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

+ W.P.(C) 12473/2018 & C.M.No.48402/2018 (stay)

MAHIPAL SINGH

..... Petitioner

Through: Mr.B.S.Nagar, Adv. with Mr.Abhinav
Goyal, Adv.

Versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.Dev P.Bhardwaj, CGSC for R-1.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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27.11.2018

C.M.No.48403/2018 (exemption)

Allowed, subject to all just exceptions.

W.P.(C) 12473/2018

1. The petitioner has filed this writ petition in public interest and the prayer made by the petitioner in the writ petition reads as under:-

“(i) Issue writ, order or direction in the nature of Mandamus setting aside the elections of all such office bearers of the State Federations/Units/Members of AKFI who have been elected in contravention to the provisions of the National Sports Development Code, 2011, and/or

(ii) Issue appropriate writ, order or direction for consultation of a committee for ensuring enforcement of provisions of the National Sports Development Code of India in all State Units/Federations/Members of AKFI, and/or

(iii) Issue writ, order or direction in the nature of Mandamus setting aside the elections of Mr.Niranjan Singh, Secretary, Delhi State Kabaddi Federation who have been elected in

contravention to the provisions of the National Sports Development Code and has continued to occupy the office of Secretary since 1999, and/or

(iv) Issue writ, order or direction in the nature of Mandamus direction the Ld. Administrator to withhold the elections of AKFI till enquiry into the elections of all the State Units are conducted by an independent committee and fresh elections are conducted after removal of illegally elected office bearers.”

2. The petitioner now wants this Court to make indulgence into the matter and grant the aforesaid benefits to the petitioner. However, we find from the relief claimed by the petitioner and the material available on record that much before the filing of this writ petition, the petitioner had earlier filed a writ petition before this Court being W.P.(C) No.4601/2013 wherein also the petitioner had challenged various aspects with regard to the management and election of the same Association and after taking note of various submissions, by a detailed judgment pronounced on 3rd August, 2018 vide Annexure-P-4. From para-77 onwards, the conclusions have been recorded by a Division Bench of this Court which read as under:-

“77. In view of the above discussion, we allow the present writ petition. Resultantly, Clauses 8.9, 15.22, 15.8 and 17.2 of the amended MOA of the AKFI, are struck down as illegal. The appointment of Respondent No. 4 as Life President of the AKFI, is also, consequently, declared illegal. Equally, the election and consequent appointment of Respondent No.5, as President of the AKFI, on 19th May, 2013 and 23rd April, 2017, are also declared illegal, and are accordingly quashed and set aside.

78. Given the totally clandestine and surreptitious manner in which the provisions of the MOA were illegally amended, in order to enable Respondent No.5 to contest for the post of President, we further direct that Respondent No.5 render

accounts of all financial benefits, which have enured to Respondent No.5, as and in her capacity as President of the AKFI since the time of her appointment to the said post on 19th May, 2013 until date, and the same be recovered from her, forthwith.

79. Additionally, in view of the apparent anarchy, prevailing in the affairs of the AKFI, owing to the machinations of Respondents No.4 and 5, we are of the opinion that it would be necessary, to preserve the very existence of the AKFI, to entrust its control and affairs to an impartial Administrator. We, therefore, issue additionally, the following directions:

(i) We appoint Shri Sanat Kaul, IAS (Retd.) as Administrator, who would, till further orders, take over control of the AKFI, and administer all its affairs. He shall stand substituted in place of the President of the AKFI, and shall be entitled to exercise all powers which existed, heretofore, in the President of the AKFI.

(ii) The Administrator shall ensure that the Electoral College of the AKFI is prepared, and elections held, in accordance with the Model Election Guidelines, within three months thereof.

(iii) The body so elected shall carry out the amendments to the MOA, to bring it in conformity with the NSCI.

(iv) Once this is done, a fresh round of elections shall be carried out, as per the amended MOA and in terms of the NSCI, ensuring that all stipulations in the NSCI, including age and tenure restrictions, are strictly complied with.

(v) The entire exercise shall be carried out within a period of six months from today.

(vi) The AKFI shall make available to the Administrator an appropriate office space and facilities for the discharge of the aforesaid directions and make available such staff and

personnel as the Administrator may express the need for. Alternatively, the Administrator may appoint such personnel to assist him in the aforesaid matter and expense towards the same shall be borne by the AKFI.

(vii) Till the elections are conducted and results declared in consonance of the NSCI and in compliance with the preceding directions, the AKFI shall not make any new financial commitments except with the prior approval of the Administrator. Routine expenses of AKFI too shall be defrayed, with the due prior approval of the Administrator.

(viii) The Administrator would submit a three-monthly report, to this Court, so as to enable this Court to be satisfied that the affairs of the AKFI are in order. The monthly remuneration of the Administrator is fixed at ₹1,00,000/- per month apart from miscellaneous expenses, tour and travel, secretarial assistance, etc., on actual which would be disbursed, by the 5th of every month, by Respondent No.1.

(ix) The Bank accounts and other assets of AKFI shall be handed, and dealt with, only by the Administrator, or such other person (s), whom he may choose to depute/appoint in this regard.

80. In fixing the remuneration of the Administrator, we have been guided by the remuneration fixed by the Supreme Court, in respect of payment to R.M. Lodha, J. and Mukul Mudgal, J., as Chairman of the Committee to oversee the affairs of the Board of Control for Cricket in India, which was ₹1 lakh per day.

81. We express our gratitude to Mr.Gautam Narayan, learned *amicus curiae*, who justified, fully, the confidence reposed by us, in him, and argued the matter with clinical precision and poise

82. The writ petition is allowed in the above terms. As we have directed recoveries to be effected from Respondent No. 5, we are not burdening the respondents with additional costs, though the facts of the present case would amply justify such imposition. ”

3. In paragraphs 77 to 79 as reproduced hereinabove, various issues have been dealt with and the directions as indicated hereinabove issued. Now, the petitioner makes fresh prayers with regard to the same issues which were or could be raised by the petitioner in the earlier petition; this having not been done the reliefs claimed now cannot be granted again at the instance of the petitioner in the light of the directions already issued and indicated hereinabove. That apart the relief now claimed before us by the petitioner are issues which could have been agitated by the petitioner in the earlier writ petition itself. Once in the earlier writ petition the conclusions have been drawn by a co-ordinate Bench of this Court as indicated hereinabove, we see no reason to make any further indulgence into the matter now.

4. The writ petition is, therefore, dismissed. The pending application also stands disposed of.

CHIEF JUSTICE

V. KAMESWAR RAO, J

NOVEMBER 27, 2018

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