

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

Reserved on: 27.09.2016

Pronounced on: 30.01.2017

+ **W.P.(C) 7215/2011, C.M. APPL.16416/2011, 1125/2013,
27732/2016 & 32226/2016**

**DELHI & DISTRICT CRICKET ASSOCIATION THROUGH ITS
HONORARY GENERAL SECRETARY Petitioner**

Through : Sh. Aman Lekhi, Sr. Advocate with Sh.
Gautam Dutta, Standing Counsel and Sh. Sanjay
Dhawan,

versus

MUNICIPAL CORPORATION OF DELHI & ORS..... Respondents

Through : Sh. Rahul Mehra, Sr. Standing Counsel,
for GNCTD.

Sh. Harish Malhotra, Sr. Advocate with Sh. Tanuj
Khurana and Sh. P. Chaitanyashil, Advocates, for
Sh. Dinesh Saini, Joint Secretary, Company
Affairs, DDCA.

Sh. Rohit Gandhi, Advocate, for applicant in C.M.
Appl.32226/2016.

Sh. Manish Tewari, Sh. Amit. A. Pai and Sh. Rahat
Bansal, Advocates, for Intervener/Sh. Kirti Azad.

Sh. Ajjay Aroraa with Sh. D.K. Puchnanda,
Advocates, for SDMC.

Sh. Nitin Mishra, Ms. Akanksha Rastogi and Ms.
Arunabha Ganguli, Advocates, for Justice Mukul
Mudgal (Retd).

Sh. Rahul Mehra, Senior Standing Counsel (Civil)
with Sh. Tushar Sannu and Sh. Jamal Akhtar,
Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT

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1. The petitioner (hereafter referred to as "the DDCA") is a company incorporated under the provisions of Section 25 of the Companies Act, 1956 (hereafter "the 1956 Act"). It questions the *vires* of the first proviso to Section 169 and other provisions, i.e. Section 123B(8) and Section 153 of the Delhi Municipal Corporation Act, 1957 as amended in 2003 (hereafter "the DMC Act") as well as Section 170(b) of the DMC Act. It also impugns an order dated 05.08.2011 assessing its premises and a demand made by the first respondent Municipal Corporation (hereafter "the MCD") on 19.08.2011. The DDCA mentions about directions contained in this Court's order dated 10.11.2003 whereby the MCD was required to conclude the assessment proceedings in time-bound manner after having regard to the contentions of the DDCA.

2. The impugned order computes the annual value of the property based upon the provisions of the Act, after the MCD invoked its powers to employ a valuer. The valuer's report determined the total covered area, the covered built-up area in the various wings (A, B, C), club-house etc. The DDCA's claim for exemption under Section 119 was rejected and the annual value was determined at ₹ 6,41,13,700/- with effect from 01.04.2004. Based upon this, the demand made was for ₹ 4,61,61,936/-. A rebate was offered at ₹ 76,93,656/- and the impugned demand was for ₹ 5,38,95,598/-.

3. During the pendency of these proceedings, various interim orders were made from time to time by which the Court recorded the sums of money deposited by the DDCA with the MCD, further to which No Objection letters were issued by the latter. The Court also monitored the response of other state agencies such as the Health Department, the Fire Department etc. in

regard to the various cricket matches - both in the domestic circuit as well as in the international leagues, including IPL and the test matches, held in the Feroze Shah Kotla stadium. In one such proceedings, on 18th November, 2015, when the Division Bench had to consider an application, C.M. No.27246/2015, for directions in regard to the issuance of provisional occupancy certificate by the SDMC, the Court heard submissions on behalf of various parties; the Govt. of NCT of Delhi was permitted to intervene and make submissions; it expressed misgivings and concerns with respect to the functioning of the petitioner DDCA. The Court directed the issuance of provisional occupancy certificate for 10 days in December 2015. At the same time, the Court nominated Justice Mukul Mudgal (Retd), former Chief Justice, Punjab and Haryana High Court, to oversee the ensuing test match, *"as also to ensure that the DDCA takes earnest steps towards obtaining requisite clearance/compliance"*. The Court directed as follows:

"We have also heard the submissions made by Mr Dayan Krishnan, the learned senior counsel who appeared on behalf of the Government of NCT of Delhi. Although they were not a party to these proceedings, but they have interjected and expressed their concerns over the functioning of the DDCA. Mr Kirti Azad, a known cricketer, has also expressed his views with regard to the functioning of the DDCA. Without going into the merits of the matter, we feel that it would be appropriate that somebody is appointed to oversee the forthcoming test match as also to ensure that the DDCA takes earnest steps towards obtaining requisite clearances/compliances. All the parties agree that a former Judge of this Court may be nominated for this purpose. We feel that Justice Mukul Mudgal would be an appropriate person. This is accepted by all the parties.

Consequently, through this order, we request Justice Mudgal to accept this assignment. The remuneration for this

assignment shall be decided by Justice Mudgal himself. The learned counsel for the DDCA, who is also instructed by the working President and the Treasurer of the DDCA, has assured that they shall make the payments for remuneration, as directed by Justice Mukul Mudgal. Justice Mudgal may also take the assistance of an account knowing person or any other person to assist him in this endeavour. The remuneration for such persons shall be paid by the DDCA.

The petitioner shall also deposit a sum of Rs 50 lakhs within two weeks from today with the South Delhi Municipal Corporation towards alleged property tax dues. This amount will be without prejudice to the rights and contentions of the parties.

In view of the foregoing, we direct the South Delhi Municipal Corporation to issue a provisional occupancy certificate by tomorrow for the period commencing from 01.12.2015 to 10.12.2015. This will, however, be subject to a "No Objection Certificate" to be obtained from the Delhi Fire Services as well as no objection from the concerned Electrical Inspector as also an undertaking to be furnished by the petitioner that the DDCA will be held responsible for any consequences on account of non-compliance of any statutory norms including those of the Delhi Disaster Management Authority and the Delhi Jal Board. This is also without prejudice to the petition for entertainment tax, which has reportedly been filed and is said to be listed before another Bench of this Court. We are also making it clear that this is the last occasion on which we are acceding to the request of the DDCA for issuance of the provisional occupancy certificate and that they should have all the requisite compliances in place on or before 31.03.2016."

4. On 18.12.2015, the Court issued certain further directions in aid of its previous order. The relevant part of that order is extracted below:

"There is only the issue of the remuneration to be paid to Justice Mukul Mudgal. In the order dated 18.11.2015, we had

directed that the remuneration would be decided by Justice Mudgal himself. But, he has expressed his view that the question of remuneration would be left to the Court. The learned counsel for the applicant has drawn our attention to a Supreme Court order in the case of Cricket Association of Bihar v. BCCI and Others: SLP (Civil) 26633/2013 dated 08.10.2013, wherein a Probe Committee had been appointed and Justice Mudgal had been appointed as the Chairman of the said Committee. In that order, it is apparent that the Chairman and Members of the Committee were entitled to a fee of Rs 1 lac per working day from the BCCI. The request made by the learned counsel for the applicant is that a similar arrangement be made in this case. Consequently, we direct that Justice Mudgal be paid a remuneration of Rs 1 lac per working day by the DDCA in terms of the said order of the Supreme Court. We may point out that in our order dated 18.11.2015 we had indicated that the appointment of Justice Mudgal would be not only to oversee the then forthcoming test match but also to ensure that the DDCA took earnest steps towards obtaining the requisite clearances/ compliances. The test match has been completed and was overseen by Justice Mudgal. The overseeing by Justice Mudgal was not only for the test match but also to ensure that the DDCA took earnest steps towards obtaining the requisite clearances/ compliances. We are reiterating the remainder of the order dated 18.11.2015."

5. On 22.02.2016, a further order was made inter alia in the following terms:

"2. From the report, it appears that No Objection Certificates (NOC) have been issued by the Delhi Fire Services, the Electrical Inspector and the Land and Development Office. The Structural Engineering Design Certificate has been issued by Kothari Associates Private Limited. It is stated that the Delhi Urban Arts Commission (DUAC) will issue an NOC as soon as the DDCA intimates to the DUAC that the art work has been completed."

3. From the side of the SDMC, it is seen that out of the 60 deviations pointed out, a major portion has been rectified. The DDCA has given an assurance that the Occupancy Certificate from SDMC will be obtained in a week. Counsel for the SDMC confirms that as and when the DDCA informs it of the rectification of the defects, the SDMC will, after verification, grant the Occupancy Certificate without unnecessary delay, since without such certificate the matches cannot be held.

4. While recording its appreciation of the time and effort taken by Justice Mukul Mudgal to ensure that the DDCA fulfils the statutory requirements and streamlines its functioning, the Court acknowledges that but for his supervision the desired progress in the matter may not have been possible.

5. Considering that at least 10 T-20 matches are to be held as part of the World Cup, both for men and women, at the Ferozeshah Kotla, the Court requests Justice Mukul Mudgal to once again oversee the conduct of the said matches on the same terms as stated in the orders dated 18th November, 2015 and 18th December, 2015.

6. The DDCA will extend its full cooperation to Justice Mudgal in ensuring that the recommendations made by him in his reports to this Court, copies of which have been made available to all the parties, are implemented to his satisfaction. The Court requests Justice Mudgal to submit a further report after the conclusion of the ten matches."

6. On 03.03.2016, the Court noticed that a further status report was filed by Justice Mukul Mudgal (Retd) which was taken on the record. It was also recorded that the DMC was examining compliance with regard to deviations pointed out by it. On 08.03.2016, the Court further observed and directed as follows:

"2. Justice Mukul Mudgal has made a request that the DDCA should be directed to comply with all the recommendations and suggestions given in the two reports already submitted by him

to this Court on 18th January, 2016 and 2nd February, 2016 and submit a compliance report to him within a fortnight of the conclusion of the World T-20 matches. It is ordered accordingly. It is reiterated that the directions issued by Justice Mudgal in connection with the World T20 matches taking place under his supervision should be strictly complied with by the DDCA. It will be open to Justice Mudgal to remain present at the Ferozeshah Kotla only during the match days and seek progress reports from the DDCA on the other days.

3. It is clarified that it is not for this Court to grant or refuse permission to hold matches and nothing stated in this order shall be construed as the Court having given permission for the holding of the World T-20 matches or any other match at the Ferozeshah Kotla. That aspect is entirely within the domain of the concerned authorities."

7. On 07.04.2016, the Court was informed about impending IPL (Season 6) matches proposed to be held in Delhi in the Feroze Shah Kotla Stadium from 15.04.2016. The Court requested Justice Mukul Mudgal (Retd) to oversee the conduct of these matches in terms of the previous order dated 18.11.2015 and 18.12.2015 and further required DDCA to extend its fullest cooperation to him. On 11.07.2016, the Court recorded that Justice Mukul Mudgal (Retd) had tendered its final report on World T20 and IPL matches held in March-May 2016 and appreciated his efforts. The copies of the final report were furnished to learned counsel for DDCA as well as the SDMC. The Court noticed that the report contained several useful suggestions and furthermore significantly the DDCA was able to save ₹ 7 crores approximately from World T20 matches. The DDCA's counsel assured the Court that all that amount would be spent and used strictly in accordance with the BCCI guidelines and would be fully accounted for by the DDCA. In these circumstances, the Court observed that it would consider the response

of all the parties to the report on the subsequent dates of hearing. The Court lastly directed DDCA to pay within one week the amount/honorarium/remuneration due to Justice Mukul Mudgal (Retd) for supervision of IPL matches held in April-May, 2016.

8. On 22.08.2016, the present Bench made the following order:

"Sh. Gautam Dutta, learned counsel for the petitioner states that four weeks' time would be necessary to file copy of the accounts.

It is brought to the notice of the Court by Sh. Nitin Mishra, learned counsel that the Administrator appointed by the Court – Justice Mukul Mudgal (Retd) - has pressing engagements and would not be in a position to discharge his responsibility hereafter.

The Court is of the opinion that till suitable arrangements are made - possibly within a month - Justice Mukul Mudgal (Retd) should continue in the position that he presently holds.

In the circumstances, a request is made that to assist him, he may be given authority to seek assistance of 3-4 individuals to supervise the day-to-day activities, to the extent essential, for discharging his mandate.

The Court hereby permits Justice Mukul Mudgal (Retd) to seek the assistance of such of the individuals whom he deems fit to appoint for the purpose.

The parties shall file synopsis not exceeding five pages each. It is clarified that all counsel who represent parties that seek either to support or oppose the report of the Mudgal Committee should file one comprehensive synopsis each. In other words, all counsel appearing on behalf of the parties who submit the report should file a consolidated written synopsis. Likewise, those opposing the report should file one consolidated written synopsis."

9. Acting on C.M. 32226/2016, the Court - based upon a letter dated 04.09.2016 issued notice of contempt to the President of the DDCA as well as Gaurav Dutta, Advocate as to why contempt proceedings should not be initiated. Pursuant to this notice, the individuals, i.e. Sh. Bansal and Sh. Gaurav Dutta filed affidavits expressing unconditional apology. It is in these circumstances that the parties were heard at length with respect to the merits of the report of Justice Mukul Mudgal (Retd) and the suggestions contained therein. The Court is also in receipt of status report by Justice Mukul Mudgal (Retd) pursuant to the order dated 27.09.2016 and another report filed on 27.10.2016. These reports sought a narrative of action undertaken by Justice Mukul Mudgal (Retd) in the context of the previous order, especially the orders of 22.08.2016 and 05.09.2016. These two status reports narrate all the inter se correspondence through e-mails between Justice Mukul Mudgal (Retd) and other functionaries of the DDCA. They also contain report of official supervision undertaken during this period.

Arguments of the parties

10. Mr. Aman Lekhi, learned senior counsel appeared on behalf of some office bearers of the DDCA. He argued that the Mudgal Committee had limited jurisdiction as circumscribed by the Court's order dated 18.11.2015 and approved and reiterated on orders. According to him, the Committee, therefore, could not have ventured into areas outside those specified in the aforesaid orders which constituted the terms of reference for the Committee. After having obtained the requisite permissions from MCD, L&DO, DUAC and other government agencies and on the conduct of the matches, the mandate of the Committee ended. He relies on the decision reported as

Bhogpur Co-operative Sugar Mills Ltd v Harmesh Kumar (2006) 13 SCC 28 and *S. Harcharan Singh v Union of India* 1990 (4) SCC 647. It is next urged that the Mudgal committee was constituted under an interlocutory order, which is primarily in aid of the final relief. The recommendations of the Committee, however, are independent of the final relief and render the interlocutory proceedings not only substantive but wholly independent of the parent proceedings. Mr. Lekhi argues that the ambit of the interlocutory order is consequently expanded to issues of public interest raised by third parties and the character of the proceedings are transformed into proceedings of public interest which are entirely different from the parent proceedings under which they arise. Besides, the reliefs cannot be granted with the parent proceedings under the roster of judicial business of the Court.

11. Mr. Lekhi submits that even otherwise, exercise of discretion in proceedings in judicial review cannot discard or disregard statutory mandate or statutory machinery. Two of the recommendations listed below, fall foul of the statutory mandate. In this regard, he argues that the Mudgal committee recommendation for (a) Abolition of Sports Working Committee (SWC) and (b) Abolition of "proxy system of voting in AGM" cannot be done without following the proper procedure. Articles 23 (i) and (ii) and Article 37 of the Articles of Association deal with SWC and the proxy system of voting; any modification or alternation of those provisions in the articles has to comply with the specific mandate of Section 8(4)(i) of the Companies Act, 2013 ("the Act") which requires prior approval of the Central Government and the prescribed procedure to be followed as contemplated under Section 14 and Section 114 of the Act. The deletion, therefore, cannot be

implemented in terms of the recommendations of the Committee simply upon the approval of the Court. He argues that the other recommendation, which is incapable of implementation, is that only clubs registered as societies or as companies can be affiliated by DDCA. This recommendation would fall foul of the judgment of this Court in *Vinod Tihara v. DDCA* (decided on 20.04.2012 in FAO 481-482/2011) where the Court rejected the proposition that only clubs registered under the Societies Registration Act shall be entitled for affiliation with the DDCA. That judgment is final to this day.

12. It is argued that the next recommendation, i.e. that DDCA should grant affiliation to the Clubs for the next season only after being satisfied that the monetary grant has been properly utilized for the promotion of cricket cannot similarly be accepted. Mr. Lekhi argues that the grant referred to in the recommendation is given by BCCI and not by DDCA which is merely a facilitator in distribution. So far as "Club Affiliation" is concerned, by judgment dated 28.11.2013 in Suit No.251/2013 titled *K.N. Colts, Krishna Nagar Colts Society (Regd) v. DDCA*, it was held that "*once the club is affiliated with the DDCA then to continue with the affiliation the concerned club has to pay annual fees only, which has to be paid on annual basis as prescribed by the defendant from year to year basis*". The DDCA has confirmed the judgment by giving an undertaking in the Court vide statement of counsel recorded on 28.07.2014. No higher Court has set the judgment aside.

13. Mr. Lekhi urges that DDCA is not averse to change suggested in the Mudgal Committee report and does not state its position as a rigid one with

respect to any practice. It is stated that on four counts, (a) Tendering (Page 17 of the report); (b) Accounts & Finance (Page 18 of the report); (c) Administration (Page 19 of the report) and (d) Ticketing And Accreditation (Page 21 of the report) it is willing to implement them as they do not entail approval of any statutory authority or permission in any manner. Likewise, as far the recommendation in respect of ticketing is concerned, the DDCA agrees to adopt a scheme similar to that followed by the Committee during its supervision of the matches regarding the distribution of complimentary passes, subject to the overall control and supervision of the Board of Directors of the DDCA to overcome any contingency, situation and circumstances. He submits that with regard to other recommendations concerning the promotion of cricket and selection of players, DDCA is agreeable to implement them on the following terms:

- (i) The correspondence with the existing Affiliated Clubs to be addressed to the registered office of the Club by DDCA, as also at the correspondence address, if any.
- (ii) Selection Process must be fair and transparent.
- (iii) The said disclosures must be made public.
- (iv) The Selection Committee of all age groups (men and women) must comprise of one retired international player.
- (v) The remuneration for the Coaches or any other person sought to be appointed by DDCA must be fixed prior to appointment by DDCA and formal contract must be entered before appointment.

14. It is urged that the report deals with the individuals, officials and members who are not parties to the proceedings on page 14-16 (paras A, C, D, E, H, I, J, K, L). No proceedings could be held or concluded behind the back of those with regard to whom statements were made. Furthermore exception is taken to the report, as it mentions persons and complaints regarding which no details have been provided as to enable DDCA to identify the alleged wrongdoer or to the context, the allegations made thereabout. Page 14-16 (para A,C,D,E,H,I, J, K,L). In any case, by the very nature of things these are disputed facts concerning civil rights which would require examination of documents and adducing of evidence which cannot be done in a summary proceeding. The most appropriate forum to decide these questions would be the civil court. Reliance is placed on *P.R. Muralitharan v Swami Dharmananda Teertha Padar* 2006 (4) SCC 501.

15. Mr. Rahul Mehra, learned Standing Counsel for the NCT of Delhi, argued that this Court should reject the DDCA's submissions. It was submitted that for the first time, DDCA has been able to post a surplus after defraying expenses for the matches held under the aegies and supervision of the Mudgal Committee and that the management, which had held sway, was run by oligarchies. It was submitted that there was complete opacity in regard to the appointment of selectors, the tenure and terms and conditions applicable to them. Even the remuneration payable to them was decided in secrecy. There were serious irregularities in regard to maintenance of accounts, and all these reflected in the DDCA's functioning to such effect that match clearance became uncertain. This was a completely unacceptable

situation given the international facilities, which the DDCA had on offer and the nature of fixtures which were held in the past.

16. It was argued that the structural changes, which the Mudgal Committee has recommended, are salutary as well as necessary for a smooth and healthy functioning of DDCA. Mr. Mehra argued that the larger public interest lies in issuing appropriate directions in line with the Mudgal Committee's recommendations. He stated that the DDCA obtains and collects a colossal amount of ₹ 20-40 crores annually; yet it has not cared to set up a state academy to train emerging and budding young cricketers. Furthermore, barely 5% of its 4600 members are cricketers, majority of whom are not interested in the game; there is overwhelming public interest in ensuring that the body functions in a transparent manner, accountable to the people at large and especially to the cricketing public.

17. Mr. Mehra urged that the Mudgal Committee recommendations with respect to abolition of proxy voting and all other recommendations that have been endorsed by the Supreme Court in the *Board of Control for Cricket v Cricket Association of Bihar* 2016 (8) SCC 535 to say that tenure restrictions, abolition of proxy voting and the abolition of affiliated clubs as well as the restructuring of the Sports Working Committee in DDCA is essential in the light of the declaration of law in that judgment. It was submitted that the tenure of the office bearers expires on 30.09.2016 and consequently this Court should not close these proceedings without making directions in respect of implementation of the Mudgal Committee report and appointing an Administrator till the necessary changes in the DDCA's

management structure is made and elections are held in accordance with such change.

18. It was argued that the recommendations, particularly those contained in the judgment are binding and have to be implemented. The following recommendations, according to Mr. Mehra, had to be implemented as a matter of law:

"1. Membership

'One State, One Vote'

Only cricket Associations representing the States would have voting rights as Full Members of the Board, thereby ensuring equality among the territorial divisions. Any other existing members would be Associate Members.

2. Zones

'Zones for Tournaments alone'

The Zones would be relevant only for the purpose of the tournaments conducted amongst themselves, but not for nomination to the governance of the Board or to the various Standing Committees.

3. State Associations

'State Associations-Uniformity in Structure'

The Associations that are the Members would necessarily have to restrict the tenures of office bearers and prescribe disqualifications, do away with proxy voting, provide transparency in functioning, be open to scrutiny and audit by the BCCI and include players in membership and management. They would also have to abide by the conflict of interest policy prescribed by the Board and divorce the Association from the social club, if any.

4. Office Bearer

'Limited Tenures & Cooling Off'

While all the existing office bearers (President, Vice-President, Secretary, Treasurer and Joint Secretary) are retained in honorary positions, the number of Vice Presidents is pruned from five to one. Their duties have been realigned. The

President is shorn of his say in selections. The additional vote for the President at meetings is deleted. The terms of these Office Bearers continue to be of 3 years, but with a maximum of 3 such terms regardless of the post held, with a cooling off period after each such term.

5. Governance

'Governance separated from management'

The 14 member Working Committee is replaced by a 9 member Apex Council (with one-third independent members) consisting of the Office Bearers of the BCCI, an elected representative of the General Body, two representatives of the Players Association (one man and one woman) and one nominee from the C&AG's office. Terms of eligibility and disqualification are specified with a bar on Ministers and government servants.

6. Management

'Professionalism in management'

Professionalism is brought in by introducing a CEO with strong credentials assisted by a team of managers to handle non-cricketing affairs. The large number of Standing Committees and Sub-Committees created by the BCCI has been reduced to two essential ones that would advise the CEO with reference to tours, technical aspects and tournaments.

The selection, coaching, performance evaluation and umpiring are to be handled by Cricket Committees manned only by former professionals. Specific provisions have been made to encourage cricket for women and the differently-abled.

7. The IPL

'Limited Autonomy for IPL'

The Governing Council of the IPL is reduced to 9, but includes 2 representatives of the Franchisees and nominees of the Players' Association and the C&AG's office.

10. Conflict of Interest

'Avoidance of conflicts'

Detailed norms have been laid down to ensure there is no direct or indirect, pecuniary or other conflict or appearance thereof in the discharge of the functions of those persons associated or

employed by the BCCI, its Committees, its Members or the IPL Franchisees. These norms shall be administered by an Ethics Officer.

11. The Ombudsman and the Electoral Officer

'Independent monitors'

Provision has been made to have an independent ombudsman to resolve grievances of Members, Administrators, Players and even members of the public as per the procedures laid down. Similarly, an independent Electoral Officer to oversee the entire electoral process is also mandated.

12. Functioning

'Transparency'

The BCCI must provide the relevant information in discharge of its public functions. All Rules and Regulations, norms, details of meetings, expenditures, balance sheets, reports and orders of authorities are to be uploaded on the website as well.

13. Oversight

'Accountability'

An independent auditor to verify how the Full Members have expended the grants given to them by the BCCI, to record their targets and milestones, and to submit a separate compliance report in this regard."

19. The Supreme Court in *Board of Cricket Control (supra)* also concluded as follows:

"69. Mr. Venugopal, learned Counsel appearing for BCCI and counsel for some of the interveners opposing the recommendations of the Committee also assailed the Committee's recommendation that Ministers and Government Officials should be ineligible for any post in State Associations or in the BCCI. It was contended that the restrictions sought to be placed on the Ministers and Government Servants are unreasonable. It was contended that past experience of the BCCI has shown that Government Servants and Ministers are able Administrators whose association with BCCI and the Associations has resulted in substantial benefit to BCCI in the

management of its affairs. It was contended that office bearers in BCCI serve in an honorary capacity and without any remuneration for their services, except that travel, lodging and boarding arrangements are taken care of by the BCCI. It was also contended that the Government of India has been, as a matter of policy, encouraging formation of Sporting Associations so that its employees are attracted towards sporting activities and promotion of sports and development of sports related infrastructure. Also under challenge is the recommendation made by the Committee that those holding office in the State Associations shall not be eligible for holding any office in BCCI and vice versa. It was contended that administrative experience acquired by anyone in the State Associations is useful to the BCCI which need not be lost by stipulating a disqualification recommended by the Committee.

70. Learned Counsel for the interveners supporting the recommendations, on the other hand, argued that the recommendations were well considered and meaningful and in the interest of the game of cricket in this country. It was contended that political bigwigs need to be kept away from the sporting arena not only because the presence of Ministers and Civil Servants brings several considerations not conducive to the promotion of the game, but, at times, results in creation of vested interests, groupism and rivalries that harm the game far more than helping it. The fact that the Ministers and Civil Servants have been helpful in promoting the game in the past does not mean that the game would cease to get their patronage if they are disqualified from holding any office in the State Associations or the BCCI. Whatever the legitimate sporting patronage is required for the game would certainly come from the concerned supporters regardless whether they are Ministers, Civil Servants or office bearers. The contention urged on behalf of the BCCI that the restriction placed on the Ministers and Public Servants holding office would, in any manner, damage the cause of the game is, therefore, without any basis.

71. The Lodha Committee has, in its meetings, held extensive interactive sessions and deliberations with a cross section of stakeholders. The recommendations made by the Committee are based on the impressions which the Committee has gathered from such interactions and deliberations. In the ordinary course and in the absence of any patent perversity in what has been recommended by the Committee, this Court would be slow in interfering, especially when the Committee has recommended comprehensive restructuring of the management at different levels by proposing modification of the relevant Rules and Regulations. The Committee has in its wisdom found that the holding of office by the Ministers and Civil Servants in the State Associations or in the BCCI is not conducive to the health and promotion of the game. The Committee has taken the view that the game would be better managed, promoted and developed if politicians and civil servants who otherwise occupy positions of responsibility in the Government that call for their complete and unstinted attention and commitment are made ineligible from holding any post in the State associations or the BCCI. The Committee has while making that recommendation observed:

“... .. Any elected Councillor shall stand automatically disqualified after nine years as an office bearer, and shall also be disqualified from contesting or holding the post if he has completed the age of 70 years, is charged under the penal law, is declared to be of unsound mind, is a Minister or government servant or holds any post of another sports body in the country.”

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b. Posts & Tenures

... ..The lack of any qualifications or disqualifications also ensures that those with full time occupations superficially involve themselves, thereby compromising their commitment to the association and the game of cricket. Several public servants hold lead positions in State Associations which take a

substantial toll on both sets of their respective obligations to the public.

72. In light of the above we see no compelling reason for us to reject the recommendation which disqualifies Ministers and Public Servants from holding offices in the State Associations or BCCI. The argument that since ministerial and bureaucratic support and patronage has helped the BCCI in running its affairs in the past they should be allowed to continue, lest the game suffers, has not impressed us. We do not think that the game flourishes in this country because any minister or civil servant holds office in the State Associations or BCCI. We also do not find any basis for the argument that unless the ministers and civil servants are allowed to hold office in the State Association or in the BCCI they will refuse to do what is legitimately due to the game for its development and promotion. Nothing which is not due to the game or is not legitimate need be done by any Minister or Civil Servant. But we have no manner of doubt that what is legitimately due to the game will not be denied to the game merely because Ministers or Civil Servants do not happen to be office bearers for ought we know that there may be an overwhelming number of Ministers and Bureaucrats who are passionate about the game and would like to do everything that is legally permissible and reasonably possible within the four corners of the law even without holding any office in the BCCI or the State Associations. The contention that favours which the BCCI receives will disappear just because a Minister or Civil Servant is not an office bearer in the State Association or BCCI has no real basis to commend itself to us. So also, the contention that it should be permissible to hold office simultaneously in BCCI and the State Association has not commended itself to us. The Committee has while recommending abolition of dual posts observed:

“g. Dual posts

Strangely, while conflict of interest issues have been at the heart of recent controversies, virtually all office bearers of the BCCI continue to be office bearers in their respective State

Associations at the same time. Presidents and Secretaries of State Associations are to discharge functions with the primary interest of the State in mind, but as BCCI office bearers, these interests would have to be subordinated to that of national interest. Often, with powers centred on an office bearer, that individual has been found to appoint his State associates to critical posts in the BCCI, thereby creating an imbalance.”

73. There is nothing irrational about the view taken by the Committee. The argument that individuals should be eligible to hold two posts one each in the State Association and the BCCI does not stand scrutiny in the light of the reasons given by the Committee which do not, in our opinion, suffer from any perversity to call for our interference.

74. It was next contended on behalf of the BCCI that the recommendations made by the Committee for inclusion of a nominee of the Accountant General of the State in the Governing Body of the State Associations and a nominee of the Comptroller & Auditor General of India (C&AG) as Member of the Apex Council in BCCI were both unacceptable to BCCI being unnecessary inflictions that were likely to result in the derecognition of the BCCI by the ICC. It was submitted that in terms of Article 2.9(b) of the Memorandum of Association and Articles of Association of the ICC any interference by the Government in the administration of the Cricket by a member would render the latter liable to be suspended and derecognized. Induction of the nominee of the Accountant General in the State Association and nominee of a C&AG in the Apex Council of the BCCI brings in an element of interference by the Government which would according to the counsel for BCCI lead to suspension/derecognition of the BCCI. Any such induction was, therefore, not in the interest of the game of cricket or otherwise desirable keeping in view the fact that the BCCI cannot afford to run the risk of being derecognized or suspended by the ICC.

75. The Lodha Committee has, while dealing with the need for transparency and oversight, referred to the grievance made by the stakeholders that the BCCI was neither fair nor transparent and those who seek greater information are either rebuffed by the Board or won over by enticements. The Committee has noticed that the state of affairs prevailing in BCCI and the expenses incurred by it call for better financial management and financial prudence. The Committee has observed:

“In the light of all this, the Committee proposes that clear principles of transparency be laid down, and the BCCI website and office will carry all rules, Regulations and office orders of the BCCI, the constitution of the various committees, their resolutions, the expenditures under various heads, the reports of the Ombudsman/Auditor/Electoral Officer/Ethics Officer and the annual reports and balance sheets. In addition, norms and procedures shall be laid down for the engagement of service professionals and contractors, and there shall be full transparency of all tenders floated and bids invited by or on behalf of the BCCI. The website shall also have links to the various stadia with seating capacities and transparent direct ticketing facilities.

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The Committee also believes that the Auditor be tasked not only with a financial analysis, but also specifically carry out a performance audit (Compliance Report) to determine whether the State associations have actually expended their grants towards the development of the game and mark them on a report card which will be utilized to determine the due they deserve the following year. This oversight also needs to consider the high and unreasonable expenditures by the Board on various heads, which would have to be limited and streamlined.

76. While dealing with the question of governance in Chapter Two of the Report the Committee has recommended a Nine-

Member Body as the Apex Council out of whom five shall be elected office bearers of the BCCI while four shall be Councillors one of them to be nominated by the C&AG. The nominee of C&AG, shall, in the opinion of the Committee bring transparency and oversight in monitoring the finances of the BCCI. It is in that background that the Committee has recommended in the draft Rules and Regulations/Memorandum of Association the composition of the State Associations and the BCCI to include a nominee of the Accountant General of the State in the case of State Associations and nominee of C&AG as Member of the Apex Council in the case of the BCCI. It is evident from a careful reading of the Report that the object underlying the induction of the nominees of the Accountant General of the State and the C&AG is to bring transparency and financial oversight into the affairs of the State Associations and the BCCI. No one can possibly argue that the object sought to be achieved by the proposed nominations is not laudable or at least desirable. Transparency and financial discipline and accountability are fundamental values to which any authority discharging public functions must be committed to. To that extent the BCCI has not faulted the report made by the Committee. What is all the same contended is that the recommendation if accepted may result in the suspension of the recognition of the BCCI as it will be seen by the ICC as Government interference contrary to Article 2.9(B) of the ICC Rules, which reads as under:

Where a government interferes in the administration of cricket by a Member, including but not limited to interference in operational matters, the selection and management of teams, the appointment of coaches or support personnel or the activities of a Member, the Executive Board shall have the power to suspend or refuse to recognize that Member, subject to the provisions of Article 2.7.

77. There is, in our view, no basis for the argument that any measure taken by the BCCI on its own or under the direction of a competent court specially when aimed at streamlining its working and ensuring financial discipline, transparency and

accountability expected of an organization discharging public functions such as BCCI may be seen as governmental interference calling for suspension/derecognition of the BCCI. Far from finding fault with presence of a nominee of the Accountant General of the State and C&AG, the ICC would in our opinion appreciate any such step for the same would prevent misgivings about the working of the BCCI especially in relation to management of its funds and bring transparency and objectivity necessary to inspire public confidence in the fairness and the effective management of the affairs of the BCCI and the State Associations. The nominees recommended by the Committee would act as conscience keepers of the State Association and BCCI in financial matters and matters related or incidental thereto which will in no way adversely impact the performance or working of the BCCI for the promotion and development of the game of cricket. The criticism leveled against the recommendations of the Committee is, therefore, unfounded and accordingly rejected."

20. Lastly, it is submitted by Mr. Mehra on the DDCA's submissions with respect to the directions of the Mudgal Committee being contrary to law as they cannot be implemented without approval of the Registrar of Companies, that the changes required of in the Memorandum of Articles have to be first approved by the DDCA members, after which the approval of the Registrar can be obtained.

21. Shri Manish Tewari, appearing on behalf Mr. Kirti Azad, argued that several statutory as well as internal committees of the DDCA have found several irregularities and illegalities in its functioning and its office bearers. It is submitted that these irregularities/illegalities show the current state of affairs. The findings of financial discrepancies, of the Internal Fact Finding and Internal Audit Committee were relied on. Mr. Tewari submitted that large sums of money were transferred without the prior knowledge or

approval of the Executive Committee. Large sums of money were paid as professional charges to personal firms for the same work, without any authorization or approval to the tune of ₹ 4.8 crores in FY 2013-14. Payments of ₹ 4.37 crores were made without the approval of the Internal Auditor from June 2014 to 17th September 2014. Likewise advance payments were made to several companies months before the receipt of the bills. There was bogus expenditure on various counts, such as daily rent for hire of computers, printers etc. and also for flex, photographers, diesel etc. Also, huge sums of money were "round tripped" by some of DDCA's office bearers. The round tripping of ₹ 1.55 crores was confirmed by an Inquiry Report of former District and Sessions Judge, Ms. Ina Malhotra, in which the President of the DDCA has been hauled up. Also, outstanding prize money was to the tune of ₹ 60.80 lakhs. Mr. Tewari stated that a glaring irregularity was that no fixed asset register has been maintained by the DDCA; also there were discrepancies in the amounts recoverable from the BCCI for the year 2013-14, to the tune of ₹3 crores. The purchase expense for the bar was ₹ 75.25 lakhs but sales was only ₹35.96 lakhs leading to a loss of ₹39.28 lakhs in bar sales for FY 2013-14.

22. It was submitted that there is no Company Secretary since end 2014 and there are several adverse findings in the order of the CIC and observations touching on the functioning of the DDCA executive office bearers. DDCA has a weak internal control system, non-maintenance of fixed assets registers and has major transactions in cash and payments to directors/members without approval of the Board or Central Government. Further, the DDCA is in non-compliance of Schedule VI read with Section

221 of the Act and the Accounting Standards. Besides, in the report of the SFIO, out of the 24 directors, 16 have already completed their terms, and the remaining 8 will complete their terms on 30.09.2016. There has been no AGM held for the last 3 years, which is in clear violation of the law. 62 cases of violation of the Companies Act were made out against the DDCA, and some have been compounded by the Company Law Board as well as the Lok Adalat of the CLB, by which the directors have been let off with meager fines. However, this Court has stayed some of the cases. It was submitted that having regard to the magnitude of the irregularities and the DDCA's obligation to implement the Justice Lodha Committee report by virtue of the Supreme Court's judgment, pronounced on 18.07.2016 in the *Board of Cricket (supra)* and its direction to the BCCI and its constituents to implement the recommendations within a period of 6 months, DDCA has to implement the recommendations and amend its constitution, and also conduct fresh elections by 18.01.2017. Lastly it was urged that since the term of 16 Directors of 24 have already completed, and the remaining 8 Directors would have completed their terms on 30th September, 2016 this Court should direct Justice Mukul Mudgal (Retd) or any other individual instead of Justice Mudgal, to act as the Administrator of the DDCA, and take over its day-to-day functioning.

Analysis and Conclusions

23. The present writ petition was instituted in the context of claims of arrears of municipal tax in relation to the open and built up areas- including the stadium belonging to and within the control of DDCA. It also had to approach the Court because of frequent problems faced by it on account of

pendency of various issues with different agencies, such as fire department, health department, etc. The order sheet in this case reveals that but for Court intervention, a large number of events, including international cricketing fixtures and test matches, would not have been held. In the course of one such proceeding, which was preceded by one of the endless applications moved for directions in the context of the then cricketing season, the Court had heard submissions of the parties and made orders for the appointment of the Mudgal Committee. The Court directed the constitution of the Mudgal committee; on 18.11.2015. The order pertinently noted that " *we feel that it would be appropriate that somebody is appointed to oversee the forthcoming test match as also to ensure that the DDCA takes earnest steps towards obtaining requisite clearances/compliances. All the parties agree that a former Judge of this Court may be nominated for this purpose. We feel that Justice Mukul Mudgal would be an appropriate person. This is accepted by all the parties*". The order of 18.12.2015 clarified the earlier order, stating that " *The DDCA will extend its full cooperation to Justice Mudgal in ensuring that the recommendations made by him in his reports to this Court, copies of which have been made available to all the parties, are implemented to his satisfaction. The Court requests Justice Mudgal to submit a further report after the conclusion of the ten matches..*" The tenor of the orders dated 22.02.2016, 03.03.2016 and 07.04.2016 uniformly reveal that the Court had tasked the Justice Mudgal committee with the job of conducting matches smoothly and importantly suggesting best practices and other recommendations for the better and more efficient management of the sport and smooth functioning of cricket.

24. In discharge of the mandate given to him, Justice Mudgal oversaw several matches; both domestic and international. He also furnished several reports and supplementary reports. The report dated 11.07.2016 contains several recommendations for the structural overhaul of DDCA and some of its constituents, besides suggesting changes in matters such as ban on proxy voting, abolition of affiliate clubs, etc. Other recommendations include reforms such as conditions to be followed in tendering, financial and audit controls, payments, ticketing, etc. The DDCA has reservations in respect of some of these recommendations; it has no objections in principle in respect of others.

25. DDCA's first objection is that the Court is now asked to traverse far beyond the original scope of its jurisdiction having regard to the limited claim made by it, in the writ petition; it was only for directions to issue clearances for matches, protection from coercive action in relation to any municipal property tax demand, etc. That DDCA did not voice any reservations at the time Justice Mudgal was appointed does not in any manner preclude it from doing so now, given that the original mandate i.e holding of matches has been complied with. Therefore, the Court should not expand the scope of these proceedings as it would be contrary even to what is sought; besides it would violate the roster conditions that preclude Benches from hearing public interest litigation to the extent that the directions now claimed fall in that category.

26. This Court is of opinion that the DDCA's arguments are unmerited. Firstly, a bare glance at the order sheet in this case is replete with instances where the Court was asked to proceed beyond confines of the relief claimed;

the Court stepped in to aid DDCA having regard to the larger interests of the viewing public and those of the cricket-loving people and viewers. Even before the orders constituting the Mudgal Committee were issued, the Court had stepped in to rescue the DDCA from dire straits, at the last moment, to ensure clearances from authorities were obtained. In all those instances, the DDCA had no objection, despite the relief claimed being restricted to the issue of recovery of property tax demands. None of the orders, constituting the committee, or recording the tasks performed by the committee, under its supervision, such as the holding of cricket series, including international matches, was taken umbrage to; in fact, no exception was taken to the revenues and surplus generated by the supervision of the committee. Having thus taken the benefit of such orders, the DDCA cannot now say that this Court has either lost its mandate, or is exceeding its jurisdiction. Furthermore, the Court, acting under Article 226 of the Constitution, cannot be asked that it could proceed up to a point and no further. In such cases, when the Court discerns an issue of public concern or importance, it acts within its powers to issue continuing mandamus, or make such directions as the circumstances warrant, in oversight of its orders and judgments (Re *Vineet Narain v Union of India* 1998 (1) SCC 226).

27. So far as amenability to writ jurisdiction and the Court's power to issue directions that concern governance and affairs of the DDCA go, what is immediately noticeable is the familiar ring of this argument, which was decisively rejected in the *Board of Control for Cricket (supra)* judgment, where the Supreme Court held that the BCCI

"does discharge some duties like the selection of an Indian cricket team, controlling the activities of the players and others involved in the game of cricket. These activities can be said to be akin to public duties or State functions and if there is any violation of any constitutional or statutory obligation or rights of other citizens, the aggrieved party may not have a relief by way of a petition under Article 32. But that does not mean that the violator of such right would go scot-free merely because it or he is not a State. Under the Indian jurisprudence there is always a just remedy for violation of a right of a citizen. Though the remedy under Article 32 is not available, an aggrieved party can always seek a remedy under the ordinary course of law or by way of a writ petition under Article 226 of the Constitution which is much wider than Article 32."

Identical logic applies to the DDCA, which seeks to reflect the game of cricket in the Delhi team; it represents the NCT of Delhi in the BCCI; its cricketers are picked up by the selectors to represent India, in international matches and in short, it is the official face of cricket in Delhi. Like in the *Board of Control for Cricket (supra)* judgment which rejected BCCI's arguments that its rights under Article 19 (1) (c) would be affected, here too, objections to the reforms in its governance and various aspects of functioning cannot be countenanced.

28. As far as the other objection by counsel that this Bench should not hear the matter, because according to roster, this case ought to be listed before some other Division Bench, or a learned single judge, is concerned, the dictates of roster allocation were discussed by the Supreme Court in *State of Rajasthan v Prakash Chand* 1998 (1) SCC 1 where it was held that:

"Therefore, from a review of the statutory provisions and the cases on the subject as rightly decided by various High Courts, to which reference has been made by us, it follows that no judge

or a Bench of judges can assume jurisdiction in a case pending in the High Court unless the case is allotted to him or them by the Chief Justice. Strict adherence of this procedure is essential for maintaining judicial discipline and proper functioning of the Court. No departure from it can be permitted. If every judge of a High Court starts picking and choosing cases for disposal by him, the discipline in the High Court would be the casualty and the administration of Justice would suffer. No legal system can permit machinery of the court to collapse."

No doubt, the dictates of the roster system of a High Court's functioning tethers a particular judge to a specific category or class of cases, or cases assigned by the Chief Justice. In this instance, this petition was specially marked to the present Bench. Therefore, the submissions of DDCA cannot be countenanced; they are hereby rejected.

29. As far as the recommendations go, it hardly needs to be emphasized that reforms are badly needed; there appears to be no stability in certain key governance issues or even discernable norms in regard to activities such as accounts and finance, procurement through tendering, a stable selection policy for selectors and players, the terms and conditions applicable to them, etc. Therefore, DDCA itself conceded during the hearing that the Mudgal Committee recommendations with regard to the following can be adopted:

- (a) Tendering (Page 17 of the report)
- (b) Accounts & Finance (Page 18 of the report)
- (c) Administration (Page 19 of the report)
- (d) Ticketing And Accreditation (Page 21 of the report)

Similarly, regarding the recommendation for ticketing the DDCA agrees to adopt a scheme similar to that followed by the Committee during its supervision of the matches regarding the distribution of complimentary passes, subject to the overall control and supervision of its Board of Directors to overcome any contingencies. DDCA is also agreeable to implement them on the following terms:

- (i) The correspondence with the existing Affiliated Clubs to be addressed to the registered office of the Club by DDCA, as also at the correspondence address, if any.
- (ii) Selection process must be fair and transparent.
- (iii) The said disclosures must be made public.
- (iv) The Selection Committee of all age groups (men and women) must comprise of one retired international player.
- (v) The remuneration for coaches or any other person sought to be appointed by DDCA must be fixed prior to appointment by DDCA and formal contracts must be entered before appointment.

30. The Justice Lodha Committee recommendations for ending proxy voting are forthright. The DDCA had argued that such reform - as well as the recommendation with respect to abolition of the sports committees and affiliation only of registered clubs cannot be the subject of a judicial diktat. This Court, however, is of the opinion that since ending proxy voting is no longer a matter of debate a direction to that effect is to be made. Accordingly, it is hereby directed that proxy voting is impermissible and the

DDCA shall not resort to it, in future elections. An appropriate amendment shall be carried out to Article 37 of the DDCA's Articles of Association. With respect to other recommendations, i.e mandatory condition that club affiliations are permissible only if such bodies/clubs are registered under Societies Registration Act there is nothing in law which supports the DDCA's objections. The Mudgal Committee had recommended that the sports committee shall comprise of 10 members, i.e the following:

- 1. 5 retired men or women international or national cricketers of credible repute (the names proposed should be approved by the BCCI)*
- 2. 2 members elected by Affiliated Clubs*
- 3. 2 members of Institutional Clubs*
- 4. 1 senior coach (the name proposed should be approved by the BCCI)*

Accordingly, it is hereby directed that the commendations with respect to sports committee shall be accepted. There shall accordingly, be an appropriate amendment to Article 23 of the DDCA's Articles of Association to bring it in line with the above recommendation. The present Article 23 shall be deleted and substituted by the following, as sub-article (a) to Article 23:

"No club or Association shall be affiliation, or its affiliation continued, unless it is registered as a society or as a not for profit company, and which has submitted its duly audited reports, especially about the amounts received from DDCA or other bodies for the promotion and development of the game. This condition shall be complied within 3 months of the coming into force of the amendment, in respect of all existing affilliated members; failure to comply would result in loss of affiliation."

Article 23 (b) shall read as follows:

(b) The executive committee will form a sports working committee consisting of 10 members from amongst the following:

- 1. 5 retired men or women international or national cricketers of credible repute (the names proposed should be approved by the BCCI)*
- 2. 2 members elected by Affiliated Clubs*
- 3. 2 members of Institutional Clubs*
- 4. 1 senior coach (the name proposed should be approved by the BCCI)"*

31. The Supreme Court judgment, in relation to BCCI, had accepted the Lodha Committee recommendations with respect to streamlining or pruning of that body; the committee had also recommended that all State associations (such as DDCA) should adopt a uniform pattern. This Court notices that at present the governance structure of DDCA is "top heavy". Its Executive committee comprises of 27 members (one President, three Vice Presidents, one Hony. Secretary, one Sports Secretary, one Club Secretary, one Treasurer, eight Joint Secretaries and 11 Members). There is hardly any cooling off period and no tenure or age restrictions. The Justice Lodha Committee recommendations *vis-à-vis* the governance structure of BCCI are as follows:

"4. Office Bearer

'Limited Tenures & Cooling Off'

While all the existing office bearers (President, Vice-President, Secretary, Treasurer and Joint Secretary) are retained in honorary positions, the number of Vice Presidents is pruned from five to one. Their duties have been realigned. The President is shorn of his say in selections. The additional vote

for the President at meetings is deleted. The terms of these Office Bearers continue to be of 3 years, but with a maximum of 3 such terms regardless of the post held, with a cooling off period after each such term."

This Court hereby directs appropriate amendments to bring in line the above recommendations, with respect to the membership of the executive committee as well as the tenure restrictions and cooling off periods. Furthermore, the following direction has acquired the force of law, due to Article 141 of the Constitution in relation to BCCI:

"... .. Any elected Councillor shall stand automatically disqualified after nine years as an office bearer, and shall also be disqualified from contesting or holding the post if he has completed the age of 70 years, is charged under the penal law, is declared to be of unsound mind, is a Minister or government servant or holds any post of another sports body in the country."

Like in its case, there is no compelling reason to depart from it in the case of DDCA. The above condition shall be read as part of Article 40 of the DDCA's Articles of Association, specifically as Article 40(c), which shall read as follows:

"... .. Notwithstanding anything contained in any provision of these articles, any elected executive committee member amongst those described in Article 38, shall stand automatically disqualified after nine years as an office bearer (i.e member of executive committee), and shall also be disqualified from contesting or holding the post if he has completed the age of 70 years, is charged under the penal law, is declared to be of unsound mind, is a Minister or government servant or holds any post of another sports body in the country."

32. The extracts of the judgment in the *Board of Control for Cricket (supra)* had accepted the Justice Lodha Committee recommendations with respect to co-opting a nominee of the CAG/Accountant General in the BCCI and every state association, respectively:

"the composition of the State Associations and the BCCI to include a nominee of the Accountant General of the State in the case of State Associations and nominee of C&AG as Member of the Apex Council in the case of the BCCI."

The DDCA is directed, therefore, to appropriately amend Article 38 of its Articles of Association, to include the nominee of the Chief Controller of Accounts for the NCT of Delhi. The DDCA shall also ensure that a full time CEO is appointed to carry out day to day administration, with his powers clearly demarcated.

33. The DDCA had argued that acceptance of the recommendations is not permissible, because regulatory approval of the Registrar of Companies under the Companies Act is essential. This Court is of the opinion that the submission is baseless. There is no provision in the Companies Act, which impedes an incorporated company from proposing and carrying out amendments to its Memorandum and Articles of Association and then, once the company (in this case, the DDCA, a not for profit company) carries out the proposals, submit the amendments for due acceptance. The same approach shall be adopted in the present case.

34. As far as other issues are concerned, this Court extracts, for facility of reference, the deficiencies and recommendations of the Mudgal Committee, in the report dated 11.07.2016:

"VI. DEFICIENCIES & RECOMMENATIONS : TENDERING

1. *DDCA does not follow a proper procurement and tendering policy for placing orders on the Vendors. We, however, came across handful of proper and public Tenders pertaining to providing Catering & Restaurant Services at DDCA (2014), Security Services (2014) and Housekeeping Services (2014) which were issued. For proper checks and records, where orders are placed without calling quotations, the reasons for not inviting quotations must be recorded. In addition, they must mention how the vendor/contractor has been selected, how it was ensured that rates quoted are reasonable and competitive. DDCA must follow a proper procedure for issuing and accepting Tenders/ Quotations.*

2. *DDCA does not issue formal directions for laying down the system and procedures for tendering like issuing short notice Tenders, inviting Local quotations, issuing of work/ purchase orders, signing of agreements with Vendors within time resulting in losses. Formal directions must be given and Written Agreement must be entered with each vendor.*

3. *DDCA does not issue formal Work/Purchase orders. In some cases, the approval is given on a single quotation itself and approved quotation is treated as a work order which leads to confusion and infact is deliberately done by some senior office bearers for reasons best known to them. In some cases the work orders are drafted as a formality after the work had been executed. There should be a standard format to place Work/Purchase order.*

4. *There was no proper verification of work done, certification and payment of bills. The checking by the Working Committee members of works awarded during the World T20 matches was also lacking in some cases like Housekeeping, Security, Catering in Corporate Boxes, Hiring of Equipment. This led to inferior services. At DDCA, Vendors have to run after the*

concerned Members to get their bills certified, which leads to nepotism and avoidable practices. Despite giving various directions, the members of the various Committees did not submit any report on the quality and quantity of work done immediately after each match. The hills must be cleared expeditiously after proper certification through a transparent and fair process.

5. It has also been observed that some of the Vendors/Contractors were Members of DDCA or close relatives of the Members of the Executive/Working Committees. This fact is neither disclosed by the Vendors/Contractors to whom the work is awarded nor by the Members of the Working/Executive Committees. This can result in conflict of interest. DDCA must issue clear directions/guidelines in this regard. A register of interests must be maintained so that the office bearers disclose their interests so as to avoid any conflict of interest.

6. In order to bring the Ferozshah Kotla Stadium to its erstwhile International standards a permanent maintenance committee also comprising of an independent professional person should function regularly.

ACCOUNTS & FINANCE

1. Accounts wing needs to be strengthened. Internal Audit has pointed out various deficiencies in maintenance of Accounts, Record keeping, systems and procedures, internal controls, information system and also payments made to various parties which are not in compliance with financial manual.

2. There is no information system relating to pending bills. Some of the pending bills are almost 3 years old. These bills have not been approved by the Executive Committee, hence these are not being shown as outstanding in Accounts. According to last internal audit report, there are pending bills of Rs. 3.63 crores as on 31 December 2015. Some of these bills are reimbursable by BCCI.

3. No input or advice is taken from Accounts and Finance wing when the proposals which have financial implications are approved. Accounts come in the picture only when bills are to be passed/paid. At this stage, even if Accounts wing points out shortcomings, it is too late as the work has already been executed.

4. DDCA does not have adequate MIS system for example on Debtors and Creditors, bills pending for approval of Management, outstanding statutory dues like TDS, Service Tax, Employees Provident Fund; Cash Flow, Advances pending adjustment.

5. Since DDCA has not prepared its Annual Budget, at least in the last 3 years, there is no variance analysis of Actual verses Budget. Budget is an important control document. They must prepare Budget for each Match in addition to Annual Budget of DDCA.

ADMINISTRATION

1. The duties, responsibilities, powers of the Administration department have not been clearly defined. For World T20 Matches, the Tendering Committee itself had to ascertain the items for which tenders were to be invited, work out the requirements to be projected, draft the tenders and give advertisement in the Newspapers about the tenders floated on Website of DDCA. There was no administrative support in the Tendering process, due to some senior office bearers.

2. It was extremely disheartening to know that the Administration department of DDCA did not even have the proper records of the players representing Delhi. The lists of woman players were made for the first time in the history of DDCA during World T20 matches. There are no proper and updated records maintained of the members of DDCA.

3. The Administration departments need to be strengthened and should be directed to ensure that proper records are maintained by them.

4. Even though the employees of DDCA are committed to their work, but to check any irregularity and misuse of the employees by the office bearers, it is advisable that an Administrative officer (preferably an ex-servicemen) is appointed to ensure that the workforce of DDCA is able to work to their maximum potential and the workforce should only be deployed at Ferozshah Kotla and not anywhere else.

PROMOTION OF CRICKET & SELECTION OF PLAYERS

Due to several complaints received during my tenure, the following measures are proposed for betterment of Cricket and selection procedure:

- i. The existing Clubs which are registered with the Registrar of Societies/Registrar of Companies and fulfill all statutory compliances must only be given affiliation by DDCA alongwith institutional clubs.
- ii. The correspondence with the existing Affiliated Clubs must only be addressed to the registered office of the Clubs by DDCA.
- iii. The office bearers of DDCA must ensure that the existing Affiliated Clubs provide the details of the disbursement of finances, which are provided by DDCA for the promotion of Cricket to the Affiliated Clubs to maintain accountability and transparency. The accounts pertaining to the grant provided by DDCA to the Affiliated Clubs must be submitted to DDCA. DDCA must check that the grant has been utilized for the promotion of cricket and should grant affiliation to the Clubs for the next cricketing season only after being satisfied that the grant has been properly utilized for the promotion of Cricket.
- iv. The Sports Working Committee which is apparently responsible for running the cricketing affairs in the city of Delhi and only comprises of the 10 members selected by Affiliated Clubs of DDCA should either be abolished or the constitution must be changed to comprise the following-
 1. 5 retired men or women international or national cricketers of credible repute (the names proposed should be approved by the BCCI)
 2. 2 members elected by Affiliated Clubs
 3. 2 members of Institutional Clubs

4. 1 senior coach (the name proposed should be approved by the BCCI)

v. The Selection Process must be fair and transparent. All selected candidates must fill a detailed form which must also specify their relation, if any, with the office bearers, Executive Committee Members and Sports Working Committee members or with any person concerned with DDCA.

vi. The said disclosure must be made public and the list of selected candidates must also be made public on the website.

vii. The Selection Committee for all age groups (men and women) must comprise of one retired international players. The names of the Selectors must be approved by BCCI and no selection panel should exceed more than 3 members.

viii. The remuneration for the Coaches or any other person sought to be appointed by DDCA must be fixed prior to appointment by DDCA and formal contracts must be entered before their appointment.

TICKETING & ACCREDITATION

1. The complimentary passes and issuance of accreditation cards are the bone of contention between the office bearers of DDCA and even the various authorities. The senior office bearers eye maximum complimentary tickets to serve the interest of their proxies who cater to their vote bank requirements during elections.

2. It is necessary to curb this practice of complimentary passes which are given to various persons and proxies all over Delhi only for personal gains and for strengthening their vote bank for elections of DDCA.

3. The following recommendations in relation to Ticketing & Accreditation are required to be implemented in a sacrosanct manner to curb this malpractices. The maximum number of tickets ought to be put on sale for the benefit of the spectators and DDCA's finances.

ii. Every ticket should have a seat number assigned to ensure comfort and an assured seat for the spectators.

iii. The complimentary passes for the Office Bearers, Executive Committee Members, SWC, Women Committee Members, Various Authorities, Players, Coaches and Affiliated Clubs and Passes for the Members should only be assigned in West Stand Fourth Floor, Hill Band West Stand Ground Floor of the Stadium,

iv. The number of complimentary passes issued must not exceed the following limit-

1. Executive Committee Members - 10 per match

2. SWC- 4 per match

3. Patrons- 4 per match

4. Women Committee Members- 4 per match

5. Various Authorities- Must not exceed 1000 per match

6. Current & Former International Players (Men & Women) – 2 per match

7. Current & Former National Players (Ranji Men & Women) – 1 per match

8. Present Players (Men & Women of all age categories) - 1 per match

9. Senior Coaches (List to be approved by a committee consisting of 3 international players from Delhi) - 2 per match

10. Affiliated Clubs-1 per match

V. One pass (Members Pass) should be issued to each member of DDCA.

vi. The complimentary passes of the authorities should only be handed over to the nodal officer appointed by that particular authority.

vii. The Executive Committee Members, Sports Working committee members, patrons and employees should be issued only one Accreditation Card for themselves only as Accreditation Cards are many times misused for enjoying the hospitality causing immense losses to DDCA. No request for any additional Accreditation Card must be entertained.

viii. People involved in cricket operations should only be given Accreditation Cards after getting prior approval of BCCI, as they get access to various sensitive areas which are restricted by BCCI.

ix. The various authorities must have a proper system of issuance and verification of Accreditation Cards to avoid misuse of the generic Accreditation Cards issued to the various authorities.

X. The office bearers of DDCA must not promote the culture of watching the match at Ferozshah Kotla Ground or any other ground with complimentary passes and completely stop entertaining the requests for any complimentary passes,

xi. During the World T20 and IPL-9 matches, discretionary quota of complimentary passes was given to the Head of Event. However, the details of distribution of discretionary quota have not been furnished till date. At the instance of the senior office hearers, 80 corporate box tickets were purchased by DDCA. However, the final details of distribution have not been provided.

xii. All records of distribution of Complimentary Passes and Accreditation Cards must be maintained by DDCA and posted on the website of DDCA after every match. All information pertaining to Tendering, issuance of Contracts/ Work Orders must also be made public and posted on the website of DDCA.

xiii. All financial and other documents relating to the matches, selection and the functioning of DDCA (Minutes of Meetings) must be posted on the Website by DDCA, since it performs public functions and such disclosure will not only ensure transparency but also enhance the reputation of DDCA and its office bearers in the eyes of its members and general public.

VIII. FINANCIAL IMPLICATIONS:

With various checks and balances implemented during my tenure, DDCA has been able to save approximately Rupees 7.00 crores (as per provisional Income and Expenditure accounts) from the World T20 matches. This expenditure also includes Rs. 45.00 lakhs contributed to Delhi Police Martyr Fund. The surplus of Rupees 7.00 crores will further go up as some of the expenses incurred during these matches are reimbursable by BCCI (like hospitality to ICC guests). Further Rupees 1.85 crores paid as Advance Tax to Delhi Entertainment Tax Department has been totally booked as expenditure while a good amount out of it is likely to be

refunded when final assessment is done by the concerned Department, as the number of tickets sold in many matches was much less to the total capacity. However, this large profit has generated a spate of resolutions seeking to change the entire financial structure of approval. This Hon'ble Court may issue directions for ensuring that this large profit is properly utilized and not frittered away.

It is advisable that the said amount is utilized for improving the stadium facilities and cricket facilities under the supervision of an independent financial expert of credible reputation with the assistance of a specialized team of dedicated DDCA officials constituted by BCCI. This will help in Ferozshah Kotla regaining the international standards it had.

IX. OBSERVATIONS:

The recommendations made in the present Report and all my earlier Reports are not exhaustive for improving the state of affairs at DDCA. The current state of affairs in DDCA requires the scrutiny of BCCI. Several complaints were received regarding the selection process of players during my tenure at DDCA, which requires a thorough investigation by an independent person or body. The proxy system is the bane of Delhi Cricket and subject to other legal requirements deserves to be jettisoned. Some of the office bearers and the Executive Committee Members of DDCA only act for their own personal gains and for maintaining their relationships at the expense of DDCA. It is a pity that the coaches, players, vendors and employees of DDCA are not paid on time. The Office Bearers, Executive Committee Members and the Sports Working Committee members of DDCA should be concerned for improving the cricket facilities in the city of Delhi. It is advisable that DDCA has a full time CEO who independently looks after the administration and financial aspects of DDCA to ensure continuity and smooth functioning of DDCA. BCCI as the parent body must ensure that DDCA is transparent in its functioning as it is a public body responsible for promoting cricket in the city of Delhi.

It is for BCCI to decide whether to constitute a specialized ad-hoc body or a committee to take over and manage the affairs of DDCA to improve the situation in DDCA in the interest of Cricket so that Ferozshah Kotla again becomes a venue which has international standards of upkeep."

35. The Court also hereby directs that since the tenure of the Executive committee ended in October, and having regard to the fact that Justice Mukul Mudgal had expressed his inability to continue as Administrator, to ensure continuity, till the above changes are made to the DDCA's Articles of Association, and for also ensuring that matches - both domestic fixtures and international events are held smoothly, a replacement is needed. Mr. Justice Vikramajit Sen, retired judge of the Supreme Court, is hereby appointed to act as Administrator in place of Justice Mudgal to oversee the affairs of DDCA – including its day-to-day functioning and ensure that cricket matches are conducted smoothly till such time the directions given in this judgment are implemented and charge is handed over to the newly elected executive committee of the DDCA. Justice Mukul Mudgal is requested to hand over charge in two weeks from the date of this judgment.

36. The following directions are issued:

(1) The DDCA is directed to forthwith adopt all the recommendations discussed in para 28 of this judgment relating to tendering, accounts and finance, administration, ticketing and accreditation. The other directions contained in paras (i) to (v) of Para 28 shall also be implemented by the DDCA forthwith. At the same time, it is clarified that all contracts and processes adopted during the interregnum, i.e. after the appointment of the Justice Mudgal Committee and till the directions of the Court are finally

implemented and the administration handed over to the duly elected body in accordance with this judgment, shall not be disturbed. In other words, upto the date of this judgment, the contracts entered into as well as the selections of the selectors and the teams shall not be disturbed in any manner whatsoever. Likewise, the expenses undertaken and the binding contracts entered into, under the authority of the Justice Mudgal Committee, are hereby ratified and cannot be called into question by the virtue of this judgment. The Administrator hereafter shall also continue with the same policies but wherever changes are necessary, follow the directions in this judgment.

(2) The terms and conditions of the Administrator shall be the same, i.e ₹ 1 lakh per working day, as in the case of the Justice Mudgal Committee. The Administrator is to settle the terms and conditions of the individuals and officials who are to assist him for the tasks assigned to him.

(3) The Administrator shall call for a meeting of the members of the DDCA in accordance with its Articles of Association, to ensure the implementation of the directions in para 29, i.e. concerning the policy of proxy voting (amendment to Article 37), substitution of Article 23, i.e. a change in the sports committee, change in the conditions of affiliation of clubs and change in composition of the sports committee, the changes spelt out in para 30 of this judgment with respect to tenure, restrictions of office bearers, number of office bearers, i.e. Vice President, President, Secretary etc., cap on the age limit and amendment to Article 38 to include a nominee of the Chief Controller of Accounts of the GNCTD. This meeting of the

General Body to amend the Articles of Association shall be taken at the earliest expedient time, i.e. preferably before the end of March 2017.

(4) The Administrator is required to, thereafter, approach the concerned government/regulatory authorities, such as the Registrar of Companies and after obtaining requisite approval in accordance with law, ensure that the amendments are incorporated in the Articles of Association.

(5) After the amendments are so carried out in accordance with the directions above, the Administrator shall ensure that an Annual General Meeting is held, for the purpose of electing the Executive and Office Bearers of the DDCA in accordance with the amendment articles. The Administrator shall ensure that an impartial individual acts as the Election Officer/Chairperson and if required, also nominate members for such purpose, including members of the DDCA. It is open to the Administrator to seek the assistance of the individuals who have helped in the running of the affairs of the DDCA for the past one year, including those employed under the Justice Mudgal Committee and/or any individual for any specific purpose in this regard. While doing so, the Administrator shall ensure that an expert in finance and auditing of accounts and overseeing tender/contractual specifications etc. is also included. The Administrator is free to associate any member of the DDCA in whom he reposes confidence and for that purpose consult such past office bearers as he may deem essential.

(6) The Administrator shall appoint an external auditor who shall audit DDCA's accounts for the period 2012-13; 2013-14 and 2014-15 and submit a report within three months after such appointment. The administrator shall

fix the fee to be paid to the auditor having regard to the prevailing fee for such services; it shall be borne by the DDCA.

(7) In line with the previous order of this Court in the present petition, dated 18.12.2015, a direction is issued that the new Administrator, Justice Vikramajit Sen shall be paid ₹ 1 lakh per working day by the DDCA. The remuneration which the other officers or individuals received as per recommendations of Justice Mukul Mudgal shall be paid to them and for periods thereafter till the election and handing-over of the administration to the DDCA, the remuneration and terms and conditions of such individuals shall be the same.

(8) All reports filed by Justice Mudgal Committee and the contract entered into by it, including the contracts with selectors as well as tender contracts and other contracts in connection with the matches till the date of judgment are hereby accepted and ratified. It is at the same time, clarified that the tenure of the contract is in no manner prejudiced and if it is beyond the judgment, the same shall continue during the period the Administrator appointed by the Court is in control.

(9) The Court hereby records its gratitude and appreciation to Justice Mukul Mudgal (Retd) for the role he played in steering DDCA during its troubled days. In keeping with his request- conveyed during the hearing of this case, the fee/honorarium payable to him is directed to be deposited by the DDCA in the Delhi Police Martyrs' Fund. Proof of deposit shall be filed by the DDCA in this Court, together with an affidavit in two weeks.

(10) The petition is directed to be listed before this Bench to monitor and supervise the progress of the directions; in the meanwhile, it is open to the Administrator to file periodic reports or seek such directions as are necessary having regard to various exigencies of the situation that may arise.

The contempt proceedings initiated in respect of Mr. Gautam Dutta and Sh. Bansal are hereby discharged, in view of the apology tendered by them.

List for further orders/proceedings on 21st April, 2017.

**S. RAVINDRA BHAT
(JUDGE)**

**DEEPA SHARMA
(JUDGE)**

JANUARY 30, 2017

