

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.4532 of 2019
and W.M.P.No.5117 of 2019

V.Arunachalam

.. Petitioner

Vs.

1. The Secretary
Ministry of Youth Affairs and sports
Government of India Shastri Bhavan
New Delhi -110001
- 2 The Secretary General
Athletic Federation of India
WZ-114 G-first floor
Todapur village Todapur main Road
Dev.Prakash sastri Marg,
New Delhi 110012
- 3 The Secretary
Youth welfare and sports Development
Department Government of TamilNadu
Secretariat St.George Fort,
Chennai 600 009
- 4 The Member secretary
Sports Development Authority of TamilNadu
No.116-A E.V.R.Periyar High Road Nehru Park
Chennai 600084
- 5 The TamilNadu Athletic Association
Represented by its secretary Room
No.81 Jawaharlal Nehru stadium Periamet
Chennai 600 003
- 6 Mr.W.I.Devaram
The President TamilNadu Athletic
Association Room No.81 Jawaharlal Nehru
stadium Periamet, Chennai 600 003

7 Tmt.C.Latha
The Secretary TamilNadu Athletic
Association Room No.81 Jawaharlal Nehru
stadium Periamet Chennai 600 003

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the 1st and 2nd respondents for demission of the respondents 6 and 7 from their posts of President and Secretary of the 5th respondent Association and further direct the selection of fit and qualified persons for the same posts in accordance with the guidelines issued in NSCI-2011.

For Petitioner : Mr.S.Muthu Vairam

O R D E R

(Order of the Court was made by S. MANIKUMAR, J.)

The petitioner, resident of Pillayar Kovil Street, Sethimangalam, Thachanallur Post, Tirunelveli, now temporarily residing in Chennai, has filed this instant petition for a direction to the Secretary, Ministry of Youth Affairs and sports, Government of India, Shastri Bhavan, New Delhi -110001 and Secretary General, Athletic Federation of India, New Delhi 110 012, namely 1st and 2nd respondents, for demission of Mr.W.I.Devaram and Tmt.C.Latha, respondents 6 and 7 from their posts of President and Secretary of the Tamil Nadu Athletic Association and further to direct them to select fit and qualified persons for the same posts in accordance with the guidelines issued in NSCI-2011.

2. Petitioner has submitted that in an effort to improve the caliber of the children, youngsters and students at the district level, district level sports associations have been started in each district, at the basic level. To regulate the functions of the National State sports federations/ associations in respect of adoption of good governance practices, the 1st respondent had issued several guidelines as and when it deem necessary. One such is the "NATIONAL SPORTS DEVELOPMENT CODE OF INDIA (NSCI) 2011" dated 31.01.2011. By this comprehensive code, the 1st respondent has amalgamated all the guidelines, orders, circulars, notifications, instructions so far issued and entitled the same as " National Sports Development Code of India (NSCI) 2011" and has given immediate effect for the enforcement of the same. The code has also been communicated to all the sports federations for its strict adherence of the guidelines to ensure good governance and transparency in the functioning of the sports federations or associations.

3. Petitioner has further submitted that in para 9 of Serial No. XIII of the said NSCI-2011, certain guidelines were issued in respect of the tenure of office of the President, Secretary and Treasurer of the recognised sports Federations. As per para 9 (iii) of the said guidelines/regulations " the President, the Secretary and the Treasurer of any recognized National Sports Federation, including the Indian Olympic Association, shall cease to hold the post on attaining the age of 70 years. Contrary to the above guidelines/regulations, Mr.W.I.Devaram, namely the 6th respondent, who was born on 20.07.1939, who is now 79 years of age is now holding the post of President of Tamil Nadu Athletic Association, Chennai, the 5th respondent herein. As per the NSCI, 2011 the 6th respondent is not eligible to hold the office of the President of the 5th respondent Association and he has no right to continue in the said post of president.

4. Petitioner has further submitted that as per the guidelines issued in the said NSCI 2011, "no government servant should be allowed to hold elective office in any Sports Association/Federation for a term of more than 4 years or for one term whichever is less. Tmt.C.Latha, 7th respondent herein, who is now holding the post of Secretary in the 5th respondent association from 03.12.2017. Previously she held the post of Joint Secretary for the period from 2009 to 2013 and subsequently held the post of Treasurer from 21.12.2013 to the end of December 2017. It is obvious that the 7th respondent, by using influence was able to stabilize her in any one of the top positions, continuously without break.

5. Petitioner has further submitted that in Annexure XXXIII, page No.148 of NSIC 2011, it is emphasized that prior permission of the government is necessary to hold elective office in sports associations and bodies of National, State and District level and . The 7th respondent is working as an Inspector in Central Excise department, and prior permission is absolutely necessary in terms of Rule 15(1) of Central Civil Services (Conduct Rule). No records are found to show that she had applied for such prior permission in the past 10 years. Petitioner has further submitted that both the 6th and 7th respondents have no right to continue in their respective posts of President and Secretary of the 5th respondent Association, in terms of the provisions of NSCI-2011, which was registered on 01.10.2018 under the Societies Registration Act, 1975 and obtained Registration No.300/2018.

6. Petitioner has further stated that both 6th and 7th respondents without having the qualifications to hold the posts of the President and Secretary in the office of the 5th respondent association have decided to conduct the General Body meeting of the 5th respondent Association and have made

arrangements to conduct the same on 17.0.2019 at Hotel Metro Manor, Chennai. He further contended that the decision to conduct the General Body meeting is only name sake and no one raised any question regarding the holding of elective posts by the 6th and 7th respondents, as they are the persons with high level influence in the society. The 6th and 7th respondents have no right to conduct the said General Body meeting as they have no right to continue in the elective posts as per the provisions of the NSCI-2011.

7. Petitioner has further submitted that on 31.01.2019, he has sent written objections to the Secretary, Youth welfare and sports Development, Department Government of TamilNadu, Secretariat St.George Fort, Chennai 600 009 and the Member secretary, Sports Development Authority of TamilNadu, Chennai 600084, namely 3rd and 4th respondents, with a request to disqualify the 6th and 7th respondents from their elected posts and to stay the General Body Meeting proposed to be held on 17.02.2019 at Hotel Metro Manor, Chennai but there is no response to his representation though the same was acknowledged by the office of 3rd and 4th respondents. He further contended that if the deviation in following guidelines of NSCI-2011 is detected by the respondents 1,2,3 and 4, there would be a danger suspending or withdrawing the recognition of the 5th respondent association and there are also possibilities of imposing restrictions or even a total stoppage of financial aid likely to occur, which would ultimately affect the smooth functioning of the 5th respondent association, as well as the interests of sports personalities, hence for the above said reasons, petitioner has prayed that a direction be issued to the 1st and 2nd respondents for demission of the respondents 6 and 7 from their posts of President and Secretary of the 5th respondent association and further to direct selection of fit and qualified persons for the same posts in accordance with the guidelines issued in NSCI-2011.

8. Heard Mr.S.Muthu Vairam, learned counsel for the petitioner and perused the materials available on record.

9. On 31.1.2011, Ministry of Youth Affairs and Sports, Department of Sports, Government of India, has framed National Sports Development Code of India - 2011. It has been communicated to President of Indian Olympic Association and all recognised National Sports Federations and the Secretary General/General Secretary/Secretary of Indian Olympic Association and all National Sports Federations. Annexure XIII dated 1.5.2010 deals with Restoration of limits on the duration of office bearers of India Olympic Association and all

recognised National Sports Federations. Annexure F.No.8-17/2009-SP-III, Government of India, Ministry of Youth Affairs and Sports, New Delhi reads thus:

F.No.8-17/2009 - SP- III
Government of India
Ministry of Youth Affairs and Sports

Dated: 1st May, 2010

To

1. President of Indian Olympic Association and all recognised National Sports Federations.
2. The Secretary General/General Secretary/
Secretary of Indian Olympic Association and all
National Sports Federations

Subject: Restoration of limits on the duration of
tenure of office bearers of Indian Olympic
Association and all recognised National Sports
Federations.

Sir,

I am directed to refer to the letter No.F.II-4/74-SP-I, dated 20th September, 1975 issued by the then Ministry of Education and Social Welfare, Department of Education regarding improvement of standards of sports and games in the country - 'Conditions for financial and other assistance to National Sports Federations/Associations, etc., which forms part of revised guidelines for assistance to National Sports Federations (NSFs) (Annexure - XI of the guidelines).

2. Whereas due to strong opposition from the Indian Olympic Associations (IOA) and NSFs, to the implementation of tenure restrictions stipulated in the letter referred to in para 1 above, the said instructions were kept in abeyance since October, 2001.

3. Whereas in the recent past the matter had drawn the attention of Hon'ble High Court of Delhi in Civil Writ Petition No.7868 of 2005 in the matter of Indian Hockey Federation and the Hon'ble High Court while disposing off the matter vide order, dated 2/3/2010 observed categorically that the Government

guidelines governing the NSFs were valid, binding and enforceable; and the tenure clause is not in violation of the International Olympic Committee's (IOC) Charter. The Hon'ble Court also observed that the Government of India was fully competent to make regulations on NSFs and IOA.

4. Whereas subsequently in Public Interest Litigation filed before the Hon'ble Delhi High Court vide Civil Writ Petition No.195/2010, the petitioner has inter alia challenged the unlimited tenure of the office bearers of NSFs and IOA. The Hon'ble Court have taken a serious view on this matter and expressed deep concern at inaction on the part of the Government.

5. Whereas after detailed examination of the IOC Charter, it has been found that even the International Olympic Committee (IOC), which is the mother body of all sports federations, enforces tenure limits on its members and office bearers. As per the Charter, the duration of term of office of the Vice-Presidents and the ten other Executive Board Members is four years and a member may serve a maximum of two consecutive terms on the Board, followed by a cooling off period of 2 years. In case of the President, the Olympic Charter allows a term of eight years renewable once for a four year term. In other words, while the Vice Presidents and Executive Members can stand for re-election after undergoing the cooling off period, the IOC president can serve for a maximum period of 12 years. The IOC Charter also prescribes a retirement age for all IOC members, which is 70 years (for those elected after December 1999).

6. Whereas many major international sports federations also prescribe limits on the tenure of their office bearers such as, the World Badminton Federation does not permit more than two consecutive terms for its President, Hony. Secretary General and Hony. Treasurer to hold a maximum of three tenures of four years each; and the International Governing Body of Swimming (FINA) prescribes a maximum of two terms in the same post for the President and the Hony. Secretary and the Hony. Treasurer. Many other international sports bodies also enforce limits on the tenures of their office bearers.

7. Whereas Hon'ble Members of Parliament from across political parties, during the debate held in the Rajya Sabha on 22/4/2010 on the functioning of the Ministry of Youth Affairs and Sports, pressed on the need to enhance transparency and accountability

in the functioning of sports bodies by way of appropriate regulations, including tenure limit for office bearers.

8. Whereas Hon'ble Members of Parliament on the Parliamentary Consultative Committee and other forums have also expressed similar views on this matter.

9. Accordingly, after taking into account the entire facts and circumstances of the case and the views expressed by the Hon'ble Courts and Parliament, and the prevailing public opinion on the matter and with a view to encouraging professional management, good governance, transparency, accountability, democratic elections, etc., in NSFs, including IOA, the competent authority after satisfying himself has set aside the orders keeping the tenure clause in abeyance with immediate effect subject to the following modifications in the existing tenure limit provisions referred to in letter dated 20th September, 1975 mentioned in para 1 above:

(i) The President of any recognised National Sports Federation, including the Indian Olympic Association can hold the office for a maximum period of twelve years with or without break.

(ii) The Secretary (or by whatever other designation such as Secretary General or General Secretary by which he is referred to) and the Treasurer of any recognised National Sports Federation, including the Indian Olympic Association, may serve a maximum of two successive terms of four years each after which a minimum cooling off period of four years will apply to seek fresh election to either post.

(iii) The President, the Secretary and the Treasurer of any recognised National Sports Federation, including the Indian Olympic Association, shall cease to hold that post on attaining the age of 70 years.

(iv) The other provisions in respect of the tenure limit as contained in the letter of 1975 mentioned above shall remain as it is.

(v) The above dispensation will come into operation with immediate effect.

(vi) The conditions (i) to (v) above will be subject to the proviso that it shall not disturb the current tenure of any member, provided he/she has been properly elected to the post. In other words, the tenure condition will become operative for all future elections as they may be conducted in future in their normal course.

10. Compliance to the abovementioned directions shall be mandatory to receive government recognition and thereby to become eligible to receive financial as well as other forms of assistance from Government of India such as railway concession, income tax exemption, custom duty exemption, etc. and to derive the authority to perform the public functions of selecting and deputing the national teams for participation in recognised continental and world level international sports competitions which involve representation of member countries, and to represent the country in international associations, events, meets, conferences, etc.

11. This letter shall now form an integral part of the guidelines/regulations applicable to NSFs, including IOA.

10. Annexure XXXIII No.14-82/2009-SP-IV dated 4.2.2010, Ministry of Youth Affairs & Sports, Department of Sports, Government of India, deals with adoption of instructions relating to prior sanction necessary for contesting/canvassing in elections to sports bodies, and the same is extracted hereunder:

No.14-82/2009-SP-IV
Government of India
Ministry of Youth Affairs & Sports
Department of Sports

Shastri Bhawan, New Delhi
4th February 2010.

To

- 1.Chief Secretaries of all State Governments and Uts.
- 2.Sports Secretaries of all State Governments and Uts.

Subject: Adoption of instructions relating to prior sanction necessary for contesting/canvassing in elections to sports bodies - regarding.

Sir/Madam,

I am directed to say that a number of Government Servants of State Governments and Union Territory Administrations are holding posts in various sports associations and bodies of national level, state level and district level. Holding of elective offices by Government servants belonging to the Central Government is regulated in terms of the provisions

contained in the Central Civil Services (Conduct Rules), 1964, In terms of Rule 15 (1) of CCS (Conduct) Rules, previous sanction of the Government is required to hold an elective office, in any body, whether incorporated or not. Under Rule 12 of the CCS (Conduct) Rules, previous sanction of the Government or the prescribed authority is also necessary for a Government servant associating himself with raising of nay funds or other collections in pursuance of any object whatsoever. Further, instructions issued vide the Department of Personnel & Training's OM No.11013/3/9/93-Estt (A) dated 22/4/1994 provide, inter alia that no Government Servant should be allowed to hold elective office in any sports association/federation for a term of more than 4 years, or for one term, whichever is less. Copies of Rule 12 and 15 of CCS (Conduct) Rules and DOPT's aforesaid OM dated 22/4/1994 are enclosed.

2. It is presumed that State Governments/UT Administrations have already framed similar rules/instructions for regulating the association of the Government servants, borne on their strength with the sports associations/federations. If not already formulated, it is requested that appropriate rules/instructions suitably incorporating the above mentioned provisions of the Government of India may kindly be formulated.

3. It is also requested that requests of officers belonging to All India Services viz., Indian Administrative Service, Indian Police Service and Indian Forest Service for holding elective offices in sports associations/federations may be processed in accordance with relevant provisions of the AIS (Conduct) Rules.

4. Further, a list of names of officers, both belonging to All India Services and State Services, holding elective posts in Sports Federations/Associations, along with details of their term and tenure, may please be sent to this Ministry for record.

11. Subsequently on the same subject, instructions have been issued on 3.4.2012, by the Ministry of Youth Affairs and Sports, Government of India, New Delhi and the same is reproduced.

No.F.52-11/2011-SP-I
Government of India
Ministry of Youth Affairs & Sports

Shastri Bhawan, New Delhi 110 001
Dated the 3rd April 2012.

To

All President/Secretary Generals of National Sports
Federations (NSFs)

Sub: Adoption of instructions relating to prior
approval of the Govt. for contesting/canvassing in
elections to sports bodies - matter regarding.

Sir,

I am directed to refer to this Ministry's letter No.14-82/2009-SP-IV, dated 4th February, 2010 (copy enclosed) whereby it was intimated that holding of elective office in various Sports Bodies by Central Govt. Servant is regulated in terms of the provisions contained in the Central Civil Services (Conduct Rules), 1964. Under the rule previous sanction of the Govt, is required for a Govt Servant associating himself with the Sports Bodies at National/State/Distt. Level and also no Govt. Servants should be allowed to hold elective office in any sports association/federation for a term of more than 4 years, or for one term, whichever is less.

State Govts/UT Administration were requested to formulate appropriate rules/instructions if not done so far, so as to cover the State Govt. employees. The aforesaid instruction dated 4th February 2010 have become a part of the National Sports Development Code of India, 2011 which came into effect from 31/1/2011. All guidelines issued by the Ministry from time to time including the above mentioned instructions governing the National Sports Federations are valid, binding and enforceable.

In a recently filed LPA by Sh. Shyam Singh Yadav an employee of U.P Govt., vs. UOI in the High Court of Delhi, Hon'ble Court desired to know the latest status regarding formulating appropriate rules by the State Govt., relating to the State Govt. officials association with the various sports bodies.

All NSFs are advised to incorporate the above provisions in the by-laws/rules of their respective constitution so that n Govt. servants violate the

provisions mentioned in the Ministries circular dated 4/2/2010 mentioned above on a time-bound manner and intimate the action taken report in this regard to this Ministry at the earliest. This provision has already been included as part of the National Sports Development Code of India, 2011 which was issued on 31/1/2011 for compliance by all NSFs. It may please be noted that if you fail to comply with these requirements you shall not be granted renewal/annual recognition for 2012 and not be eligible to receive assistance under the Scheme of Assistance to National Sports Federations and other Schemes of the Ministry. Further, you would also not be entitled to receive government concessions.

12. Annexure XIII dated 1.5.2010, is addressed only to the President of the Indian Olympic Association and all recognised National Sports Federations, as well as to the Secretary General/General Secretary/Secretary of Indian Olympic Association and all National Sports Federations. As regards tenure of office, in paragraph 9 of the instructions dated 1.5.2010, it is stated as hereunder:

9. Accordingly, after taking into account the entire facts and circumstances of the case and the views expressed by the Hon'ble Courts and Parliament, and the prevailing public opinion on the matter and with a view to encouraging professional management, good governance, transparency, accountability, democratic elections, etc., in NSFs, including IOA, the competent authority after satisfying himself has set aside the orders keeping the tenure clause in abeyance with immediate effect subject to the following modifications in the existing tenure limit provisions referred to in letter dated 20th September, 1975 mentioned in para 1 above:

(i) The President of any recognised National Sports Federation, including the Indian Olympic Association can hold the office for a maximum period of twelve years with or without break.

(ii) The Secretary (or by whatever other designation such as Secretary General or General Secretary by which he is referred to) and the Treasurer of any recognised National Sports Federation, including the Indian Olympic Association, may serve a maximum of two successive terms of four years each after which a minimum cooling off period of four years will apply to seek fresh election to either post.

(iii) The President, the Secretary and the Treasurer of any recognised National Sports

Federation, including the Indian Olympic Association, shall cease to hold that post on attaining the age of 70 years.

(iv) The other provisions in respect of the tenure limit as contained in the letter of 1975 mentioned above shall remain as it is.

(v) The above dispensation will come into operation with immediate effect.

(vi) The conditions (i) to (v) above will be subject to the proviso that it shall not disturb the current tenure of any member, provided he/she has been properly elected to the post. In other words, the tenure condition will become operative for all future elections as they may be conducted in future in their normal course.

13. As per clause 9(i) of the instructions dated 1.5.2010, the President of any recognised National Sports Federation including Indian Olympic Association can hold office for a period of twelve years without break. As per clause 9(i) of the instructions, the President of any recognised National Sports Federation, including the Indian Olympic Association can hold the office for a maximum period of twelve years with or without break. As per clause 9(vi) of the instructions, the conditions (i) to (v) above will be subject to the proviso that it shall not disturb the current tenure of any member, provided he/she has been properly elected to the post. In other words, the tenure condition will become operative for all future elections as they may be conducted in future in their normal course.

14. First of all, it could be seen that the instructions are issued in respect of tenure of the office bearers of the Indian Olympic Association and all National Sports Federation. Petitioner has not made any specific averment that the instructions are ipso facto applicable to State Associations. However, it could be seen from the instructions dated 4.2.2010 of Ministry of Youth Affairs and Sports, Department of Sports, Government of India, that previous sanction of the Government is required to hold an elective office in any body, whether incorporated or not. Instructions further state that under Rule 12 of the CCS (Conduct) Rules, previous sanction of the government or the prescribed authority is also required for a government servants associating himself from raising of any funds or other collections on pursuance of any object whatsoever. Further, instructions issued vide the Department of Personnel & Training's OM No.11013/3/9/93-Estt(A) dated 22.4.1994 provide, inter alia, that no Government servant should be allowed to hold elective office in any sports association/federation for a term of more than 4 years, or for one term, whichever is less. Copies of Rule 12 and 15 of CCS

(Conduct) Rules and DOPT's aforesaid OM dated 22.4.1994 have been enclosed, along with the instructions.

15. In paras 2 and 3 of the instructions, it is further stated thus:

" It is presumed that State Governments/UT Administrations have already framed similar rules/instructions for regulating the association of the Government servants borne on their strength with the sports associations/federations. If not already formulated, it is requested that appropriate rules/instructions suitably incorporating the above-mentioned provisions of the Government of India may kindly be formulated.

It is also requested that requests of officers belonging to All India Services viz., Indian Administrative Service, Indian Police Service and Indian Forest Service for holding elective offices in sports associations/federations may be processed in accordance with relevant provisions of the AIS (Conduct) Rules."

16. Reiterating that previous sanction is required for a Central government servant under the Central Civil Services (Conduct Rules), 1964, further instructions have been issued on 3.4.2012. Insofar as State government employees, as per para 2 of the instructions dated 3.4.2012 of the Ministry of Youth Affairs and Sports, Government of India, New Delhi, State Governments/Union Territory Administration were requested to formulate appropriate rules/instructions if not done so far, by suitably incorporating the above mentioned provisions of the Government of India so as to cover the State Government employees. The aforesaid instruction dated 4th February, 2010 have become a part of the National Sports Development Code of India, 2011 which came into effect from 31.01.2011. All guidelines issued by the Ministry from time to time including the above mentioned instructions governing the National Sports Federations are valid, binding and enforceable.

17. Instructions further reads that "all NSFs are advised to incorporate the above provisions in the by-laws/rules of their respective constitution so that no government servants violates the provisions mentioned in the Ministries circular dated 4.2.2010 mentioned above on a time-bound manner and intimate the action taken report in this regard to this Ministry at the earliest. This provision has already been included as part of the National Sports Development Code of India, 2011 which was issued on 31.1.2011 for compliance by all NSFs. It may please be noted that if you fail to comply with these

requirements you shall not be granted renewal/annual recognition for 2012 and not be eligible to receive assistance under the Scheme of Assistance to National Sports Federations and other Schemes of the Ministry. Further, you would also not be entitled to receive government concessions."

18. Copy of the instructions have been sent to (i) Secretary General, Indian Olympic Association, New Delhi, (ii) Secretary, Sports Authority of India, Khel Bhawan, CGO Complex, Lodhi Road, New Delhi - 110 003, and (iii) ED (Teams), SAI, Khem Bhawan, CGO Complex, Lodhi road, New Delhi - 110 003, respectively.

19. Letter dated 4.12.2018 of the Hon'ble Minister of State (IC) and Member of State, Information and Broadcasting, Government of India, addressed to the Hon'ble Chief Minister, Government of Tamil Nadu, Chennai, has also referred to the National Federations. However, at para 4 of the letter dated 4.5.2018, Hon'ble Minister of Youth Affairs and Sports (IC) and Minister of State, Information and Broadcasting, Government of India, New Delhi, has stated that since "Sports" is a State subject, suitable instructions need to be issued or law to be enacted by the State as well to enforce the provisions of NSDCI in order to bring about good governance and transparency in the functioning of all the State and District level sports Associations. This step is considered necessary for raising the level of sports in the country. To this effect, Secretary (Sports) had written to the Chief Secretaries of all the States/UTs/Advisors/Administrators.

20. It is a fact that the CPIO/Assistant Commissioner, Office of the Principal Commissioner of GST and Central Excise, Chennai, North Commissionerate, has informed one Mr.Ganesa Moorthy of Tirunelveli District that there was no request for sanction has been received from Smt.C.Latha, Inspector and the information on previous sanction from the Central Excise Department in respect of Smt.C.Latha, Inspector for holding the posts of Joint Secretary, Treasurer and Secretary in Tamil Nadu Athletic Association for the past ten years is Nil as per the records available in the Commissionerate.

21. From the averments of the petitioner, it could be deduced that the seventh respondent has been holding the posts of Joint Secretary from 2009 to 2013, and as Treasurer from 21.12.2013 to December, 2017, and though the rules are in force, and in this regard, instructions have been issued, so far no challenge has been made to the election of the seventh respondent, on that ground. Further instant writ petition has been filed on the basis of an information given to one Mr.S.Ganesa Moorthy of Tirunelveli and not to the petitioner. As

per the rule, previous sanction has to be obtained from the Central Government or the prescribed authority. From the averments, and the information of the CPIO/Assistant Commissioner, Office of the Principal Commissioner of GST & Central Excise, Chennai - North Commissionerate, such information is not available, in their records. Petitioner has also not ascertained as to whether any authority has been prescribed by the Central Government, nor has verified from the Central Government, instead, he has filed the writ petition on the basis of the information furnished to Mr.S.Ganesa Moorthy of Tamil Nadu, by CPIO/Assistant Commissioner, Office of the Principal Commissioner of GST & Central Excise, Chennai - North Commissionerate. From the letter in Re. No.16623.EM-1/2018 dated 26.12.2018 of the Sports Development Authority of Tamil Nadu, addressed to the Deputy Secretary to Government, Youth Welfare and Sports Development Department, Secretariat, Chennai - 600 009, it could be seen that the said authority has formulated the following guidelines:

- i) The State Sports and Games Association should have a legal status as a voluntary registered body, under societies act not being a proprietary concern or partnership firm and should exist and function for the sole purpose of the development of that discipline of sports whose name it bears.
- ii) The State Sports and Games Association should have an exhaustive written constitution in unambiguous term providing for its efficient functioning, in particular, election of office bearers, truly representative character of the General Body, protection of the interest of players, promotion of the Game, maintenance and audit of accounts, moving of no confidence resolutions etc.
- iii) The State Sports and Games Association must have actively existed for more than three years.
- iv) Presidents, Secretary & Treasurer are Office Bearers as per Sports Code. No office Bearer of a State Sports and Games Association shall hold office simultaneously, in any other State Sports and Games Association, excepting the Indian Olympic Association. The age and tenure restrictions for President, Secretary & Treasurer are as follows:-
 - a. President can hold office for three terms with or without break;
 - b. Secretary and & Treasurer can hold office for two consecutive terms after which a cooling off of four years is required before re-election; and
 - c. All the three will demit office on attaining 70 years of age.
- v) No Government servant shall, except with the

previous sanction of the government, hold an elective office or canvas for a candidate or candidates for an elective office, in any body, whether incorporated or not. Also, no Government servant should be allowed to hold elective office in any sports association/federation for a term of more than 4 years or for one term, whichever is less.

vi) Officers or other employees of the Sports Ministry and organisations under its administrative control are debarred from holding an effective office in State Sports Federations/Association.

vii) The State Sports and Games Association should have affiliated Units in at least 2/3rd of total Districts of State concern.

viii) Only one District Association from each district shall be admitted as a member of the State Sports and Games Association, provided it has a minimum of 50% of the Mandal Level Association affiliated to it.

ix) Inclusion of prominent sports persons of outstanding merit as members of the respective State Sports and Games Association on a tenure basis.

x) The State Sports and Games Association shall comply with all conditions laid down in the Code, including anti-doping code, prevention of age fraud code, citizenship criteria for selection of national team, prevention of sexual harassment, etc.

22. Paragraphs 2 to 4 of the said letter dated 26.12.2018, reads thus:

" The respective Sports Federation is a competent authority to formulate rules and regulation for the particular discipline and functioning in its own bye-law. The State Sports is functioning under the control of the Federation concern. Similarly, the District Sports Association under the control of the State Sports Association. The Sports Development Authority of Tamil Nadu not interfere in the internal affairs of the State Sports Association, if any issue pertaining to State Sports Association is recieved the same will be forwarded to the respective sports federation to take appropriate against the State Sports Association since, they are the competent authority.

The Government letter under reference 2nd cited, the Government of India have instructed to implement the National Sports Development Code of India, Good governance of Sports Federations, based on the guidelines mentioned below:-

The Government of India had issued the National

Sports development code of India in 2011 (NSDCI). The code inter-alia, contains instructions on good governance and transparency in the functioning of sports federation including restriction on age and tenure of the office bearers of the National Sports Federations (NSFs) and Indian Olympic Association. The mandatory minimum standards and condition prescribed in the sports code apply to the Indian Olympic Association (IOA) as well as the NSFs. Hence, in order to promote good governance & transparency in conducting and developing the Sports activity in the State, the following guidelines furnished hereunder:-"

23. Here again, copy of the said letter has been addressed to Mr.S.Ganesa Moorthy of Tirunelveli.

24. From the notice dated 18.1.2019, of the Tamil Nadu Athletic Association, it could be seen that a Annual General Body meeting has been convened on 17.2.2019 by the seventh respondent, in her capacity as Honorary Secretary of Tamil Nadu Athletic Association. Rule only contemplates that no government servant should be allowed to hold elective office in any sports associations/federations for a term of more than four years, or for one term, whichever is less. There is nothing to indicate that the seventh respondent, had participated in any election to the post of Secretary. As stated supra, seventh respondent has been holding the office of Honorary Secretary only.

25. In the light of the above discussion, prayer sought for cannot be granted. Hence writ petition is dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Asr

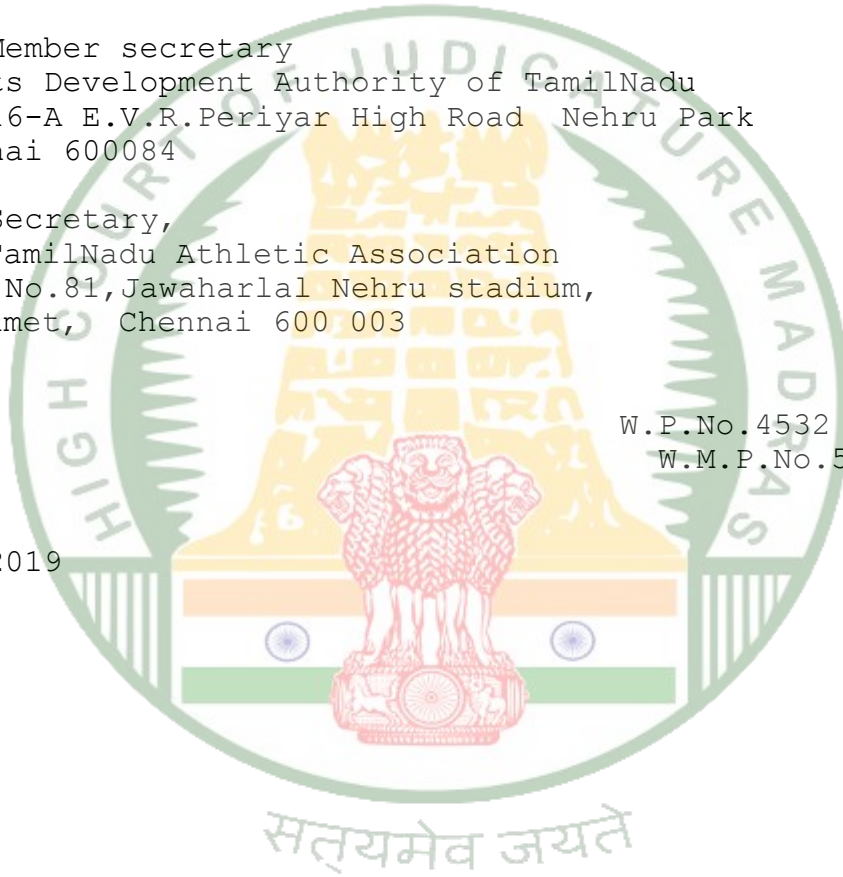
To

1. The Secretary
Ministry of Youth Affairs and sports
Government of India Shastri Bhavan
New Delhi -110001

- 2 The Secretary General
Athletic Federation of India
WZ-114 G-first floor
Todapur village Todapur main Road
Dev.Prakash sastri Marg,
New Delhi 110012
- 3 The Secretary
Youth welfare and sports Development
Department Government of TamilNadu
Secretariat St.George Fort,
Chennai 600 009
- 4 The Member secretary
Sports Development Authority of TamilNadu
No.116-A E.V.R.Periyar High Road Nehru Park
Chennai 600084
- 5 The Secretary,
The TamilNadu Athletic Association
Room No.81, Jawaharlal Nehru stadium,
Periamet, Chennai 600 003

W.P.No.4532 of 2019 and
W.M.P.No.5117 of 2019

BR(CO)
CS/01/07/2019



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