

IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 21.02.2019

+ **W.P.(C) 9484/2018 & CM APPL. 36887/2018, 47280/2018,
48393/2018**

KARAN MAHAJAN AND ORS.

..... Petitioners

versus

BOARD OF CONTROL FOR CRICKET
IN INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners: Mr Aditya Kr Choudhary, Mr Gurmehar
Vaan Singh and Mr Amit Pratap.

For the Respondents: Mr Parag P. Tripathi, Senior Advocate with
Mr Vikash Kumar Jha, Ms Nikitha Shenoy
and Mr Laukaksh Joshi.

**CORAM
HON'BLE MR JUSTICE VIBHU BAKHRU**

JUDGMENT

VIBHU BAKHRU, J

1. The petitioners have filed the present petition, *inter alia*, impugning a letter dated 03.05.2018(hereafter 'the Impugned Letter') addressed by the Board of Control for Cricket in India (BCCI) to the Railway Sports Promotion Board (hereafter 'RSPB'). The petitioners also impugn RSPB's reply to the impugned letter dated 25.06.2018.

Further, the petitioners pray that directions be issued to the BCCI to allow the wards of Railway employees to be a part of the Under-19 and Under-23 cricket teams of respondent no. 2 and, consequently, conduct trials for such players.

2. The petitioners are wards of Railway employees. They are avid sportspersons and have represented the Indian Railway's in its Under-19 and Under-23 cricket teams at a number of tournaments. They are, essentially, aggrieved by the BCCI's decision to permit the RSPB to field only teams consisting of players who are on the Indian Railway's permanent rolls, in tournaments recognized by the BCCI. In view of the above decision, the RSPB has been disabled to field an Under-19 team as the minimum age for enlistment as an employee in the Indian Railways is eighteen years. Accordingly, RSPB has informed BCCI, by the letter dated 25.06.2018, that it would not be fielding an Under - 19 team, however, its Under – 23 cricket team would continue to participate in such tournaments.

3. The petitioners contend that the decision of the BCCI is arbitrary and unreasonable, inasmuch as, the BCCI has not provided any reasons for the foregoing decision. The petitioners contend that the decision was taken abruptly and without providing the petitioners a chance to make a representation to the Committee of Administrators (CoA) of the BCCI, as appointed by the Supreme Court.

4. The respondents submit that the impugned decision of BCCI cannot be interfered with, since the jurisdiction of this Court under

Article 226 of the Constitution of India extends to the decision making process, and not the merits of an administrative decision. According to the respondents, the aforementioned decision was taken by the CoA in order to bring in uniformity and remove the disparity in the teams of the Services and the Railways. Further, the respondents submit that since the Services' cricket teams comprise solely of permanent employees, the CoA decided to enforce a similar regime for the RSPB as well.

Factual Background

5. The petitioner submits that the Railway's cricket team commenced participating in tournaments conducted by the BCCI in the 1980s. Since then, its team has produced various players who have represented India in international tournaments.

6. The petitioners submit that it was reported in a newspaper that RSPB is likely to scrap its Under-19 cricket team. With a view to elicit information in this regard, an application (bearing no. MORLY/R/2017/52512 dated 23.06.2017) under the Right to Information Act, 2005 was filed before the CPIO, Railway Board. The CPIO responded to the same by a letter dated 08.08.2017 informing the applicant that the matter was discussed in a President-Secretaries meeting with RSPB, but no instructions had been issued in this regard. Thereafter, on 16.04.2018, BCCI's Technical Committee recommended that RSPB's teams should consist solely of those players who are permanent employees of the Indian Railways. This

decision was subsequently ratified by the CoA. The petitioners contend that they were never intimated about the aforementioned decision taken by the Technical Committee.

7. The BCCI thereafter addressed the Impugned Letter to the RSPB, which acknowledged the same in its response dated 25.06.2018. Aggrieved by the same, the petitioners herein approached the All Indian Railwaymen's Federation (AIRF), which issued a letter dated 31.07.2018 to RSPB, urging it to take up the matter with the BCCI so as to continue RSPB's participation in the Under – 19 tournaments conducted under the aegis of the BCCI.

8. The present petition was moved on 11.09.2018 and, while directing issuance of notice, this court also granted liberty to the petitioners to make a representation to the BCCI and further direct that if such a representation is made, BCCI would consider the same.

9. On 07.08.2018, RSPB submitted representation to BCCI, requesting it to allow the wards of railway employees to play for its Under-19 and Under- 23 cricket teams.

10. The CoA considered the representation and passed a reasoned order dated 28.10.2018, rejecting the same.

Reasons and Conclusion

11. Mr Aditya Choudhary, learned counsel appearing for the petitioner persuasively submitted that several wards of railway employees had achieved significant accomplishment in the sport of

cricket and had proceeded to represent India in international cricket. He further submitted that the railways had a long history of nurturing talent in the sport of cricket in India and this was also noted by the Supreme Court in its decision in *Board of Control for Cricket in India and Ors. v. Cricket Association of Bihar & Ors.: JT 2018 (8) SC 65*. He drew the attention of this Court to paragraph 11 of the said decision, which notes the names of the several famous international cricketers who had played for Indian Railways. He pointed out that some of the names mentioned therein had played cricket as wards of Railway employees. He submitted that in view of the longstanding history of the contribution of RSPB and contribution of wards of employees of the Indian Railways, the decision of the BCCI to not permit them to participate in the teams fielded by RSPB was arbitrary and unreasonable. He submitted the same also militates against the very objective of the BCCI to nurture and promote cricket in India.

12. Mr Choudhary also made a fervent plea that the impugned decision effectively stifles the cricketing aspirations of several wards of employees.

13. Next, he submitted that there was a rationale in including wards of Railway employees in teams fielded by the Railways. He submitted that Railway employees had a transferable job and are required to relocate frequently. He submitted that teams fielded by the RSPB provide a constant platform enabling them to play the sport. He submitted that they would be deprived of the same if they were excluded from participating in the teams fielded by the RSPB.

14. He submitted that the decision of the BCCI to exclude wards of employees from participating in the team on account of ensuring parity with the services was also irrational. He submitted that parity should be achieved by providing better facility to the disadvantaged class and not to deprive any class of benefits already provided. He submitted that if the Railways were to be brought at parity with the services, the wards of persons serving in the Indian services, should also be permitted to participate in teams fielded by the Services. However, it would be unreasonable to deprive the wards of Railway employees on this ground. He relied on the decision of the Supreme Court in ***South Malabar Gramin Bank v. Coordination Committee of South Malabar Gramin Bank Employees' Union and South Malabar Gramin Bank Officers' Federation and Others: (2001) 4 SCC 101.***

15. At the outset, it must be noted that the scope of judicial review in the present case is very limited. This Court can interfere with administrative decisions only if it is found that such decision is so arbitrary and unreasonable, that no sensible person could possibly take such decision (*Wednesbury principles*). This Court can also interfere if it is found that the decision is capricious or *mala fide*. However, a judicial review on merits is impermissible and this Court cannot supplant its view over that of the concerned authorities.

16. Undoubtedly, the petitioners would face a practical difficulty in adapting to the new regime where they can participate only in teams fielded by the states where they were born or, where their guardians

are posted. However, the impugned decision of the BCCI cannot be tested on merits, but only on the grounds as mentioned above.

17. Bearing the aforesaid in mind, this Court may now examine the reasons for the BCCI and the CoA to take the impugned decision.

18. One of the principal grounds urged by the petitioners for seeking review of the impugned decision was that Railway employees are transferred frequently and this would disable their wards from being accepted as a local player at the station where such employees are posted. It was pointed out that in order to be accepted as a local player, it was essential that such players be resident in that city/state for a period of at least one year. The aforesaid issue was addressed by the BCCI by conveying to all its affiliated units that a cricket player would be eligible to play for a member association within whose jurisdiction he/she is born. The BCCI had also relaxed oneyear rule for a cricketer to be considered as a local player. In the circumstances, there is no impediment for a ward of a Railway employee to play for the state cricket association affiliated to BCCI where he/she is born or his/her guardian is posted.

19. As noticed above, this Court had permitted the petitioners to make a representation which was duly considered and rejected by the CoA on 28.10.2018. The CoA indicated its reasons for rejecting the representations. The same are relevant and are set out below:-

“12. The rationale for the decision taken are as follows:

- i. There are two central organizations/institutes (Services and Railways) that participate in BCCI Tournaments. Services plays in the Men Senior tournaments in which only the permanent employees participate. RSPB has representation in the Men Senior tournaments, U-23, U-19, Women Senior and Women U-23 by both permanent employees as well as the wards of employees. The objective of the BCCI decision has been to remove disparity and bring in uniformity for both the organizations by permitting only the permanent employees to participate in all the BCCI Tournaments.
- ii. All the state associations (members of BCCI) have a proper selection process that includes, inter alia, local tournaments, selection trials etc., and work at the grass root level, districts and clubs to prepare the state team. RSPB has not shared any details with timelines of their selection process and participation of wards of permanent employees in the inter departmental tournaments despite BCCI sending a letter and reminders requesting such details. In the absence of a coherent structure of selection, it is difficult to make a special rule for the railways who is also a member of BCCI.
- iii. The submissions made in the writ petition are incomplete, misguided and ill-informed. For instance, as per BCCI registration rules, a player is permitted to play for the state he/she is born, therefore the argument made

by the petitioners about not having a particular domicile stands negated.

- iv. BCCI has also added a new clause to the qualification rules for consideration as a local player and has waived off/relaxed the 1 year cooling off period for wards of government employees on transfer. This would enable the wards of permanent employees to play as a local player for the state the parents are transferred to without adhering to the 1 year cooling off rule, and would hence not prejudice their interests.
- v. There is a provision for age relaxation for the government employees when they participate in BCCI Tournaments.
- vi. Further, merely because the wards/dependants of Railway employees have been permitted to participate in BCCI Tournaments in the past, no right has accrued in favour of these wards or dependents to be given any special priority over the other players who also participate in U-I9 and U-23 tournaments through state associations/members of BCCI.
- vii. That it is important to bring parity, transparency in the whole cricket administration and in furtherance of the same it was crucial to take this decision.
- viii. That RSPB has deliberately failed to provide the details/information sought by BCCI on its selection process. The COA and BCCI are always appreciative of encouraging the talent pool but that cannot be allowed to be done in an unorganized or chaotic manner and giving special benefits

to the petitioners. They are entitled to play from the state associations and participate in various BCCI Tournaments. As regards Railways, it is only the employees who should be allowed to participate.

- ix. The COA is committed to bring transparency, parity and accountability in cricket administration.

The decision of the COA has been adopted after due deliberations and pursuant to the recommendations of the Technical Committee of BCCI as seconded by Cricket Operations, BCCI and COA stands by the same.”

20. The petitioners had submitted that the RSPB had, in fact, provided all information sought by the BCCI with regard to selection process and therefore, the decision of the CoA to reject the representation on that ground was not sustainable. The same is disputed by the BCCI. However, notwithstanding the said controversy, it is apparent that the CoA has taken a conscious decision based on several other reasons as set out above.

21. Undoubtedly, the petitioners have presented a compelling case for being permitted to play for RSPB teams. However, as observed above, this Court cannot supplant its opinion over that of the concerned authority and a judicial review of merits is not permissible, unless the limited grounds as indicated, are established.

22. In *Census Commissioner & Ors. v. R. Krishnamurthy: (2015) 2 SCC 796*, the Supreme Court held as under:

“From the aforesaid pronouncement of law, it is clear as noon day that it is not within the domain of the courts to embark upon an enquiry as to whether a particular public policy is wise and acceptable or whether a better policy could be evolved. The court can only interfere if the policy framed is absolutely capricious or not informed by reasons or totally arbitrary and founded ipse dixit offending the basic requirement of Article 14 of the Constitution. In certain matters, as often said, there can be opinions and opinions but the court is not expected to sit as an appellate authority on an opinion.”

23. In *CPIL v. UOI & Ors.: (2016) 6 SCC 408*, the Supreme Court reiterated the principle laid down in *Narmada Bachao Andolan v. Union of India: (2000) 10 SCC 664*, and held as under:

“20. Minimal interference is called for by the Courts, in exercise of judicial review of a Government policy when the said policy is the outcome of deliberations of the technical experts in the fields inasmuch as Courts are not well-equipped to fathom into such domain which is left to the discretion of the execution. It was beautifully explained by the Court in *Narmada Bachao Andolan v. Union of India MANU/SC/0640/2000 : (2000) 10 SCC 664* and reiterated in *Federation of Railway Officers Assn. v. Union of India MANU/SC/0231/2003 : (2003) 4 SCC 289* in the following words:

“12. In examining a question of this nature where a policy is evolved by the Government judicial review thereof is limited. When policy according to which or the purpose for which discretion is to be exercised is clearly expressed in the statute, it cannot be said to be an unrestricted discretion. On matters affecting policy and requiring technical

expertise the court would leave the matter for decision of those who are qualified to address the issues. Unless the policy or action is inconsistent with the Constitution and the laws or arbitrary or irrational or abuse of power, the court will not interfere with such matters.”

24. This Court is unable to accept that the decision of the BCCI or the CoA falls foul of any of the tests indicated above. Thus, given the limited scope of judicial review, this Court cannot grant relief as sought for by the petitioners. No interference with the decision of the BCCI and the CoA is warranted.

25. The petition is, accordingly, dismissed. All pending applications are disposed of.

FEBRUARY 21, 2019
MK

VIBHU BAKHRU, J