

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: July 23, 2018
Judgment delivered on: August 06, 2018

+ W.P.(C) 3314/2016, CM Nos. 38513-38514/2017

ALL INDIA CARROM FEDERATION Petitioner

Through: Mr. V.D. Narayan, General
Secretary of the Petitioner-
Federation in person

versus

UNION OF INDIA Respondent

Through: Mr.Bhagvan Swarup Shukla,
CGSC with Ms.Komaldeep,
Adv. for respondent No.1-
Union of India
Mr.Aseem Mehrotra, Adv. with
Mr.Devang Gautam, Adv. for
R2

+ W.P.(C) 5684/2016

VIJAY KUMAR Petitioner

Through: Mr. Jal Sahai Endlaw, Adv. with
Mr.Devang Gautam, Adv.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr.Ajay Diggpaul, CGSC with
Ms.Madhuri Dhingra, Adv. for
respondent-Union of India

CORAM:
HON'BLE MR JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. As these two writ petitions relate to elections in the All India Carrom Federation, (AICF) with the consent of the counsel for the parties, have been heard and are being decided together vide this common order.

W.P.(C) 3314/2016

2. The present petition has been filed with the following prayers-

"It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

a) Issue writ of Mandamus or any other appropriate Writ or Writs or direction or directions to quash and set aside the Order No. F.No.21-6/2015-SP-I dated 04.02.2016 issued by the Under Secretary, Ministry of Youth Affairs & Sports, Government of India, New Delhi;

b) Declare that the election to various posts of Working Committee of the petitioner federation held on November 29, 2015 at Guwahati (Assam) for a term of 4 years was in conformity to election guidelines of the Sports Code and is valid;

And and/or;

c) Pass such other order/orders as deemed fit and proper by this Hon'ble Court in the facts and circumstances of the case in favour of the petitioner."

3. It is the case of the petitioner Federation that petitioner is a National Sports Federation registered as a Society under the Society Registration Act, 1860 by the Registrar of Societies with the main object of encouraging, promoting, developing and stabilizing the game of Carrom. The petitioner is also recognized by the Ministry of Youth Affairs & Sports, Government of India. It is averred, the respondent No.1 introduced model election guidelines to be followed by all recognized National Sports Federations (NSFs) as a part of National Sports Development Code of India (NSCI), 2011 (in short Sports Code) on January 31,2011. Soon after introduction of Sports Code, the petitioner Federation brought amendments to it's Rules and Regulations to the extent they govern/regulate the election of office bearers to it's Working Committee consistent with the Model election guidelines / Election Bye Laws prescribed in the Sports Code and accordingly elections to various posts of the Working Committee of the petitioner federation were held on July 22, 2012 at Gurgaon, Haryana by the Returning Officer Mr. Om Prakash Verma, Addl. District & Sessions Judge (Retd.). It is further the case of the petitioner, upon perusal of report of the Returning Officer, the respondent No.1 vide its letter dated October 12,

2012 addressed to the General Secretary of the petitioner federation informed that it has noted the report of the election of the office bearers namely Mr. Rakibul Hussain as President, Mr. P.S. Bachher as General Secretary and Mr. P. Raveendran as Treasurer for a period of four years term for the period 2012 to 2015. Rule 15 of the Rules and Regulations of the petitioner federation framed in conformity with Sub-Clause (2) of Clause 3 Model Election Guidelines provided that the office bearers of the society are elected once in every four years at the Annual General Meeting (Meeting of the Council) from amongst the accredited representatives of the associations.

4. It is the case of the petitioner Federation, on July 25, 2015, the then General Secretary with the concurrence of the President of the petitioner federation gave notice to all the affiliated Units & office bearers of the Federation calling upon to hold Annual General Meeting (General Council) of the petitioner federation on September 13, 2015 at Guwahati to consider, amongst other things, to discuss and decide about the election of the Federation for the next term. It is stated, in the Annual General Meeting of the petitioner federation held on September 13, 2015 at Guwahati, members unanimously agreed to hold the

election of the petitioner federation before its due date and decided to hold election on November 29, 2015 at Guwahati for a term of 4 years. In the said Annual Meeting of the General Council of the petitioner federation held on September 13, 2015 at Guwahati, members present also shown their displeasure over the acts of some of the office bearers and other members of federation who circulated a letter that they have conducted a requisitioned meeting of working committee on May 30, 2015 at Gurgaon and suspended the then General Secretary, Mr. P.S. Bachher and appointed Mr. S. Udaya Kumar as officiating General Secretary. Further it was unanimously resolved in the said meeting of the petitioner federation that actions by the office bearers and other members in the name of requisitioned working committee meeting as illegal/unconstitutional and cognizance if any taken at any level should be null and void. It is further the case of the petitioner that although the petitioner federation did not attach any credence to the purported requisitioned meeting of the working committee, even otherwise the purported requisitioned working committee of the petitioner federation convened by some on May 30, 2015 at Gurgaon for suspension the then General Secretary Mr. P.S. Bachher and for appointment

of Mr. S. Udaya Kumar as officiating General Secretary was nullified by the Annual General Meeting (General Council), in terms of Rule 26 of the Rules and Regulations of the petitioner Federation.

5. It is further the case of the petitioner, the Under Secretary of the Respondent No. 1 vide letter dated October 06, 2015 sought comments from the President, All India Carrom Federation to a Writ Petition being All India Carrom Federation filed by Mr. S. Udaya Kumar relating to suspension of then General Secretary Mr. P.S. Bachher. Vide letter dated October 14, 2015, Mr. Rakibul Hussain, President, of the petitioner Federation in reply to the letter dated October 06, 2015 of the respondent No. 1 intimated to the respondent No.1 that the writ petition filed by Mr. S. Udaya Kumar has been rejected by this Court. It was also informed that meeting convened by Mr. S. Udaya Kumar was not only illegal but also was an act of anti federation activity. It was also informed that during the Annual General Meeting, about two third members of the petitioner Federation condemned the action of Mr. S. Udaya Kumar. The President of the petitioner federation has also informed the respondent No. 1 that Mr. P.S. Bachher is the General Secretary

of AICF and still has the confidence of more than two third members of the petitioner Federation. In terms of Clause 5 of Model Election Guidelines of Sports Code, the then President of the petitioner federation vide letter dated October 14, 2015 requested Justice Sunil Kumar Kar, (Retired), to act as Returning Officer and to conduct the election as per Model Election Guidelines and the same was accepted by the Returning Officer. It was also informed to him that as soon as the names of Electoral College are finalized or within 24 hours from the last date of receipt of such nominations, the complete list of Electoral College in form no. 1 would be submitted. It is stated, the then General Secretary of the petitioner federation vide letter dated October 19, 2015 addressed to the Under Secretary of the respondent No.1 informed that the federation has unanimously decided to hold the election in Special General Meeting on November 29, 2015 at Guwahati for which the President of the petitioner federation has nominated Justice Sunil Kumar Kar, (Retired) as the Returning Officer. It was also informed that the election programme will be notified by election officers as per Model Election Guidelines, issued by the respondent.

6. It is the case of the petitioner Federation, on October 26,

2015, the Returning Officer circulated the notice of the Election Programme to conduct the elections of the petitioner Federation for a term of four years in the Special General Meeting to be held at Guwahati on November 29, 2015 detailing therein the dates and time for finalisation of Electoral College, circulation of list of authorized representatives, submissions of Nomination, publication of list of all nominations received, scrutiny of nominations, publication of list of valid nomination, withdrawal of candidates, publication of Final list of contesting candidates, polling if required, counting of votes: and declaration of results. The Under Secretary of the respondent No.1 vide letter dated November 03, 2015 requested the Director General of Sports Authority of India, New Delhi a copy of which was also endorsed to the petitioner federation, to depute Mr. Deka, Deputy Director, SAI Centre, Guwahati as Government Observer for attending the election meeting of All India Carrom Federation scheduled on November 29, 2015 at Guwahati to observe the elections on the aforesaid date and submit report to the respondent No.1 Ministry. Besides various affiliated Associations of the petitioner federation, the Pondichery Carrom Association to which Mr. S. Udaya Kumar in the capacity of General Secretary under joint

signature of himself and that of the President Mr. Rajakkannu had on November 09, 2015 nominated himself and Mr.G. Krishnamurthy, as two representatives to form the Electoral College for election to Working Committee of the petitioner. The General Secretary of the petitioner federation as required under Rule 4(5) of model elections guidelines prepared the list of Electoral College in Form 1 comprising of 60 Authorised Representatives from 30 Member States / Union Territories and the list so prepared by him was circulated to all Member States / Union Territories through its website www.indiancarrom.com on November 15, 2015, a copy of which was also provided the Returning Officer. It is also its case, the Under Secretary of the respondent No.1 vide its letter dated November 16, 2015 requested the Director General of Sports Authority of India, New Delhi that since it has come to the notice of the respondent that Mr. L. Tikan Singh is presently working as Deputy Director in Sports Authority of India, Guwahati, he may be deputed instead of Mr. Deka, Deputy Director, for attending the election meeting of the petitioner federation to be held on November 29, 2015 at 10:00 AM at Hotel Grand Majesty, Hatogaon, Near Namghar, Guwahati to observe the elections on the aforesaid date and time

and submit a confidential report in a sealed cover to the Joint Secretary (Sports) of the Ministry without any copy to anyone else. In terms of Clause 6 of model election guidelines prescribing nomination of candidates, the Returning Officer under his signature prepared the, list of nominated candidates in Form 3 as per model election, guidelines and publish the same in his office.

7. It is the case of the petitioner Federation, after compliance of clause 7, 8, and 9 of model elections guidelines, the poll in conformity with Clause 10 was taken for the Posts of President(1), General Secretary (1), Treasurer (1), Executive Vice President(1), Sr. Vice Presidents(4), Vice-President (4) Assistant General Secretary (1), Joint Secretary (West)(1), Joint Secretary (East) (1), Joint Secretary (North) (1), Joint Secretary (South)(1), Working Committee Members (6) as scheduled at Guwahati on November 29, 2015, whereas the Post of Joint Secretary (North East) (1), Director Technical, Director Media and Dy. Secretary-Marketing were elected unopposed. After counting of votes by the Returning Officer in conformity with Clause 11 of the model elections guidelines on November 29, 2015 itself, the Returning Officer, Justice Sunil Kumar Kar, (Retd.) under his signature

declared the result of election of All India Carrom Federation for office bearers and members of the Managing Committee in Form 15 prescribed in model election guidelines and endorsed a copy of the same to the President of the petitioner Federation. As per the election result declared by the Returning Officer, Mr. Rakibul Hussain, Mr. Vivek Dheesh Narayan (for short “V.D. Narayan”) and Mr. Arun Ramakant Kedar were declared as President, General Secretary and Treasurer of the petitioner federation respectively. It is stated by the petitioner that Mr. Tikan Singh, the Observer to the election of the petitioner Federation refused to sign in Form 15 declaring the result by the Returning Officer, on the plea that he has been asked by the respondent No.1 to submit the confidential report to the respondent No.1 directly, although as per model election guidelines the said Form is required to be signed by the observer deputed by the respondent No.1, despite having been provided the complete information by the General Secretary of the Federation upon his asking for the same on the day of election held on November 29, 2015.

8. It is the case of the petitioner, that Mr. P.S. Bachher, the outgoing General Secretary and Mr. V.D. Narayan newly elected General Secretary of the petitioner federation vide letter dated

December 07, 2015 addressed to the Under Secretary of the respondent No.1 submitted a list of elected office bearers detailing therein that Mr. Rakibul Hussain, Mr. V.D. Narayan & Mr. Arun Ramakant Kedar are elected to the post of President, General Secretary and Treasurer respectively. On December 09, 2015, the Outgoing General Secretary Mr. P.S. Bachher handed over the charge of the post of General Secretary of All India Carrom Federation to the newly elected General Secretary Mr. V.D. Narayan at New Delhi and the same was witnessed by Mr. Khurshid Asst. General Secretary of the petitioner Federation. It is further stated by the petitioner Federation that after taking over charge of the Post of General Secretary of the petitioner federation Mr. V.D. Narayan, has solicited entries from various Zonal Teams for 13th inter-zonal National Carrom Championship from 15th to 17th March, 2016 at Mumbai, for 44th Junior National & Inter-State Carrom Championship 2015-2016 from 27th to 30th March, 2016 at Varanasi (U.P.) and invited Junior Team and one All India Panel Umpire of State Associations for National Carrom Championship, for All India North East Zone Carrom Championship 2015-2016 from 23rd to 25th February, 2016, for All India East Zone Carrom Championship 2015-2016 from 26th

to 28th February, 2016 at Lakhi Sarai (Bihar), for All India North Zone Carrom Championship 2015-2016 from 23rd to 25th February, 2016 at Chandigarh. It is stated, while the petitioner Federation was busy organizing events for selection of India Team for participation in World Carrom Championship, it was shocked to receive letter dated February 04, 2016 from the Under Secretary of the respondent No.1 whereby the result of the elections to various posts of petitioner Federation held on November 29, 2015 is held to be not valid due to alleged violation of the election guidelines of the Sports Code, with a direction to the petitioner Federation to hold the elections afresh at a place other than Guwahati inter alia on the ground that at the time of appointment of the Returning Officer i.e. on October 19, 2015, the Electoral College was not prepared by the President / Secretary of the Federation as required under the provisions of the election guidelines of Sports Code and consequently the Returning Officer was not provided with copy of the Electoral College thus necessitating the Returning Officer to prepare the Electoral College. The General Secretary of the petitioner federation vide his letter dated February 04, 2016 addressed to the Joint Secretary of the respondent No.1 replied to the letter No.

F.No.21-6/2015-SP-I dated February 04, 2016 received from the Under Secretary of the respondent No.1 by placing on record that the election of the petitioner federation has been conducted as per the model election guidelines prescribed in the Sports Code, besides stating therein that the petitioner federation has issued prospectus for conduct of five Zonal / National Level Carrom Championships and state association have made necessary arrangements for the same and such unilateral decision of the respondent shall cause lots of inconvenience and irreparable loss to the entire Carrom Fraternity with the request to the respondent Ministry to look into the matter and do justice with the players who are World Champions and Organizers of events.

9. It is further the case of the petitioner Federation, that on the representation of the petitioner Federation, the Under Secretary of the respondent No.1 vide his letter dated February 08, 2016 addressed to the President of the petitioner federation has although clarified that the decision taken by the respondent Ministry for conduct of election has no bearing on the conduct of any Championship or event organized by recognized office bearers of the petitioner federation i.e Mr. Rakibul Hussain, President and Mr. P.S. Bachher, General Secretary, yet has

communicated its decision with the approval of Hon'ble Minister Of State (Independent Charge) not to accept the election conducted at Guwahati as valid and accordingly the petitioner federation has been advised to conduct the election afresh by the previous body, whose tenure is up to July, 2010 at a place other than Guwahati. The General Secretary of the petitioner Federation vide its letter dated February 21, 2016 addressed to the Joint Secretary of the respondent No.1 reiterated that after handing over of the charge of the post of the General Secretary by Mr. P.S. Bachher to the present General Secretary, the prospectus of 5 Zonal / National Carrom Championship for the year 2015-2016 were issued by the present General Secretary for the following events namely: North Zone Carrom Championship 2015-16, North East Zone Carrom Championship 2015-16, East Zone Carrom Championship 2015-16, Inter-Zonal Carrom Championship 2015-16 are to be completed by March 31, 2016. It was also informed that 7th World Carrom Championship to be organized from 6th November, 2016 in which 16th Nations are likely to take part therefore the Federation has to select India Teams well in advance so that the team can be sent in most befitting manner thus it was requested that the decision-dated

February 04, 2016 to be reconsidered. It is the case of the petitioner that the letter dated February 04, 2016 is contrary to the facts on record and also on a perverse interpretation of election guidelines of Sports Code and as such violative of Article 14 of the Constitution of India.

10. It may be necessary here to state, when the matter was listed on April 22, 2016 for the first time, this Court passed a detail order. Para 6 of the same reads as under:-

"6. The representative of the petitioner to meet Mr. A.K. Patro, Under Secretary or the other Under Secretary or official dealing with the matter on 27th April, 2016 at 1500 hours along with all records and the said official to look into the matter and make further inquiries as to the claim of the petitioner and repercussion if any of holding election before due or any bar thereto and the report thereof be produced before this Court on the next date of hearing. The said official would also be free to contact the other members / factions of the petitioner to verify whether there is any challenge or dispute with respect to the election of the present office bearers of the petitioner."

11. The respondent Union of India has filed an affidavit on July 12, 2016. In the said affidavit, they have referred to the order passed by this Court on April 22, 2016 and the fact that a hearing

was held on April 27, 2016 before the Director (Sports) when Mr. V.D. Narayan, the representative of the petitioner Federation was present. Thereafter, the hearing was adjourned to May 03, 2016 as it was felt that Mr. V.D. Narayan and Mr. S. Udaya Kumar, the respondent No.2 herein should be present. It is the stand of the respondent no. 1 that the Ministry does not interfere in the day to day functioning of the National Sports Federation including the AICF. The development and promotion of various discipline of sports including national / zonal championship, selection of players and teams to represent India in the tournaments, conduct of their organization, election, affiliation / disaffiliation of State union etc is the responsibility of the relevant National Sports Federation concern, which are registered under the Societies / Trust / Companies Act. It is also stated that the Government observer had submitted his report wherein it is stated that the elections were conducted through secret ballot and although the election process was to start at 11 am, the Returning Officer started the election procedure at 11.45 am. He further mentioned that out of 60 Members only 33 Members collected the election ballot and casted their vote. There are many State representatives, who did not cast their vote like Andhra Pradesh, Chattisgarh,

Gujarat, Haryana, Jammu & Kashmir, Kerala, Meghalaya, Mizoram, Punjab, Rajasthan, Uttaranchal. Further, it is stated that the Ministry has observed several anomalies in the elections. The election was held at Guwahati on November 29, 2015 on the basis of decision of Special General Body Meeting. However, as per the model election guidelines, elections are required to be held at the Annual General Council meeting from amongst representatives of the States/ UTs / Boards / Institutions. Hence, the election held at Guwahati was vitiated to that extent.

12. It is also stated that the participation of Orissa State is not known from the records, though the State is a Member. It is also stated that the records show that various important documents relating to elections like notice of election, list of nominated candidates, declaration of results etc show a mismatch of signatures of the Returning Officer. Many of the important documents, like declaration of results and counting of votes also do not have the signatures of the Government observer. Thus, the manipulation / forging of records and signatures cannot be ruled out. It is stated that there were several other complaints alleging irregularities committed in the election held at Guwahati. It was further stated that respondent No.2 Mr. S. Udaya Kumar had

conducted election of AICF on May 15, 2016 at Hyderabad and submitted his report in spite of the fact, they were well aware of the hearing held with both the groups as per the direction of this Court and the matter was sub judice. It is stated that Mr. S. Udaya Kumar claims to have been appointed as Acting General Secretary by the Working Committee, yet no authentic orders have been produced. His taking over the charge, report bears only his signature. No signatures of Mr. P.S. Bachher have been observed in that report. The notice of Special General Body Meeting issued by Mr. S. Udaya Kumar does not have the approval of the President and thus the entire exercise of the election carried out by Mr. S. Udaya Kumar on May 15, 2016 at Hyderabad is of no significance. In substance, it is the stand of the respondent no. 1 that the election at Guwahati violated the guidelines of the Sports Code and the election process was not at all fair and transparent and therefore, the respondent No.1 has directed the petitioner Federation to hold the election in a fair and transparent manner through the process in line with the provisions of Sports Code.

13. The petitioner Federation has filed a rejoinder to the affidavit filed by the respondent No.1. In its rejoinder to the

short affidavit filed by the respondent No.1 on May 18, 2016, it is stated that the report submitted by Director (Sports) of the respondent on May 13, 2016 has not been produced in this Court on the plea that it is under examination of the respondent. According to him, the report was to be produced before the Court on May 18, 2016. It was not produced even on subsequent dates of hearing on July 19, 2016 and August 16, 2016. It is stated that the respondent in para 8 of their affidavit admits Returning Officer has issued notice for conduct of election. However, the respondent Ministry in the impugned letter dated February 04, 2016 has mentioned that the Returning Officer has issued notice for the electoral college and treated it as violation of the election guidelines of Sports Code, which is a contradiction. On the election process, which was to start at 11 hrs but had started at 11.45 hrs, it is stated by the petitioner that if any Returning Officer takes more time to start voting process, petitioner Federation can neither be blamed nor it can be treated violation of election guidelines of the Sports Code.

14. On the issue that, out of 60 eligible voters, 33 voters had collected the ballot and casted their votes, it is stated by the petitioner that percentage of voting cannot be ensured in any

election process. On the issue of whether elections can be held in a special meeting, the petitioner had relied upon Clause 3.18 of the Government guidelines wherein a reference is made that a special meeting convened over four years (or earlier as required under that tenure of the office bearers) to elect the Members of the Executive Body including President and Secretary.

15. So far as Orissa matter is concerned, it is submitted by the petitioner in its rejoinder that electoral college issued by the then General Secretary on November 15, 2015, two groups sent the names of representative of Orissa Carrom Association. Since the matter over the post of General Secretary is pending in the Court of Civil Judge (Junior Division), Bhubaneswar, both the groups have not been allowed to participate in the elections.

16. Insofar as the signature of the Returning Officer is concerned, the petitioner cannot question the conduct of the Returning Officer on any issue particularly on a signature, who retired as a Judge from Guwahati High Court.

17. So far as the Government Observer's signature on Forms 14 and 15 is concerned, it is stated that the Government Observer categorically refused to sign any document including election results. On the issue of violation of guidelines of the Sports Code

and the election process being not at all fair and transparent is concerned, the petitioner has stated as under:-

“(a) The 100% eligible members participated in the elections.

(b) The respondent ministry had deputed its Observer and the appointed observer did not give any adverse report.

(c) After issuing the impugned letter dated 4.2.2016 by the respondent ministry raising points as alleged violation and they could never defend those points based on the documents on records or / and based on their own guidelines.

(d) On the direction passed vide order dated 22.4.2016 by this Hon’ble Court in the present writ petition the respondent ministry had appointed the Director (Sports) and the said Director (Sports) submitted his reports within one month but the respondent ministry did not produce the same before this Hon’ble Court even after 3 months of its submission by the concerned officer of the respondent ministry.”

18. The respondent no.2 has also filed a counter affidavit to the petition. In his counter affidavit, it is stated by respondent No.2 that the impugned communication dated February 04, 2016 of the respondent No.1, it has been categorically and

unequivocally stated that the elections of the office bearers of the AICF held on November 29, 2015 at Guwahati cannot be considered to be held in a fair and transparent manner. It is averred that the election was held in violation of model guidelines of the Sports Code. These anomalies include violation of (i) Article 15(a)(i) of the Memorandum of Association of All India Carrom Federation as according to the said Article, elections have to be held in four years at the Annual General Meeting; (ii) the elections were late by 45 minutes and started at 11.45 am instead of 11.00 am. Only 33 Members out of 60 nominated Members, who were authorized to cast votes casted their votes in the elections. There is a discrepancy in the signatures of the Returning Officer. The documents did not have the signatures of the Government observer and several complaints were received with regard to conduct of elections.

19. The Sports Code issued by the Government of India in essence is complete and comprehensive Code, which provides for amending the byelaws framed by the various sporting Federations. With regard to the elections held on November 29, 2015, it is stated that the process was subverted and manipulated by purported President of AICF Mr. Rakibul Hussain, who was

then serving as a Minister in the Assam Government. On the apprehension that they will lose the election, Mr. Rakibul Hussain resorted to illegal actions such as capturing of the election venue by his political supporters. The Members of All India Carrom Federation were against Mr. Hussain and his group brazenly threatened with dire consequences and were asked to vote in their favour. When all the measures of intimidation failed, the group opposed to Mr. Hussain was restrained from voting and they were forced to vacate the election venue. The Members were subsequently left the venue under the protection of the police. The aforesaid incidents were covered both by the print and electronic media. Despite the abovementioned tactics used by Mr. Hussain and his group, they failed to pull out majority in the said elections. It is only one Member of the Hussain group, who was able to secure 30 votes out of 60 votes as per Electoral College and rest of the Members of the group of Mr. Hussain, who were contesting for different positions in elections could pull out only 29 votes out of 60 votes. The four Members, who were coerced to vote for Mr. Hussain in the said elections challenged the entire procedure of the election vide their complaints dated December 02, 2015 and December 22, 2015 to

respondent no. 1.

20. It is also averred that election of Mr. Rakibul Hussain as the President is illegal for the following reasons; (i) The Ministry of Education and Social Welfare, Government of India had issued letter dated September 20, 1975, which is Annexure XI to Sports Code provides the tenure of office bearers of the sporting Federation. The proviso to Clause 3 of the letter inter alia states that an office bearer, who has completed one term shall be deemed to have been elected if he/she secures a majority not less than $2/3^{\text{rd}}$ of the Members of the Federation / Association concern. In other words, as Mr. Hussain able to muster only 30 votes against 40 votes required by him to become the President of the AICF, his election was illegal and in a wrongful manner. Respondent No.2 has also stated, the Orissa State Carrom Federation, which was affiliated Member of respondent No.1, was not included in the Electoral College on frivolous grounds and was also restrained from participating in the elections despite Court orders of the District Court at Bhubaneswar.

21. It is averred that Association of Bengal requested for change of Electoral College as permitted under Rule 4(4) of Model Election Guidelines. The same was not allowed and

consequently the nomination of their candidate was rejected. Two governments servants Mr. Mukul Jha and Mr. S. Lyngdoh were got elected in violation of Ministry of Youth Affairs and Sports letter dated February 04, 2010. Mr. V.D. Narayan elected as General Secretary of the Federation, was ineligible to hold the said post along with other two employees of the public sector undertaking, who took part in the aforesaid elections without taking no objection from their employers respectively. It is also stated that the election is bad for the reason that voting compartments were not provided in violation of Rule 10(6) of Model Election Guidelines; ballot boxes were not sealed in violation of the guidelines; attendance sheet of the voters was not authenticated by the Returning Officer or government observer; the government observer did not sign or verify Form 14 and Form 15; results were declared in different format other than prescribed Form 15; various important documents including 12 pages of Form 3, 4 and 6 pertaining to the elections has shown a mismatch of signatures of the Returning Officer; scrutiny of nominations was not undertaken in violation of elections circular of General Secretary dated October 14, 2015 regarding remittance of annual subscription and in violation of other provisions of Sports Code;

election notice was circulated by suspended General Secretary Mr. P.S. Bachher; Electoral College was not prepared by General Secretary but nominations were re-invited by the Returning Officer with different schedule who prepared Electoral College; complaints of assault, kidnapping, threat and prevention from voting were reported to the Returning Officer immediately on November 29, 2015 but he took no cognizance of those serious complaints.

22. An additional affidavit dated March 19, 2018 has been filed by the respondent No.1 wherein it is stated that a letter dated July 05, 2015 signed by Mr. S. Udaya Kumar respondent No.2 as In-Charge / General Secretary intimating that Mr. P.S. Bachher has been suspended by the Working Committee for reasons mentioned therein was received. It was also informed that the Working Committee has directed Mr. S. Udaya Kumar to be In-Charge / Acting General Secretary. In support of his contention, Mr. S. Udaya Kumar has enclosed various documents like minutes of the Working Committee dated May 30, 2015; notice dated June 06, 2015 said to have been issued to Mr. P.S. Bachher; report of the enquiry committee appointed by the Working Committee on suspension of Mr. P.S. Bachher; email dated July

05, 2015 sent to Mr. P.S. Bachher informing of his suspension. It is also stated in the affidavit filed by respondent No.1 that a letter dated October 06, 2015 was written to the President of the AICF seeking his comments on suspension of Mr. P.S. Bachher as General Secretary of the AICF. However, no response was received from the President of the Federation till the issuance of the election notice for AICF by Mr. P.S. Bachher on October 15, 2015. Subsequently, on April 22, 2016 pursuant to the orders passed by this Court, the Director (Sports) heard the parties. During the hearing, one of the parties Mr. V.D. Narayan submitted a document purported to have been written on October 14, 2015 by President of AICF stating that Mr. P.S. Bachher was still continuing as General Secretary. The Director (Sports) who heard the matter submitted his report inter-alia taking cognizance of this document and concluded that the grounds for issue of the order dated February 04, 2016 of the Department of Sports are not found to be correct based on documents submitted by Mr. V.D. Narayan.

23. A further affidavit has been filed on behalf of respondent No.1 on May 04, 2018 wherein in paras 3 to 6, it is stated as under:-

“3. Based on the report submitted by Shri Vivek Narayan, Director (Sports) and documents submitted by the petitioner and the other faction, the matter was examined in the Ministry. On the findings of the Director (Sports) Shri Vivek Narayan the then Secretary (Sports) observed that the issue became complex due to certain documents submitted by the parties which were earlier not on record (e.g. Shri V.D. Narayan submitted a letter purported to have been written on 14.10.2015 by the then President of AICF stating that Shri P.S. Bachher was still continuing as General Secretary. The said letter was not received earlier in the Ministry and was submitted during the hearing only (copy enclosed as Annexure-2). These documents were presented before the then Director (Sports) during the hearings only, which were earlier not brought out. Taking note of the above, the then Secretary (Sports) noted in the file on 16.06.2016 that:-

“The issue has become complex due to certain documents now being presented before Director (VN) which were earlier not brought out. Also, while the case has been sub-judice, another election has been conducted by some members of the Federation – where the returning officer was a Retd. District Judge.

It would be better that a senior office examines the various facts and issues and suggests the way to be

followed as per Sports Code provisions-the same can be intimated to Hon'ble High Court before the next hearing. AS & FA may pl. examine and advise in time."

Copy of file noting of the then Secretary (Sports) is enclosed as Annexure-3 and letter dated 18.04.2015 from Shri S. Udaya Kumar declaring new elections is enclosed as Annexure-4.

4. The matter was then further examined by Additional Secretary & Financial Advisor of the Ministry, viz. Ms. Kiran Soni Gupta, who submitted her report on 21.06.2016. The report/observation is in the form of file noting (enclosed as Annexure-5). The report has been submitted by Additional Secretary clearly mentions that "Perused the file and all records". The report of the Director (Sports) was also on the file. Hence, it is not correct to say that the report of Director was not considered. The report/observation of Additional Secretary, inter-alia, states that Government Observer appointed by the Ministry for the elections of AICF held on 29.11.2015 at Guwahati has submitted in his report that elections were not held on time and out of the eligible 60 members only 33 members collected their election ballot and cast the vote. It is seen that 13 State Associations did not participate in the election process. The participation of Orissa State is not known from the records, though

they are a Member. The records also revealed that various important documents relating to the elections like notice of elections, list of nominated candidates, declaration of results etc show a mis-match of the signatures of the Returning Officer. Many of these important documents like declaration of results and counting of votes also do not have the signatures of the Observer Sh. Tiken Singh, the Deputy Director, Sports Authority of India who was appointed by the Ministry. Thus, the Additional Secretary observed that manipulations and forging of records and signatures cannot be ruled out.

5. The report of the Additional Secretary further states that records also show although Shri Udaya Kumar claims to have been appointed as acting General Secretary by the working Committee on 05.07.2015 yet no authentic orders have been produced. His charge taking over report bears only his own signatures. No signatures are seen by Mr. P.S. Bachher, who is claimed to be the then General Secretary. The notice of Special General Body meeting issued by him (held at Vadodara on 02.04.2016) does not have the approval of the President of the Federation and thus the entire exercise of elections carried out by Shri Udaya Kumar at Hyderabad on 15.05.2016 is of no significance and the Ministry may not give adequate cognizance.

6. The said report of Additional Secretary further

states that elections held at Guwahati on 29.11.2015 also violated the guidelines of the Sports Code and the election process was not at all fair and transparent. Thus, it is stated that the Ministry of Youth Affairs & Sports (Respondent No.1 herein) rightly directed AICF on 04.02.2016 to hold the elections in a fair and transparent manner by the office bearers elected in 2012. It is submitted that the Ministry was advised by the Additional Secretary & Financial Advisor to maintain status quo until the case is decided by the Hon'ble Court. The Ministry has at the level of Competent Authority accepted the report of the Additional Secretary & Financial Advisor as well as her advise to maintain status quo until the case is decided.

It is to submit that the Hon'ble Court may decide the matter as deemed appropriate in view of the position of the Ministry as explained above.”

24. I may state here that the following applications have been filed by the petitioner / respondent No.2. I have referred to the pleadings therein as relevant to the limited issue to be decided in these petitions.

<i>CM Nos.</i>	<i>Relief sought for</i>
<i>14137/2016</i>	<i>Seeking ad-interim ex-parte stay of Order dated 4.2.2016</i>

19043/2016	<i>Order 1 Rule 10(2) r/w Order 1 Rule 8A and Section 151 CPC seeking impleadment of Mr. S. Uday Kumar as party respondent</i>
16388/2018	<i>Under Section 151 CPC Seeking permission to send India's entry and to ensure the participation of Indian Carrom Team in 5th World Carrom Tournament 2018</i>
25148/2018	<i>Under Section 151 CPC seeking permission to submit the entry form</i>
45426/2016	<i>Under Section 151 CPC seeking production of relevant documents</i>
46888/2016	<i>Under Section 151 CPC seeing direction against the R-1 to allow the duly elected office bearers of the petitioner Federation to carry out the functions of Executive Committee in terms of elections held on 29.11.2016 at Guwahati (Assam)</i>
1585/2017	<i>Under Section 151 CPC on behalf of petitioner Federation seeking permission to organize Senior National & Inter-State Carrom Championship 2016-17</i>
38513/2017	<i>Under Section 151 CPC on behalf of R-2 seeking direction against the petitioner Federation to strictly comply the OMs and orders issued by R-1</i>
38514/2017	<i>Under Section 151 CPC on behalf of R-2 seeking certain directions</i>

W.P.(C) 5684/2016

25. This writ petition has been filed by the petitioner with the following prayers:-

“It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

1. Issue a writ in the nature of mandamus or any other appropriate writ or order to Respondent No.1 to direct

Respondent no.3 and Respondent No.4, not to take adverse action in violation of its order dated 04.02.2016;

2. Issue a writ in the nature of mandamus or any other appropriate writ or order to Respondent No.3 and Respondent No.4 to not use unauthorizedly the name and property of the Respondent No.2;

3. Issue a writ in the nature of mandamus or any appropriate writ or order to Respondent No.1 to expedite its process pertaining to the recognition of the elections of the office bearers of the Respondent No.2 which were held on 15.05.2016 at Hyderabad;

4. Pass such other Order/further Orders as this Hon'ble court may deem fit and proper in the facts and circumstances of the present case."

26. In this case, the factual aspects as narrated by the petitioner are almost similar to the one reproduced above, at least till the issuance of order dated February 04, 2016 by the respondent No.1. The averments as made in the writ petition post the issuance of order dated February 4, 2016 are that on March 15, 2016, an email was sent by Mr. S. Udaya Kumar respondent No.2 in W.P.(C) 3314/2016 to all State Associations informing of the decision of the respondent No.1 dated April 04, 2016. On March 16, 2016 notices of the meetings were issued by Mr. S.

Udaya Kumar to consider and take action on the decisions taken by respondent No.1 vide its letter dated February 04, 2016. On April 01, 2016 meeting of the AICF was held. Pursuant thereto, on April 02, 2016 a Special General Body Meeting of the AICF was conducted. On May 15, 2016 fresh elections were conducted at Hyderabad in terms of the Model Elections Guidelines / Sports Code and the memorandum of association of AICF. It is the case of the petitioner, pursuant to the aforesaid elections, he was elected as General Secretary of the AICF. Other office bearer elected in the said elections was Neeraj Sampathy as President. A reference is, made in the petition about the show cause notices issued by the respondent No.3 in this writ petition namely Mr. V.D. Narayan to all the affiliated Units as to why their State Carrom Associations participated in the elections of respondent No.2 which was held on May 15, 2016. A reference is also made by the petitioner about his writing a letter dated June 06, 2016 to the Under Secretary of the Ministry of Sports and Youth Affairs declaring the respondent No.3 Mr. V.D. Narayan as persona-non-grata and also bar him from all activities portraying himself as General Secretary of respondent No.2 (AICF) and with a specific request that the respondent No.1 should not entertain,

consider or respond to any communication made by Mr. V.D. Narayan as General Secretary of AICF.

27. Counter affidavit has been filed by respondents 2 and 3 wherein it is stated that this petition has been filed with a view to distract the attention of the Court and to delay the proceedings of W.P.(C) No. 3314/2016. A reference is made to a challenge to the order dated February 04, 2016. According to the respondents 2 and 3, the said letter is a combination of misrepresentation of facts on record and also misrepresentation of the election guidelines of the Sports Code.

28. Respondents 2 and 3 in their counter affidavit have averred that the petitioner has concealed the following vital facts:-

1. That the petitioner has submitted his claim as representative of respondent No.2 in the Bank of the respondent No.2 i.e State Bank of India, Chandni Chowk, Delhi-6.
2. The petitioner has participated in the election process of the respondent No.2 held on November 29, 2015 which was invalidated by respondent No.1 vide their letter dated February 04, 2016.
3. The petitioner had issued a letter dated November 11,

2015 through email to the members of the respondent no. 2 and stated that one Mr. Perala Shekar Rao is the nominee for President post from his group and is Vice Chairperson of Nehru Yuva Kendra Sangathan of Ministry of Youth Affairs and Sports, Govt. of India and has, great rapport with Mr. Sarbananda Sonowal, the then Sports Minister, Govt. of India and enjoyed his support and confidence. He had also stated that Mr. Sekhar Rao will do his best and use his good office with the Sports Ministry to see that Carrom is introduced in the National games and also the Asian and Commonwealth Games. This communication was forwarded to Mr. A. K. Patro, Under Secretary of the Ministry of Sports, Govt. of India on November 25, 2015 for his information with a remark that Mr. Vijay Kumar is using the name of the then Sports Minister Mr. Sarbananda Sonowal as support of his panel.

4. The petitioner in the present writ petition is the General Secretary of the Chhattisgarh Carrom Association, and is a member of the respondent No.2.

5. The petitioner had filed his nomination for the post of General Secretary of All India Carrom Federation in its election held on November 29, 2015 at Guwahati wherein respondent

no. 3 (answering respondent) was duly elected as General Secretary of the respondent no. 2.

6. The petitioner has declared himself as elected General Secretary of the respondent No. 2 on November 29, 2015 without any election process. He has created lot of confusion through media and other means of communication among the various stakeholders including the innocent players.

7. The petitioner has participated in the meetings convened by an unauthorized person in the name of All India Carrom Federation.

8. The Petitioner has conducted the following two activities under the authority granted in writing by the then General Secretary Mr. P.S. Bachher of the respondent No.2 and signed the participation certificates with Mr. P. S. Bachher to whom he has mentioned as suspended General Secretary on the dates of these activities.

a. All India Carrom Federation Cup Carrom Tournament held at Raigarh in July 2015.

9. Sub junior National & Inter State Carrom Championship at Raipur in September 2015.

10. The petitioner has participated in the Annual General

Body meeting convened by the then General Secretary Mr. P.S. Bachher on September 13, 2015 at Guwahati and was part of resolution passed by the General Council to take disciplinary action against Mr. S. Udaya Kumar for his acts of projecting him as Acting General Secretary.

29. On the aforesaid aspects, the respondent Nos. 2 and 3 have stated as under:-

(i) The elections of the respondent No.2 were held on November 29, 2015 under the supervision of Justice Sunil Kumar Kar, (Retd.), who acted as Returning Officer. The respondent No.1 had also sent its Observer Mr. L. Tikan Singh, Dy. Director, Sports Authority of India.

(ii) Respondent No.2 had submitted its election report to respondent no. 1 on December 07, 2015 and to International Carrom Federation, the apex body of Carrom in the World of which the respondent no. 2 is member since 1988.

(iii) The answering respondent. no 3 had taken over charge from the outgoing General Secretary Mr. P.S. Bachher on December 09, 2015.

(iv) International Carrom Federation after scrutiny of documents sent to them have ratified the election results and

issued a letter dated February 17, 2016 recognizing the newly elected office bearers of Respondent no. 2. They have mentioned that respondent no. 4 Mr. Rakibul Hussain and Respondent No.3 Mr. V.D. Narayan are the recognized office bearers of the respondent no. 2 AICF.

(v) The respondent no. 1 vide letter dated February 4, 2016 had unilaterally pronounced its decision that in view of the violation of the Model Election Guidelines of the Sports Code the result of the election of Respondent No 2 AICF held on November 29, 2015 at Guwahati cannot be considered to be held in fair and transparent manner and in accordance with the provisions of the Sports Code.

(vi) Respondent No.1 vide its letter dated February 4, 2016 had raised the 'following 4 points as violation to the Model Election Guidelines of the Sports Code and made it as ground for rejecting the election report submitted by the Respondent No.2 through Respondent No.3 along with outgoing General Secretary Mr. P.S. Bachher.

(i) Elections were held before its due date.

(ii) Returning Officer on October 26, 2015 had issued notice for preparation of Electoral College.

(iii) At the time of appointment of RO Electoral College was not prepared.

(iv) Mr. P.S. Bachher was suspended by the Working Committee but the election notice was issued by, Mr. P.S. Bachher and the elections held in pursuance of that notice.

(v) Respondent No. 3 on behalf of Respondent No.2 immediately vide letter dated February 4, 2016 had submitted a representation to the respondent no. 1 and clarified all the 4 points with documentary evidences in support of his arguments that, the respondent no. 2 has not violated any clause of Model Election Guidelines of the Sports Code.

(vi) The respondent no. 1 vide letter dated February 8, 2016 had issued a clarification to its letter dated February 4, 2016 and admitted that Mr. P.S. Bachher is the recognized General Secretary of the Respondent No.2. (At this stage the respondent No. 1 had withdrawn one charge out of 4 charges of violation which were alleged vide their letter dated February 4, 2016). However, despite getting satisfactory reply, from the respondent No.2 through respondent No.3 the respondent No.1 did not respond to the remaining three points allegedly raised vide their letter dated February 4, 2016.

(vii) A reminder dated February 21, 2016 to Respondent No.1 was sent by respondent no. 2 through respondent No.3 but did not get any response to it for a period of about 50 days. It is stated by respondent Nos. 2 and 3 that despite the fact that respondent No. 1 had received the election report and report of its observer by December 7, 2015 they did not take any action on it for a period of more than 2 months. It is also stated that the respondent no. 1 while replying to an RTI appeal had categorically mentioned that after election and before Govt. approval there are no guidelines to stop any elected office bearer from functioning. Accordingly the respondent no. 3 had taken charge from outgoing General Secretary Mr. P.S. Bachher. However the Respondent No.4 who was elected once again remained at his position in the new committee as well.

(viii) It is stated by respondent Nos. 2 and 3 that the respondent No. 2 left with no other option but to approach this Court by way of filing Writ Petition (C) 3314/2016. This Court vide its order dated April 22, 2016 had passed an order as "meet the representative of respondent no. 2 on April 27, 2016 and to look into the matter and make further inquiries as to the claim of the petitioner and repercussion if any of holding election before due

date or any other bar thereto and the report thereof be produced before this court on the next date of hearing" i.e. May 18, 2016.

(ix) The respondent no. 3 on behalf of Respondent No.2 met the Director (Sports) of the respondent no. 1 and clarified all the points raised in the letter dated February 4, 2016.

(x) The Director (Sports) of the respondent No.1 further called the respondent No.3 on May 4, 2016 along with one Mr. S. Udaya Kumar to whom the respondent No.1 was treating as faction of the respondent No.2.

(xi) In the meantime while the legal process was on through W.P. (C) 3314/2016 to find out the genuineness of letter dated February 4, 2016 issued by the respondent no. 1, Mr. S. Udaya Kumar without any authority convened purported meeting of AGM on May 15, 2016 stating that as per order dated February 4, 2016 of the respondent no. 1 the AGM and election of respondent no. 2 is being conducted on May 15, 2016 at Hyderabad.

(xii) On May 18, 2016 the next date of hearing of WP (C) 3314/2016 All India Carrom Federation Vs. Union of India the respondent no. 1, instead of filing the report of the officer, who conducted the hearing on the direction of this Court vide its

order dated April 22, 2016, had submitted an affidavit stating that the Director (Sports) had submitted his report on May 13, 2016 but the same is under examination of respondent no. 1. The respondent no. 1 sought six weeks time, which was granted and fixed next date of hearing on July 19, 2016. It is stated that as per the Court order dated April 22, 2016 in WP (C) 3314/2016 the report so prepared by the Director (Sports) of the respondent No.1 after meeting the petitioner on April 27, 2016 and May 04, 2016 was required to be filed in the court on May 18, 2016 but the report was kept with respondent for their examination before producing it to the court. The petitioner has not been provided a copy of this report ever. However, the respondent ministry had provided a copy of the affidavit dated May 18, 2015 and July 12, 2016 to the petitioner.

(xiii) It is stated that the respondent no. 1 after pointing out the alleged violation of the Sports Code has never defended its stand on those points of alleged violation by respondent no. 2. Respondent No. 1 maintained its complete silence over the points raised in their letter dated February 4, 2016 after receipt of representation from the respondent no. 2 through respondent no. 3 vide letter dated February 4, 2016. The respondent no. 1

has gone upto the extent that they have concealed the report of the Director (Sports) who conducted two hearings on the direction of this Court vide its orders dated April 22, 2016 and filed an affidavit on July 12, 2016 in WP (C) 3314/2016. However, respondent no. 1 has not reiterated or defended those points of alleged violations in their affidavit dated July 12, 2016. Those points are completely withdrawn by respondent no. 1 which were used as a tool for rejecting the election report submitted by the respondent no. 2. However, the Returning Officer a retired Judge and Govt. Observer appointed by the Respondent No. 1 who were physically present as neutral officials, have not given any adverse report to the respondent no. 1 rather the Returning Officer has mentioned that the election was held in a transparent manner and as per Sports Code. Moreover, the Observer appointed by the respondent ministry for the election of the respondent no. 2 held on November 29, 2015 at Guwahati and who was present during the election on November 29, 2015 as representative of the respondent ministry has also not given any adverse reports to the respondent ministry.

(xiv) It is stated that the entire WP (C)/5684 is based on letter

dated February 4, 2016 issued by the respondent No.1 Govt. of India, Ministry of Sports and from the above narrated points the respondent No.1 is unable to defend its letter dated February 04, 2016 and / or the points alleged.

30. The respondent No.1 has also filed two affidavits on August 24, 2016 and October 24, 2016 wherein apart from reiterating the stand already taken in W.P.(C) No. 3314/2016, it is also stated that the faction of AICF lead by Mr. S. Udaya Kumar had conducted election of AICF on May 15, 2016 at Hyderabad and submitted its report, in spite of the fact that they were well aware of the hearing held with both the groups as per the direction of this Court and the matter was sub judice. According to the respondent No.1, the record shows that although Mr. S. Udaya Kumar claims to have been appointed as Acting General Secretary by the Working Committee, yet no authentic orders have been produced. His taking over the report bears only his own signatures. No signatures of Mr. P.S. Bachher have been observed in that report. The notice of Special General Body Meeting issued by Mr. S. Udaya Kumar does not have the approval of the President and thus the entire exercise of the election carried out by Mr. S. Udaya Kumar on May 15, 2016 at

Hyderabad is of no significance. It is also stated, the elections held at Guwahati and Hyderabad have not been considered as valid. Therefore, the respondent No.1 has rightly directed the Federation to hold the elections afresh in a fair and transparent manner through the process in line with the provision of the Sports Code.

31. The petitioner in W.P.(C) 3314/2016 is represented by Mr. V.D. Narayan. It is his submission that the impugned order dated February 4, 2016 declaring the elections of All India Carrom Federation held on November 29, 2015 is invalid on all grounds. According to him, the premise on which the impugned order was passed are (i) as per the Sports Code, the President / General Secretary of the Federation shall prepare a list of authorized representative(s) of the members, but the same was not prepared by the President / General Secretary of the Federation. This necessitated the Returning Officer to prepare the Electoral College and hence there is a violation of the election guidelines of the Sports Code from the beginning; (ii) further vide letter dated July 5, 2015, AICF has informed that Mr. P.S. Bachher, the General Secretary of the Federation was suspended by the Working Committee and Mr. S. Udaya Kumar will be

working as Incharge / Acting General Secretary.

32. According to Mr. V.D. Narayan, the ground (i) is factually incorrect since Electoral College was prepared by General Secretary of AICF as required by the Sports Code. In so far as ground (ii) above is concerned, it is his contention that the same is also factually incorrect. According to him, respondent no.1 makes all correspondences with the National Sports Federation through its General Secretary / President. Hence, any correspondence, which is received by respondent no.1 from any person other than President / General Secretary of the Federation cannot be treated as communication of that Federation. In the present case, Ministry had recorded the names of President and General Secretary of AICF and intimated to the General Secretary of AICF vide its order dated October 12, 2012. Mr. V.D. Narayan also stated that the impugned communication dated February 04, 2016 is not proceeded by any show cause notice to the petitioner to meet the allegations made therein and hence in violation of principles of natural justice. He in his submission that Mr. Bachher was the General Secretary has referred to the letter dated July 5, 2015 to state that the said letter confirms that even the letterhead used by Mr. S. Udaya Kumar, respondent

no.2 finds mention the name of Mr. Bachher as General Secretary and Mr. Rakibul Hussain as President. Since none of them had signed the letter, the said communication cannot be treated as a communication from AICF. In fact, it is his submission that respondent no. 1 never took cognizance of the letter dated July 5, 2015 before or after the election. However, it was used for issuing the impugned order only. He stated records also confirm that respondent no. 1 never communicated with Mr. S. Udaya Kumar as Acting General Secretary. It is clear from the letter dated February 4, 2016 which has been addressed to the General Secretary and not Acting General Secretary. Even the correspondence between Mr. Bachher, the then General Secretary of AICF and Mr. A.K. Patro, the Under Secretary of respondent No.1, who issued the impugned letter dated February 4, 2016 shows that the respondent no. 1 had 'continued to recognize Mr. Bachher as General Secretary between July 5, 2015 and November 29, 2015. In this regard, he draws my attention to the affidavit filed by the petitioner at Page 818 wherein reference is made to the following correspondence between Mr. Bachher and Mr. Patro:

- (i) Letter of Mr. A.K Patro issuing NOC on August 10, 2015

for International Carrom Tournament to be held in India / New Delhi.

(ii) Letter of Mr. Patro dated November 3, 2015 to the General Secretary, AICF on appointment of Government Observer for election to be held on November 29, 2015 at Guwahati. The Government Observer appointed by respondent no. 1 asking certain documents from Mr. Bachher, General Secretary, AICF.

33. Mr. Narayan also states that filing of the writ petition by Mr. S. Udaya Kumar being W.P.(C) 8753/2015 seeking directions against respondent No.1 to the extent (a) record the suspension of Mr. P.S. Bachher (b) to recognize Mr. S. Udaya Kumar as the Acting General Secretary (c) stay on the Annual General Body Meeting convened by Mr. Bachher on September 13, 2015 at Guwahati was dismissed as withdrawn on September 11, 2015 with liberty to avail all remedies under the Civil Law. In this regard he also states that the fact that the writ petition has been filed by Kumar for the reliefs already stated above would demonstrate that Union of India was not recognizing Mr. S. Udaya Kumar as the General Secretary of AICF.

34. Mr. Narayan also submitted that the respondent no. 1 on

October 6, 2015 i.e. three months after the receipt of the letter dated July 5, 2015 sought a confirmation from, the President, AICF on the suspension of Mr. Bachher, General Secretary, AICF. Mr. Rakibul Hussain, President of AICF sent a reply vide his letter dated October 14, 2015 mentioning therein that the meeting convened by Mr. Kumar is not only illegal but also an act of anti federation activity. According to Mr. Narayan, Mr. Hussain had categorically mentioned that Mr. Bachher is the General Secretary of AICF and still has confidence of more than 2/3rd members of AICF which is evident from the meeting of the General Council of AICF held on September 3, 2015. That apart, it is the submission of Mr. Narayan that 100% eligible members of the AICF including Mr. S. Udaya Kumar who was claiming to be Acting General Secretary participated in the election process by responding to the election notice dated October 14, 2015 issued by Mr. Bachher, the then General Secretary. He submitted that the International Carrom Federation, the Parent Body of AICF had also approved the election held on November 29, 2015 after investigating the entire matter and had issued letter of recognition to newly elected body led by Mr. Rakibul Hussain as President and Mr. V.D. Narayan as General Secretary. He

stresses on the fact that before the issuance of the approval letter of recognition to the newly elected office bearers, international body looked into the entire controversy created by respondent no. 1 by issuing the impugned letter dated February 4, 2016 during their visit to India in February, 2016. He stated, no one has ever challenged the election dated November 29, 2015 in any court of law till date. In any case, it is his submission that pursuant to the order passed by this court on April 22, 2016 directing the respondent no. 1 to conduct the enquiry after meeting the petitioner on April 28, 2016 at 15:00 Hrs. and produce the record before the court on May 18, 2016, the Director (Sports) of respondent no. 1, who conducted the enquiry, submitted his report on May 13, 2016. The Director (Sports) in his report has categorically come to a conclusion that (1) there is no bar as per the Sports Code to hold elections before due date; (2) the grounds of issuance of letter dated February 4, 2016 by Department of Sports, are not found to be correct based on the documents submitted by Mr. V.D. Narayan in the hearing. So the order dated February 4, 2016 has to be tested only on the basis of the report furnished by the Director (Sports) and it is clear, the election having been validly held, could not have been annulled

by respondent no. 1. He stated after the declaration of the result, the petitioner has taken over as the General Secretary of the AICF and has been discharging the functions as the General Secretary, as he has organized many tournaments in different parts of the country.

35. In view of his submissions, he seeks the granting of the reliefs prayed in the writ petition.

36. Mr. Bhagwan Swarup Shukla, learned CGSC appearing for the respondent no. 1 has drawn my attention to the affidavits filed by respondent no. 1, Govt. of India including the one at page 897, the details of which have already been reproduced above only to contend that pursuant to the report submitted by Director (Sports), Secretary (Sports) was of the view that a senior officer examines the various facts and issues and suggests the way to be followed as per Sports Code provisions and accordingly directed the Additional Secretary and Financial Advisor to examine and advise him in time. Accordingly, Additional Secretary and Financial Advisor of the Ministry submitted her report on June 21, 2016, wherein, Additional Secretary inter-alia stated that the Government observer appointed by the Ministry for the elections held on November 29, 2015 at Guwahati has submitted his report,

that the elections were not held on time and out of eligible 60 members only 33 members collected their election ballot and casted their vote. Reference is also made about the non-participation 13 State Associations in the election process. The participation of Orissa state is also not known, though they are the member. Mr. Shukla stated that the record reveals that various important documents relating to elections like notice of elections, list of nominated candidates, declaration of results etc. show a mismatch of the signatures of the Returning Officer. Many of the important documents, declaration of results and counting of votes also do not have signatures of the observer. Hence, the Additional Secretary observed that the manipulation and forging of the records and signatures could not be ruled out. Mr. Shukla has drawn my attention to the notings of the Additional Secretary at Pages 723 to 727 of the paper book. He states that the conclusion of the respondent no. 1 in the impugned order with regard to the holding of election other than at Guwahati in any case cannot be contested by the petitioner.

37. Mr. Aseem Mehrotra, learned counsel appearing for the respondent no.2 in his submissions has reiterated the stand taken by respondent no. 2 in his counter-affidavit and the same can be

summed up in the following manner:

(i) The elections held on November 29, 2015 at Guwahati are contrary to and in violation of the norms of National Sports Code.

(ii) They were conducted in unfair and undemocratic manner.

(iii) The entire election process was subverted and manipulated by the President Mr. Rakibul Hussain, who was then serving as a Minister in the Assam Government. The members of the All India Carrom Federation, who were against, Mr. Hussain were threatened with dire consequences. When all the measures of intimidation failed, members of the All India Carrom Federation who opposed Mr. Hussain were restrained from voting and they were forced to vacate the election venue. The said members subsequently left the election venue under the protection of police and were escorted by the police officials. Mr. Hussain could not get majority in the election as Mr. Hussain's group got only 30 votes out of 60 votes. Four members who were coerced to vote in favour of Mr. Hussain's group challenged the entire procedure of the elections vide complaints dated December 2, 2015 and December 22, 2015.

(iv) Even otherwise, Mr. Hussain who was a Minister in the

Assam Government was contesting for the post of the President for the second term and he was again elected as the President in the election held on November 29, 2015. The election was ex-facie illegal in view of the Ministry of Education and Social Welfare, Government of India letter dated September; 20, 1975, which provided the tenure of the office bearer of Sports Federation, and which also stated that office bearer who has completed one term shall only be deemed to have been elected if he / she secures majority of not less than 2/3 votes of the members of the National Sports Federation Association concerned.

(v) The Orissa State Carrom Federation which was an affiliated member of respondent no. 1 was not included in the Electoral College and was restrained from voting. Further Association of Bengal which is an affiliated State member of respondent no. 1 requested for change of Electoral College as permitted under Rule 4 (4) of Model Election Guidelines. The same was not allowed. Two government servants namely Mr. Mukul Jha and Mr. S. Lyngdoh were got elected in violation of Ministry of Youth Affairs and Sports OM dated February 4, 2010.

(vi) Mr. V.D. Narayan who, purports to have been elected as General Secretary of the Federation was ineligible to hold the said post along with two other members of public sector undertakings who took part in the aforesaid election without taking NOC from their employers respectively.

38. According to Mr. Mehrotra, LIC of India has made a similar rule for its employees. Perusal of which would reveal that Mr. Narayan was not eligible to contest the election. This aspect of non-eligibility of Mr. Narayan was also brought to the notice of respondent No.1 in letter dated February 9, 2016 as also regards Mr. Rakibul Hussain. The election of office bearers of respondent no. 1 which was held on November 29, 2015 at Guwahati were postponed wrongfully by about an hour without issuing a notice to the members of the Electoral College; voting compartments were not provided; ballot boxes were not sealed; attendance sheet of the voters was not authenticated by Returning Officer or Government Observer; the Government observer did not sign or certify Form 14 and Form 15; results were declared in different format other than prescribed Form 15; various important documents pertaining to the election has shown a mismatch of signatures of the Returning Officer; scrutiny of nominations was

not undertaken in violation of election circular of General Secretary dated October 14, 2015 regarding remittance of annual subscription in violation of other provisions of Sports code; election notice was circulated by the suspended General Secretary Mr. P.S. Bachher; the Electoral College was not prepared by the General Secretary, but nominations were re-invited by the Returning Officer with different schedule to prepare Electoral College; Form-14 was neither prepared nor issued / published immediately after the scrutiny but was circulated through e-mail on November 21, 2015.

39. Mr. Mehrotra had also argued that the report of Director (Sports) of respondent no. 1 having been further considered by the Additional Secretary and Financial Advisor of respondent no. 1, who had still opined that the elections conducted were in violation of guidelines of the Sports Code and the same being not at all fair and transparent had justified the direction of the respondent no. 1 directing the AICF to hold elections in fair and transparent manner by the office bearers elected in the election held in 2012. He stated, these are the developments subsequent to passing of order dated February 4, 2016 and that too pursuant to the directions given by this Court on April 22, 2016 in W.P.(C)

3314/2016. The said report even though subsequent to the impugned order cannot be overlooked by this Court while adjudicating the dispute. In other words he contested the submission made by Mr. Narayan that the impugned order needs to be tested only on the grounds stated therein and not otherwise. In this regard he has relied upon the following judgments of the Supreme Court:

(i) ***Chairman, All India Railway Recruitment Board and Anr. v. K. Shyam Kumar and Ors. (2010) 6 SCC 614;***

(ii) ***PRP Exports and Ors. v. Chief Secretary, Government of Tamil Nadu and Ors. (2014) 13 SCC 692.***

40. Mr. Mehrotra states that the impugned order needs to be upheld as the same is in violation of the National Sports Code by relying upon the judgment of this Court in the case ***Indian Olympic Association v. Union of India (2014) SCC Online Delhi 2967.***

41. Mr. Jai Sahai Endlaw, learned counsel appearing for the petitioner in W.P.(C) 5684/2016 in his submissions only reiterated the stand of the petitioner in the writ petition and pressed for the reliefs as prayed for in the petition. Mr. Ajay Digpaul, learned CGSC appearing for the respondent no. 1 in the

said writ petition also reiterates the stand of the respondent no. 1 in its affidavit. In so far respondent nos. 2 to 5 are concerned, the contents of the detailed affidavit have already been referred above. According to Mr. Narayan, the elections at Guwahati held on November 29, 2015 were just and proper and the elections in Hyderabad are illegal and seeks the dismissal of the writ petition.

42. Having heard the learned counsel for the parties, before I deal with the submissions so advanced by the representative of the petitioner and the learned counsel for the respondents, it is necessary to refer to some of the orders passed by this Court; the Division bench of this Court and the Supreme Court. On May 17, 2017, an application being CM No. 18735/2017 was filed by the petitioner, AICF which was dismissed. Against the said order, the petitioner filed an LPA being No. 407/2017. On May 29, 2017, the Division Bench in that LPA had passed the following order:-

"5. When the matter was taken up on the last date of hearing, i.e. 26.05.2017, we had suggested that the Court may appoint an Ad-hoc Committee with representation of the petitioner, the other faction represented by respondent No.2, ex-players, and with a senior officer in the Ministry of Sports so that the functioning of the Federation is not jeopardized till the

writ petition is disposed of.”

6. In that respect, Mr. Shukla had tendered, in Court, an email communication dated 26.05.2017 received from the Under Secretary, Ministry of Youth Affairs and Sports, Government of India Mr. A.K. Patro. The said communication states that the matter had been discussed with the Secretary (Sports) Dr. Sagar Preet Hooda. The respondent No.1 is agreeable that the Director (Sports) may head the Ad-hoc Committee. It was also stated that the two ex-players - one male and one female, could also be part of the Committee.

7. Since the Ad-hoc Committee would function for and on behalf of the appellant Federation, it is agreed that Mr. VD. Narayan and respondent No.2, namely, Mr. S. Udayakumar be also made a part of the said Ad-hoc Committee. We are inclined to include Mr. V. D. Narayan as well as the respondent No.2 as a part of the Ad-hoc Committee, also for the reason that the International Federation corresponds with and recognizes the Indian Federation while functioning through its office bearers - whose particulars are communicated to the international body. It is informed that, presently, Mr. V.D. Narayan is the person authorized to deal with the international body. The two ex-players whose consent has been taken for inclusion in the Ad-hoc Committee are Mr. A. Maria Irudiyam (Mobile No.9841306430) and Ms. Kunja Phanse

(Mobile Nos. 9427329822, 9427033879).

8. Accordingly, the Ad-hoc Committee is constituted by this Court consisting of the Director (Sports) as the Chairperson; Mr. A. Maria Irudyam and Ms. Kunja Phanse as the two ex-players male and female respectively; Mr. VD. Narayan and Mr. Uday Kumar as the other members. The Committee shall function under the chairmanship of the Director (Sports). The decisions shall be taken by the Committee preferably unanimously. However, in case there is a tie, the decision shall be taken by the Chairman, i.e. the Director (Sports), who shall have the casting vote.

9. The decisions of the Committee shall be deemed to be decisions of the Federation, and in case any communication is required to be addressed to the International Federation regarding the said decisions, Mr. V.D. Narayan shall appropriately send a communication in terms of the decisions taken by the Committee. The Federation shall be deemed to be recognized in respect of the decisions taken by the Committee on its behalf In accordance with the decision taken by the Committee, Mr. V.D. Narayan shall issue the Railway Concession Forms and the Prospectus to the players.

10. The functioning of the Committee shall not lead to any financial burden on the Government or its members, and all the expenses incurred by the

Committee towards holding its meetings shall be to the account of the Federation. The Committee shall, in its functioning, keep in mind the mandate of the Federation; the calendar of the Federation; as well as the national and international obligations in relation to the sports of Carrom.

11. The first meeting of the Committee shall be held on 09.06.2017 at 11:30 a.m. in the office of the Director (Sports). No further communication/ notice in respect of the said meeting shall be required to be given to the appellant or respondent No.2. However, this order shall be communicated to the ex-player members by this Court as well as by the appellant under recorded delivery within four days.

12. This Committee has been formed with the consent of all the parties present. It is made clear that constitution of the Committee shall not vest any rights in either of the contesting factions/ parties and, while formulating this Committee, this Court has not reflected on the merits of the claims of either of the two factions. It is hoped that the Committee shall function keeping in view the interest of the sport of Carrom and its players in India. The Committee shall exist till the writ petition is disposed-off, and appropriate orders are passed in the writ proceedings in relation to the functioning of the Federation by the Court.

13. The appeal stands disposed-off in the aforesaid

terms.”

43. The LPA 407/2017 was finally decided on August 25, 2017 wherein the Division Bench in Paras 15 to 17 had passed the following order:

“15. In these circumstances, since the hearing of the writ petition is getting delayed on account of pendency and the sport of carom and the interests of players is getting affected for the past about 17 months, due to lack of clear direction as to who will administer the affairs of the Federation, . we are inclined to stay the operation of the orders dated 04.02.2016 and 08.02.2016 issued by the Govt. of India, Ministry of Youth Affairs and Sports till the learned Single Judge takes up either the hearing of the stay application and / or the writ petition itself.

16. Accordingly, the appellant Federation shall, till further orders passed by the learned Single Judge in the writ proceedings or any other appropriate proceedings, continue to exercise its powers and jurisdiction in relation to the sport of carom. The respondent / UOI is directed to take corrective steps in view of this order in all aspects including in respect of issuance of railway concession forms, etc. The respondent / UOI shall in the interim, also take steps to upload on relevant websites the results communicated by the Dy. Director, SAI, EC, Kolkata Govt. Observer,

of All India Carrom Federation Gen. Election 2015, Guwahati, and pass orders in respect of the recognition of the appellant Federation and its office bearers, as per the election results of 29.11.2015.

17. We make it clear that the observations made by us in this order are made purely for the purpose of examining the reliefs to be granted in the present appeal. The learned Single Judge shall be free to take an independent view in the matter after hearing the parties."

44. It is noted that against this order, respondent no.2 had filed an SLP before the Supreme Court. The Supreme Court disposed of the SLP on July 16, 2018 with the following order:-

"Having heard the learned counsel for the parties, we are only inclined to request the High Court to dispose of the writ petition within a period of six weeks, without being influenced by the directions / observations made in the orders passed in LPA No. 407/2017 and Review Petition No. 325/2017.

With the aforesaid request, the Special Leave Petition is disposed of."

45. It may be relevant to state here that two more LPAs were filed by the petitioner herein AICF; being LPA 102/2017 and LPA 310/2018. In LPA 102/2017 the challenge was to the order dated January 16, 2017 passed in CM. No. 1585/2017 in W.P.(C)

3314/2016 wherein this Court on an application filed by the petitioner had issued notice and sought for the replies. The said LPA was disposed of by the Division Bench directing this Court to dispose of CM. No. 5185/2017. The LPA being 310/2018 was filed by the petitioner challenging the order dated April 20, 2018 whereby the application of the petitioner being CM. No. 14137/2016 for stay of the impugned order dated February 4, 2016 was disposed of on May 28, 2018 by the Division Bench requesting this Court to decide the writ petition on merits finally at the earliest convenience within two months from the receipt of the order. Having noted the orders passed by the Division Bench and the Supreme Court, the parties / their counsel have been heard.

46. Mr. V.D. Narayan in his submissions has contested the impugned order dated February 4, 2016 on the ground that Mr. P.B. Bachher was never suspended and the Electoral College was prepared by the General Secretary. In support of his submissions, Mr. Narayan has stated the following:

1. *Letter dated July 5, 2015 confirms that Mr. S. Uday Kumar, respondent no.2 used a letterhead which finds mention the name of Mr. Bachher as General*

Secretary and Mr. Rakibul Hussain as President.

2. *Respondent no.1 has never communicated with Mr. S. Uday Kumar as Acting General Secretary. Even the correspondence between Mr. Bachher and Mr. A.K. Patro, Under Secretary shows that respondent no.1 continued to recognize Mr. Bachher as General Secretary between July 5, 2015 and November 29, 2015. In this regard, he referred to letter dated August 10, 2015 of Mr. Patro issuing NOC for International Carrom Tournament, letter of Mr. Patro dated November 3, 2015 to the General Secretary, AICF.*
3. *Filing of the writ petition by Mr. S. Uday Kumar being W.P.(C) 8735/2015 seeking directions to the extent recording the suspension of Mr. Bachher and to recognize him as Acting General Secretary confirms that Mr. Kumar was not recognized as the General Secretary of the AICF.*
4. *On October 6, 2015, respondent no.1 had sought clarification from the President, AICF on suspension of Mr. Bachher, General Secretary, AICF.*
5. *Mr. Rakibul Hussaion, President of AICF sent a reply dated October 14, 2015 mentioning therein that a meeting convened by Mr. Kumar was illegal. He categorically stated that Mr. Bachher is the General Secretary of AICF.*

6. *Mr. Kumar who was claiming to be the Acting General Secretary participated in the election process by responding to election notice dated October 14, 2015 issued by Mr. Bachher, the then General Secretary.*

47. I note the only stand of Mr. S. Udaya Kumar (Respondent No.2) is that Mr. Bachher has been suspended by the Working Committee. The Working Committee had directed Mr. S. Udaya Kumar to be the Incharge / Acting General Secretary. Reliance was placed on various documents like minutes of the Working Committee dated May 30, 2015; notice dated June 6, 2015 stated to have been issued to Mr. Bachher; the report of the Enquiry Committee appointed by the Working Committee on suspension of Mr. Bachher; e-mail dated July 5, 2015 sent to Mr. Bachher informing his suspension. It appears that pursuant to these communications only, respondent no.1 issued letter dated October 6, 2015 to the President, AICF seeking his comments on the suspension of Mr. Bachher as General Secretary, to which, as transpired during hearing before the Director (Sports), a letter dated October 14, 2015 was written by the President, AICF stating that Mr. Bachher is still continuing as General Secretary. That apart, the very fact that Mr. S. Udaya Kumar had

participated in the election process as a representative of Pondicherry Association, pursuant to a notice dated October 14, 2015 issued by Mr. Bachher would itself show that Mr. Kumar could not have contested the position of Mr. Bachher as the General Secretary. Further, he filed a writ petition before this court inter-alia seeking for reliefs, which included recognizing him as the General Secretary of the AICF which was finally withdrawn. The filing of the writ petition itself would reveal that he was not being recognized as the General Secretary. It is also seen that the Electoral College was prepared by Mr. Bachher as is contemplated under the Rules. So it must follow, Mr. Bachher was the General Secretary. To that extent, the ground in the impugned letter dated February 04, 2016, as contended by Director (Sports) is incorrect. But on the other issues raised by Mr. S. Udaya Kumar before him, the Director (Sports) observed that Department of Sports may examine those relating to age and tenure, election procedure followed etc. as per the provisions of the Sports Code. It is noted that the report of Director (Sports) Mr. Vivek Narayan was considered by the Secretary of the Ministry of Youth Affairs and Sports, who opined that a senior officer examines the various facts and the issues and suggest the

way to be followed as per the Sports Code provisions. Accordingly, the aspect of the election was considered by the Additional Secretary and Financial Advisor, who on detail analysis found anomalies in the elections held in Guwahati. Her observations are reproduced as under:-

“10. Based on study of records and above mentioned observations, it is important to draw attention of the Ministry to the many anomalies in the record. The elections held at Guwahati on 29.11.2015 on the basis of Special General Body meeting. However, as per the model election guidelines to be followed by National Sports Federations Part 3(2) mention:-

“elections shall be held at the Annual General Council meeting in accordance with a procedure prescribed hereinafter, from amongst the representatives of the permanent States/UTs/Boards/Institutions.”

However, it is seen that Guwahati elections were vitiated to that extent. It is also pertinent to note from the report of the observer Sh. L. Tiken Singh that elections were not held on time and out of the eligible 60 members only 33 members collected their election ballot and casted the vote. It is seen that 13 State Associations did not participate in the election process. The participation of Orissa State is not known from the records, though they are a Member. The records also show that the various important documents relating to elections like notice of elections, list of nominated candidates, declaration of

results etc show a mis-match of the signatures of the Returning Officer. Many of these important documents like declaration of results and counting of votes also do not have the signatures of the Observer Sh. Tiken Singh, who was appointed by the Ministry. Thus, manipulation and forging of records and signatures cannot be ruled out.

11. Records also show although Sh. Uday Kumar claims to have been appointed as acting General Secretary by the working Committee yet no authentic orders have been produced. His taking over report bears only his own signatures. No signatures are seen by Mr. P.S. Bachher. The notice of the Special General Body meeting issued by him (held at Vadodara) does not have the approval of the President of the Federation and thus the entire exercise of elections carried out by him is of no significance and the Ministry may not give adequate cognizance.

12. In view of the above many anomalies it is very clear that elections held at Guwahati violated the guidelines of the Sports Code and the election process was not at all fair and transparent. Thus the Ministry of Youth Affairs and Sports has rightly directed them to hold the elections in a fair and transparent manner by the office bearers elected in the elections held in 2012. The matter is already before the Court and next date of hearing is 19th July, 2016. The Ministry is advised to maintain status-quo until the case is decided.”

48. Suffice to state, the above conclusion has been accepted

by the Competent Authority. It may be stated here that the impugned communication dated February 04, 2016 may have lost its relevance to some extent but still the conclusion arrived at by the respondent No.1 through its Additional Secretary and Financial Advisor with regard to the anomalies found in the conduct of elections held at Guwahati, and the observation that the Ministry has rightly directed the AICF to hold elections in a fair and transparent manner; it is to be seen whether this conclusion arrived at is justified. The conclusion is for the following reasons:-

- (i) The elections held at Guwahati on November 29, 2015 was on the basis of Special General Body meeting, which is at variance with the Model Election Guidelines to be followed by National Sports Federation Part 3(2) which mentions that the elections shall be held at the Annual General Meeting;
- (ii) The report of the Observer, L. Tiken Singh that elections were not held on time and out of 60 eligible Members only 33 Members collected their election ballot and casted the vote;
- (iii) Thirteen State Associations did not participate in the election process;
- (iv) The participation of Orissa State is not known from the

records, though they are a Member;

(v) Various important documents relating to elections like notice of elections, list of nominated candidates, declaration of results etc. show a mis-match of the signatures of the Returning Officer;

(vi) Many documents like declaration of results and counting of votes also do not have the signatures of the Observer Sh. Tiken Singh;

(vii) Manipulation and forging of records and signatures cannot be ruled out.

49. That apart, I have already reproduced the grounds on which Mr. S. Udaya Kumar in his counter affidavit and Mr. Mehrotra in his submissions alleged that the elections held at Guwahati were not transparent and were unfair. No rejoinder to the same has been filed by the petitioner. In his rejoinder to the short affidavit of respondent No.1, the petitioner on the starting of the election process at 11.45 hrs instead of 11 hrs, stated if any appointed Returning Officer takes more time to start voting process, the petitioner Federation neither can be blamed nor it can be treated as violation of guidelines of the Sports Code; (ii) with regard to voting by 33 voters out of 60 eligible voters, it is the

stand of the petitioner that percentage of voting cannot be ensured in any election process; (iii) insofar as the Orissa matter is concerned, as per the Electoral College issued by the then General Secretary on November 15, 2015 two different groups sent the names of representatives of Orissa Carrom Association. Since the matter over the post of General Secretary is pending in the Court of Civil Judge (Junior Division), Bhubaneswar, both the groups have not been allowed to participate in the said election.

50. The aforesaid reasoning of the petitioner does not satisfactorily answer all the grounds on which the Additional Secretary and Financial Advisor has directed the conduct of fresh elections. Further, the collection of ballots and voting thereof by 33 members only, has no justification and the same may have materially affected the outcome of the election. Further, in Para (vii) of the W.P.(C) 3314/2016, it is the case of the petitioner that office bearers of the Society are elected once in four years at the Annual General Meeting. So it follows, the elections cannot be held in special meeting as happened in this case on November 29, 2015. The plea of Mr. Narayan that no-one has challenged the election of November 29, 2015, is inconsequential as the

Approving Authority, the Government of India i.e. the respondent No. 1 has not approved the elections, and has directed fresh elections in a fair and transparent manner. That apart there are complaints filed on record by one S.K. Sharma dated December 02, 2015 and December 22, 2015, which also throw some light in the manner in which the elections were held. Taking into account the totality of facts, it must be held the conclusion arrived at by the Additional Secretary and Financial Advisor for conduct of fresh elections by the office bearers elected in the elections held in the year 2012 is not unreasonable. This I say so as the objective underlying the process of election is that the persons, who have the highest mandate, take over the reins of the Association provided that the process is fair and transparent.

51. The plea of Mr. V.D. Narayan that the principles of natural justice have been violated and that the order dated February 04, 2016 needs to be tested on the grounds referred to therein is concerned, the same is not appealing for the reasons, firstly there is no provision in the Byelaws, which entail that respondent No.1 while considering the legality of the election process need to give any hearing even if the approval is not granted; secondly after filing of the writ petition, an order dated

April 22, 2016 was passed by this Court inter-alia directing the respondent No.1 to look into the matter and make further enquiries as to the claim of the petitioner and repercussion, if any of holding election before due date or any bar thereto. As directed by this Court, Mr. V.D. Narayan and the respondent No.2, the contesting parties herein were given hearing by the Director (Sports) Mr. Vivek Narayan. The parties have filed documents/pleadings before Mr. Narayan. Upon hearing Mr. Narayan had come to the conclusion, as narrated above. Based on the same record / material, even Additional Secretary and Financial Advisor takes a view for fresh elections by the Members elected in the elections of 2012. So the matter of elections having been considered from the perspective of Sports Code / fairness, and conclusion is for fresh elections no prejudice has been caused to the petitioner while passing the order dated February 04, 2016. The irregularity, if any stands cured.

52. On the plea of Mr. Narayan that the order has to be tested on the grounds stated in the letter dated February 04, 2016 is concerned, the said proposition of law is not in dispute but this Court while adjudicating a dispute, is within its right to take into consideration the subsequent events / developments that have

taken place that too in terms of the direction of this court and draw a conclusion whether the decision of the respondent No.1 directing the conduct of fresh elections is justified, which this Court, in the facts of this case finds so.

53. Mr. Mehrotra is justified in relying upon the judgment of the Supreme Court in the case of ***PRP Exports and Others*** (*supra*), wherein the Supreme Court in para 8 held as under:-

“8. Shri Harish Salve, learned senior counsel appearing for the Petitioner, submitted that he is more concerned with the first question and arguments were advanced by him as well as Shri C. Sundaram, learned senior counsel appearing for the State, on that point. In our view, the Division Bench of the High Court is right in examining the subsequent events as well in a case where larger public interest is involved. This Court in All India Railway Recruitment Board v. K. Shyam Kumar [(2010) 6 SCC 614] distinguished Mohinder Singh Gill’s case (supra), stating when a larger public interest is involved, the Court can always look into the subsequent events. Relevant paragraph of the judgment is extracted hereinbelow :-

“45. We are of the view that the decision-maker can always rely upon subsequent materials to support the decision already taken when larger public interest is involved. This Court in Madhyamic Shiksha Mandal, M.P. v. Abhilash Shiksha Prasara Samiti found no

irregularity in placing reliance on a subsequent report to sustain the cancellation of the examination conducted where there were serious allegations of mass copying. The principle laid down in Mohinder Singh Gill case is not applicable where larger public interest is involved and in such situations, additional grounds can be looked into to examine the validity of an order. The finding recorded by the High Court that the report of CBI cannot be looked into to examine the validity of the order dated 4-6-2004, cannot be sustained.

54. Mr. Mehrotra is also justified in relying upon the judgment of the Supreme Court in the case of ***Chairman, All India Railway Recruitment Board and Another (supra)***, wherein the Supreme Court in para 45 held as under:-

“45. We are of the view that the decision maker can always rely upon subsequent materials to support the decision already taken when larger public interest is involved. This Court in Madhyamic Shiksha Mandal, M.P. v. Abhilash Shiksha Prasar Samiti and Others, (1998) 9 SCC 236 found no irregularity in placing reliance on a subsequent report to sustain the cancellation of the examination conducted where there were serious allegations of mass copying. The principle laid down in Mohinder Singh Gill's case is not applicable where larger public interest is involved and in such situations, additional grounds can be looked into to examine

the validity of an order. Finding recorded by the High Court that the report of the CBI cannot be looked into to examine the validity of order dated 04.06.2004, cannot be sustained.”

55. In view of my above discussion and upholding letter dated February 04, 2016 to the extent it directs conduct of fresh elections, this Court is of the view that to ensure elections are held by the Members elected in the elections of the year 2012 in a transparent, free and fair manner, strictly in accordance with the guidelines of the National Sports Code / Byelaws, the following directions need to be issued:-

(i) The Management Committee of the year 2012 shall continue to be the Management Committee of the All India Carrom Federation till the new Management Committee is appointed pursuant to the elections to be held in terms of this order.

(ii) Justice R.V. Easwar, a Retired Judge of this Court (D-41 Hauz Khas, New Delhi, 95606899997) is appointed as the Observer to observe the conduct of the elections. He shall be paid an amount of ₹1.75 lakh excluding any out of pocket expenses for transportation, Secretarial Services (if any) etc. which shall be reimbursed as per actuals. The aforesaid amount

shall be paid by the AICF;

(iii) The President in consultation with the Observer shall appoint the Returning Officer.

(iv) The venue of the elections shall be decided by the Returning Officer in consultation with the Observer. The elections shall be completed on or before 10 weeks effective from 16th August, 2018. The election results along with the report of the Observer (if any) shall be submitted to respondent No.1 for its approval.

(v) The Management Committee of 2012 shall inform the ICF about this order.

56. The Writ Petition (Civil) No. 3314/2016 is disposed of as such.

57. In view of my conclusion above, the prayers made in W.P.(C) No. 5684/2016 do not survive and the petition need to be dismissed.

CM Nos. 38513-38514/2017 in W.P.(C) 3314/2016 (for interim directions)

Dismissed as infructuous.

V. KAMESWAR RAO, J

AUGUST 06, 2018/ak/jg