 08.05.2017 whereby the third respondent claims to have been elected as president was also improper. The conduct of the election itself is doubtful. Hence, I am of the view that the election conducted on 08.05.2017 where the third respondent was elected as president is also non-est in the eye of law.

17.As observed in my introductory paragraph of this order, this Court is concerned about the upcoming young badminton players and the paramount consideration of this Court would be to facilitate their upliftment for participation in Championships in national and international levels. Unless and until a proper and fresh election is conducted in a democratic

manner by giving opportunity to all the members of the petitioner's Association to elect the executive committee of their choice, both the factions under Mr.J.Arawindhan and K.S.P.Ramesh should not be permitted to usurp the powers.

18.It would not be out of place to mention at this juncture, when the writ petition was pending, an interim order came to be passed, appointing an Observer to facilitate for participation of teams in South Zone Inter-State Badminton Championship. Even though the Observer, who was Under Secretary to Law Department of Government of Puducherry, came to be appointed, it is seen that there was no fair selection and many of the teams were not facilitated to participate. Both the petitioner and the third respondent blamed each other for participation and non participation of the some of the teams in the Union Territory of Puducherry in the said Championship. I do not intend to probe into the cause for the non participation of some of the teams since it may be a futile exercise. However, the fact remains that some teams have been deprived of opportunities to participate in the championship. In order to avoid such situation and to ensure a democratic selection of teams in future, it would be appropriate to conduct a fresh election for the committee members for the petitioner's Association.

19.In order to ensure that such a fresh election is conducted in a democratic manner, it would be appropriate to appoint an Interim Administrator-cum-Election Officer. In view of the same, it would be appropriate that the day-to-day management of the petitioner's Association is relieved from the hands of Mr.J.Arawindhan till a fresh election is conducted.

20.In the result, the Writ Petition is disposed of with the following observations:

a)The Sports Authority of India represented by its Centre in-charge, Puducherry Branch shall take over the management of the petitioner's Association forthwith and act as an Interim Administrator, till the next election.

b)Interim Administrator is directed to manage the affairs of the petitioner's Association till a fresh election is conducted. The said Administrator will also act as an Election Officer for conducting the fresh election.

c)The Interim Administrator shall take over the entire management affairs of the Pondicherry State Badminton (Shuttle) Association forthwith, in any case, within one week from today i.e., 13.03.2018.

d)Interim Administrator shall also conduct the General Body meeting on or before 30.04.2018 for electing the executive committee of the Pondicherry State Badminton (Shuttle) Association, in a democratic manner. The conduct of the election shall be strictly in accordance with the Rules and

Regulations of the petitioner's Association.

e)The Executive Committee elected in the General Body meeting held on 18.06.2017 and all consequent resolutions or actions taken with regard to the affiliations of the member clubs, after the expiry of the second term of the executive committee headed under the presidentship of Mr.J.Arawindhan, is declared as invalid.

f)The amendment to Rule 12 of the Rules and Regulations of Pondicherry State Badminton (Shuttle) Association (29.06.2013) is declared as invalid.

g)The election conducted on 08.05.2017 electing the third respondent and other office bearers of the petitioner's Association is also held invalid.

h)The Interim Administrator shall take over the entire management of the Association and do such acts or things to facilitate the smooth running of the Association including selection of players for any Zonal, State Level or National Level Championship/Tournaments from the Union Territory of Puducherry, till a new Executive Committee is elected.

i)The election shall be conducted based on the Rules and Regulations of the petitioner's Association and in a democratic manner by giving wide publicity to all the members of the petitioner's Association. The candidates eligible to participate in the election for executive committee shall be strictly in accordance with the said Rule 12 as amended till 28.11.2004.

j)The Interim Administrator shall do all such acts, deeds or things necessary to the best welfare of the members of the Association as well as all the Badminton/Shuttle players in the Union Territory of Puducherry.

k)On completion of the Election and declaration of the Election results, the Interim Administrator shall duly inform the Sports Authority of India about the results of the Election.

Consequently, connected Miscellaneous Petitions are closed.
No costs.

Sd/-
Deputy Registrar

//True Copy//

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Sub Assistant Registrar

DP

To

1. The Senior Superintendent of Police (L & O),
Puducherry.
2. Puducherry State Sports Council
rep. by its Member-Secretary,
Indira Gandhi Sports Complex,
Uppalam, Puducherry-605 001.
3. Sports Authority of India
rep. by its Centre-in-Charge,
Puducherry Branch.

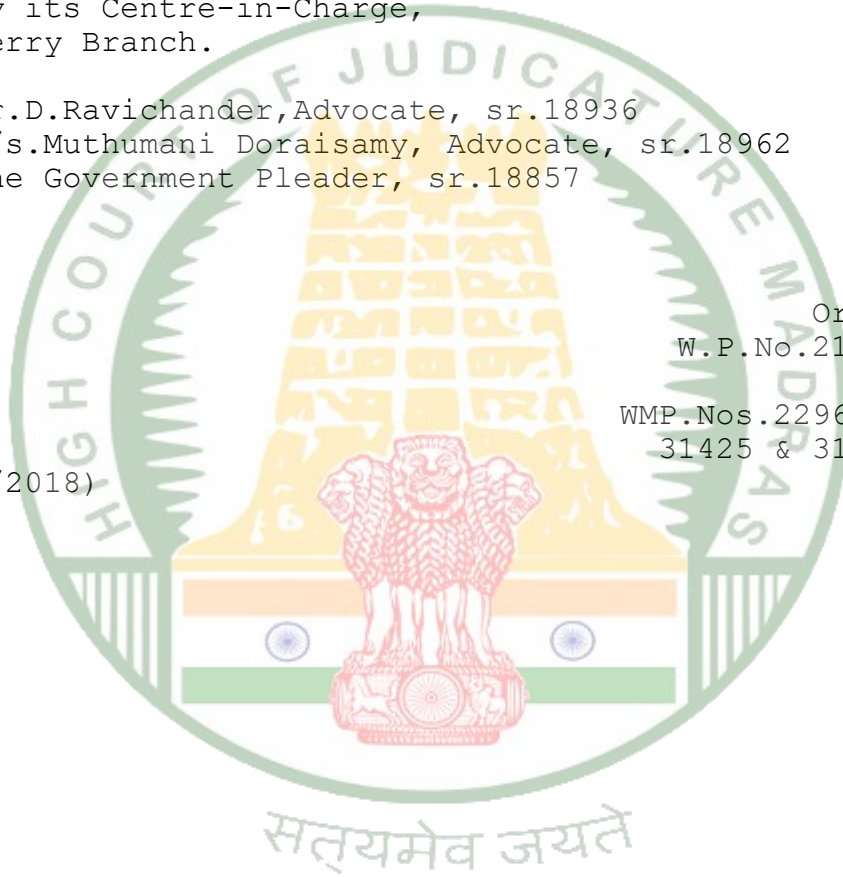
+1cc to Mr.D.Ravichander, Advocate, sr.18936

+1cc to M/s.Muthumani Doraisamy, Advocate, sr.18962

+1cc to The Government Pleader, sr.18857

Order made in
W.P.No.21925 of 2017
and
WMP.Nos.22963 to 22965,
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RMP (23/03/2018)



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