

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.30022 of 2018  
and W.M.P.No.35035 of 2018

Tamil Nadu Table Tennis Association (TNTTA)

CIN U92413TN2003NPL052120

Rep. by its Hon.Secretary,

Mr.A.V.Vidyasagar

Room No.82, Jawaharlal Nehru Stadium,

Periampet, Chennai- 600 003.

.. Petitioner

Vs.

1. Sports Development Authority Tamilnadu (SDAT),

Rep. by its Member Secretary,

116-A, Periyar EVR High Road,

Nehru Park, Chennai-600 084.

2. Table Tennis Federation of India (TTFI),

Rep. by its Secretary General,

Mr.M.P.Singh, 18, Janpath,

New Delhi-110 001.

.. Respondents

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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records of the second respondent in relation to disaffiliation order dated 12.11.2018 and quash the same.

\* \* \*

For Petitioner : Mr.P.S.Raman, Senior Counsel  
for Mr.Adeesh Anto

For Respondents : Mr.I.Sathish,  
Additional Govt. Pleader for R1

Mr.Jitendra Jain for R2

O R D E R

In a time where cricket is considered as King of sports in India, sports like football, tennis and hockey are gaining popularity and viewership with corporates, evincing interest in sponsorship.

2. Sports events worldwide are organised in a pyramid structure, where a particular sport is governed and regulated by a single national federation with various state federations affiliated to it. The National Federation governs the regulatory aspect, i.e., laying down the rules of the sport, eligibility criteria and playing conditions. A corollary at the National level is that the state associations would follow the regulations as a condition of its membership.

3. This is a classic example, where the State Association is at loggerheads with the National Association.

4. The petitioner, which is a company registered under Section 25 of the Companies Act, 1956, under the name and style of the Tamil Nadu Table Tennis Association (in short "TNTTA"), is before this court in this Writ Petition against the order of its disaffiliation by the second respondent - Table Tennis Federation of India (in short "TTFI").

5. The petitioner association-TNTTA, which is affiliated to the second respondent is the State Apex body vested with the overall power to regulate and develop the game of Table Tennis in the State of Tamil Nadu, whereas, TTFI is the National Apex body vested with the power to regulate the game of table tennis in India. The first respondent - State Development Authority of Tamil Nadu (in short "SDAT") is the State Authority, which exercises overall supervision over all sports bodies functioning in the State of Tamil Nadu.

6. The petitioner stated that in the Annual General Body Meeting held on 27.05.2018, it was proposed to conduct elections to select new office bearers for the term 2018-2022. W.P.No.12968 of 2018 was filed by one A.V.Vidyasagar, the then Secretary, Kancheepuram District Table Tennis Association, praying to conduct the election of the office bearers of the petitioner association in a free and fair manner and strictly in accordance with the Articles of Association of the petitioner company and the Annual General Body meeting, which was scheduled to be held on 27.05.2018, wherein, this Court passed the interim order dated 24.05.2018 appointing Hon'ble Mr.Justice S.Rajeswaran, Judge (Retd.), as an Observer.

7. The petitioner further stated that the nominations of one Mr.J.Selvakumar, Ex-Treasurer of the Association and his wife Mrs.Arul Selvi along with few others were rejected as they were not in accordance with the constitution of the petitioner association, elections were held and new office-bearers were selected. In the meanwhile, against the order of rejection, Mrs.Arul Selvi filed a Civil Suit in C.S.No.359 of 2018 on the ground that the very conduct of the election is against the bye-

laws and there has been certain suppression of facts and orders and the same is pending.

8. This Court closed W.P.No.12968 of 2018, on 10.07.2018, recording the report of the Election Observer that the election is over, giving liberty to the plaintiff to raise the grounds with regard to the conduct of the elections in the plaint or in the application filed in the Civil Suit. It is also pertinent to note that the prayer sought for by Mrs.Arul Selvi in O.A.No.533 of 2018 in C.S.359 of 2018 to restrain the newly elected office bearers from carrying out their functions was not granted in her favour.

9. It is also submitted by the petitioner that while the matter is pending adjudication before the High court, on 13.06.2018 the Ex.Treasurer Mr.J.SelvaKumar has attempted to register an association in the name similar and identical to that of the petitioner Association under Societies Registration Act, against which the petitioner on 19.06.2018 had duly raised objection in that regard to Inspector General of Registrations and the District Registrar, Chennai.

10. When the legal position as to the office bearers of the Petitioner Association is clear, it is submitted by the petitioner that on 18.06.2018, the Secretary of TNTTA, requested passwords from the Secretary, TTFI, so as to enable him to give entries of TN Players for National Zone Ranking Championship scheduled to be held on 05.07.2018. However, there was no response to the same and TTFI was still favouring the erstwhile office bearers.

11. It is also the case of the petitioner that the second respondent has not been coordinating/co-operating with the newly elected office bearers of the petitioner association in running the affairs of the association but was being arbitrary, unfair and biased by repeatedly supporting the erstwhile Treasurer Mr.J.Selvakumar. Denying the same, the second respondent submitted that it has no prejudice towards any parties including the petitioner association and has been neutral, unaligned and fair, as any governing body ought to be.

12. It is also noted that despite repeated communication to coordinate with the newly elected office bearers of the petitioner association, citing the orders of the court and other settled legal position, the TTFI failed to respond. It is to be re-iterated that despite the fact that there is no order from this Court in declaring the elections held on 27.05.2018 as null and void and the dispute as to office bearers of the TNTTA has been clarified by the High Court, there seems to be no consensus arrived at between TTFI and TNTTA.

13. In pursuant to the above attempt to register the society on the same name, apprehending future intervention and confusion, on 18.07.2018, the petitioner herein filed a suit in C.S.No.479 of 2018 along with an application in O.A.No.672 of 2018 against Mr.Selvakumar seeking to restrain him or any person claiming through or under him from interfering with the affairs of the petitioner association and also in any manner using the letterhead of the petitioner's association. On 19.07.2018, this Court granted an order of interim injunction restraining the said Mr.J.Selvakumar, the erstwhile trustee and his supporters from using TNTTA's Letterhead and also from interfering with the affairs of TNTTA and it was made clear that the newly elected member Mr.A.Vidyasagar is the Honorary Secretary of TNTTA.

14. While the matter stood thus, it is quite surprising that the TTFI again accepted entries of an Individual which is against its own rules that the entries can be given only by State Associations and Institutions. The petitioner association while questioning the said illegal entry made on 31.08.2018, communicated to the second respondent to remove the same on 03.09.2018 and the same was also not responded back by the TTFI. Subsequently, due to various questions raised on 05.09.2018, the TTFI removed the unauthorised entries sent by the individual only to ultimately add them as TTF WILD CARD entries on 06.09.2018 in order to support the individual.

15. While so, the Special General Meeting was conducted on 29.09.2018, wherein, one of the agenda is amendment to the constitution. However, it is noted that in the TTFI website it has been shown that, in the Executive Board Meeting held, a month's time was given the parties concerned to arrive at a compromise, as the issue with respect to the TNTTA remained unresolved and also to register the petitioner body under the Registrar of Societies Act, amending TNTTA's constitution and bylaws.

16. Denying the same, the petitioner, by its communication dated 15.10.2019, placed it on record that it had only attended Special General Meeting held on 29.09.2018 and not the Executive Board Meeting and also that none of the issues of TNTTA was discussed in the meeting. All that happened is after the said Special General Body Meeting, in an informal meeting the petitioner association undertook to put forth the suggestion placed by TTFI before the Executive Committee of TNTTA and based upon which necessary action would be taken. It is further clarified in the communication that with regard to registration of TNTTA under Societies Registration Act and other issues to carry amendment and validity of elections etc., are sub judice,

since the cases are pending before this court in C.S.No.359 of 2018 and C.S.No 479 of 2018 and further proceeding in the same would amount to interference with the administration of Justice.

17. Thereafter, again a communication dated 10.10.2018 was sent by the TTFI directing TNTTA to amend its by-laws, to register association with Registrar of Societies and to conduct elections afresh with the amended by-laws. The TTFI went to the extent of suggesting the petitioner association that if the TNTTA were unable to conduct elections, there shall be a mutual discussion between both the groups to arrive at a suitable formula with regard to the elections and 30 days time was given to complete the said process, failing which disaffiliation of the petitioner association would be the only alternative.

18. The Petitioner failed to comply with the direction of TTFI and claimed that it had noticed the mail only later, as the same was inside the "spam folder". The second Respondent TTFI, stating the reason of non-compliance of the proposed amendment sought to be carried out by the Petitioner association passed the impugned order of disaffiliating the Petitioner Association. Thus, the petitioner is before this Court seeking to set aside the said order of disaffiliation.

19. Assailing the facts stated by the petitioner, the second respondent had filed a counter affidavit denying the allegations made in the petition. Learned counsel contended that, the sport of table tennis in India is regulated by the TTFI, which was established in the year 1926 and registered as a society under the Societies Registration Act, 21 of 1860. Thus, the second respondent gives affiliation to all state associations including the petitioner's association. The petitioner association is a state association and affiliated to the TTFI and is governed by the by-laws or constitution/Memorandum of Association of TTFI. The petitioner association, being an affiliated association of the second respondent, is bound by the said Memorandum of Association of TTFI, which contains an Arbitration clause. As the issue involved pertains to the disaffiliation as a consequence of breach of rules of the second respondent by the petitioner, it comes within the ambit of arbitrable dispute. The petitioners have deliberately circumvented the arbitration proceedings with an ulterior motive and moved this Court.

20. The said contention was denied and disputed by the learned counsel for the petitioner contenting that the said arbitration clause has been clandestinely amended prejudicing the rights of the petitioner. However, the respondent denied the said contention stating that it is only the fertile imagination of the petitioner that the Arbitration Clause was introduced later, whereas, the said Arbitration Clause was present in the

TTFI's by-laws and the amendment on 29.09.2018 was only for more clarity. The said amendment dated 29.09.2018 was not challenged by the petitioner. Hence, the Arbitration Clause was in existence and the subsequent amendment will not take away the binding nature of the same between the parties.

21. It is further pointed out that 17 out of 26 Districts affiliated to TNTTA have filed complaints on different dates against office bearers of petitioner's association alleging corruption, nepotism, malpractices, etc. When the petitioner is affiliated to the second respondent, who is the governing body, the act of the second respondent taking action against petitioner in response to the complaints cannot be said to be without authority.

22. The reason for passing the impugned order was said to be on the following grounds, viz., a) the petitioner association failed to act as per the TTFI Executive Board's decision in conducting the election before the deadlines ; b) The members of the petitioner's association wanted an Ad Hoc committee ; and c) an Ad-hoc committee will also be responsible for all matters relating to table tennis in Tamilnadu including conducting tournaments in the state. Thus, it is stated that the second respondent had taking care of the interest of the players though the petitioner association was disaffiliated.

23. An additional counter affidavit was filed, wherein, it is stated that the second respondent had appointed a sole Arbitrator on 20.11.2018 and 27.11.2018 requesting him to adjudicate the dispute raised by the petitioner association. It is also stated that said sole Arbitrator had consented to be appointed as the sole Arbitrator and issued notice to the petitioner association calling upon them to file the claim petition within 2 weeks.

24. The arbitration clause in the Memorandum of association before and after amendment are usefully reproduced hereunder :

"Before Amendment :

"48. ARBITRATION

All disputes between the National Federation and its constituents, and among the constituents themselves shall always be referred to arbitration for settlements on any issue and members shall on no account take recourse in a court of law."

After Amendment :

"48. ARBITRATION

In the event of any dispute or differences between the Table Tennis Federation of India or its Members, Constituents, all affiliated units,

organizers, institutions, players, sponsors, office bearer(s) or between two affiliated units or between the affiliated units and its members, where TTFI is a party, including the interpretation/breach of any rules of the Federation shall be referred to a Sole Arbitrator. Such an Arbitrator shall always be appointed by the President of the Table Tennis Federation of India as per Arbitration and Conciliation Act, 2015 as amended from time to time and members shall on no account take recourse in a court of law and also shall never challenge the authority of the President of TTFI to appoint the sole arbitrator

The seat of Sole Arbitrator shall always be New Delhi except as decided by the arbitrator and the arbitration shall be conducted in English language only. The cost of the arbitration shall be determined by the arbitrator. The award of the Arbitrator shall be binding on the parties and shall be enforceable in any competent jurisdiction to try and entertain any litigation arising out of any dispute and all members, constituents, affiliated units, organizers, institutions, players, sponsors and office bearer(s) will not take any objection now or in future with regard to the jurisdiction of Delhi Courts".

25. The learned counsel for the second respondent strongly contended that when there exists an arbitration clause, the remedy for any dispute arising between its members should be only before the learned Arbitrator and Arbitral Tribunal is the only Appropriate forum to deal with the same and hence the Writ petition deserved to be quashed.

26. In view of the above narration of facts, discussion and existence of the arbitration clause, this matter could have very well been adjudicated before an arbitrator from the very inception of the dispute, as the constitution of the second respondent federation even before the amendment contains an arbitration clause, however, without doing so, the parties went through a series of litigation before this court ultimately resulting in disaffiliation of the petitioner association.

27. As the arbitration clause is binding on both the parties, they are directed to act in accordance with the arbitration clause. The learned Arbitrator appointed by the

second respondent shall proceed with the arbitral proceedings as expeditiously as possible, as the ultimate aim of the Federations and Associations to improve the Game of Table Tennis and to take care of the welfare of the players regardless of who assumes office should be protected.

28. This writ petition is disposed of, with the aforesaid directions. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1) The Member Secretary,  
Sports Development Authority Tamilnadu (SDAT),  
116-A, Periyar EVR High Road,  
Nehru Park, Chennai-600 084.
- 2) The Secretary General,  
Mr.M.P.Singh,  
Table Tennis Federation of India (TTFI),  
18, Janpath,  
New Delhi-110 001.

+1 cc to Mr.Jitendra Jain, Advocate, S.R.No.25519

+1 cc to Mr.V.Sankara Narayanan, Advocate, S.R.No.26773

RR(CO)  
SSM(16/04/2019).

W.P.No.30022 of 2019

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