

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3401 of 2018**

- Ram Bisal Sahu, S/o Late Bhagat Ram Sahu, Aged About 65 Years, R/o Sahu Saw Mill, Pandri Tarai, Ps. Civil Line, Raipur, Chhattisgarh. Mobile No. 9977313429

---- Petitioner

Versus

1. The State Of Chhattisgarh, Through Special Secretary, Commerce And Industry Department Mantralaya, New Raipur, Chhattisgarh.
2. Firm And Societies Chhattisgarh, Through Its Registrar Indrawati Bhavan, Block-1, Third Floor, New Raipur, Chhattisgarh.
3. Shrikrishna Lakkad (Election Supervisor) Amateur Kabaddi Federation Of India (Akfi), C/o Smt. Mridul Bhadauriya President, Amateur Kabaddi Federation Of India, 2-Aakanksha Ajmer Road, Jaipur-302021.
4. Dharendra Nasine (Election Officer), E-1, Sai Complex, Devendra Nagar, Raipur, District Raipur, Chhattisgarh.
5. Ashok Chowdury, President, Chhattisgarh Kabbadi Sangh Mamta Nagar, P. S. City Kotwali, Rajnandgaon, Chhattisgarh.
6. Basant Sharma, Secretary General Chhattisgarh Kabbadi Sangh 879, B-3, Balco Nagar, Korba District Korba, Chhattisgarh.
7. Basant Anchal Treasurer Kosadhyaksha, Chhattisgarh Kabbaddi Sangh, Behind Raja Raghuraj Singh Stadium ImliPara, P. S. Civil Line, Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner : Shri Sunil Kumar Soni, Advocate

For Respondent/State : Shri Amrito Das, Dy. A.G.

For Respondents No. 05, 06 and 07 : Shri P.K.C. Tiwari, Senior Advocate
with Shri Ashutosh Trivedi

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

26/08/2019

1. Heard.
2. The present petition is filed for following reliefs :
 - 10.1 Hold that Impugned Order Dated 26.07.2018 i.e. (Annexure P/5), Passed by Respondent No. 1 & Order dated 27.06.2017 (Annexure P/3) Passed by Respondent No.2 is Arbitrary, Capricious besides being Illegal & therefore is set aside/ Quashed.
 - 10.2 Kindly Direct Respondent No.2 to conduct the election of the Management Committee of Chhattisgarh Kabaddi Sangh, Raipur as per the prevailing manual.
 - 10.3 Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in the given facts and circumstances of the Case.
3. Learned counsel for the petitioner would submit that election of the C.G. Kabaddi Sangh was conducted on 17.07.2016 and according to the by-laws, apart from the post of President there are four posts of Vice President, one Secretary General, one Treasurer, one Organization Secretary, five Joint Secretaries and eight Executive Members. However only election for President, Secretary General and Treasurer were conducted and thereafter the result were declared and in respect of the other office bearers, no election was conducted. It is stated that thereafter he preferred an application before the Registrar Firms and Societies which was dismissed. Against such order he filed an appeal before the Special Secretary Commerce and Industry Department that too was dismissed by order dated 26.07.2018.
4. Perused the order dated 26.07.2018 passed by the Secretary.
5. Prima facie, the finding shows that in respect of the post for which the

result were declared, two post were not contested and the persons were elected as nominated. Even otherwise in order to invoke the provisions of enquiry under Section 32 of the Societies Registration Act, if the enquiry is made by the person then majority of the members of the governing body of the Society or not less than 1/3 of the total members of the Society is required, the mandate has to be complied. The application of the petitioner, to that effect even though did not comply the requirement of Section 32, proceedings were drawn by Registrar. It is a trite law that jurisdiction as was invoked under Section 32 of the Societies Registration Act, could not be set into motion unless and until the requirement of Section 32 (2) of Societies Registration Act, is available.

Sub Section 2 of Section 32 reads as under:-

32. Enquiry and settlement of disputes-

(2) An enquiry of the nature referred to in sub-section (1) shall be held on the application [together with an affidavit in support of its contents] of-

(a) a majority of the members of the governing body of the society:or

(b) not less than one-third of the total number of members of the society.

6. In the circumstances initially the authority who pass the order was not vested with the initial jurisdiction and consequentially all further actions would be without jurisdiction and no relief can be granted to the petitioner by this Court in facts of this case.
7. Accordingly, the petition is dismissed. The petitioner shall have the alternative remedy to file a civil suit if so advised.

Sd/-
(Goutam Bhaduri)
Judge

Jyoti