

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition Nos.1404 and 1512 of 2020

COMMON ORDER:

These writ petitions are filed questioning the action of the respondent-Telangana Olympic Association in issuing Notice vide Ref. TOA/AGM/2020 dated 13.01.2020 to hold Annual General Body Meeting and election to the said Association on 09.02.2020 at New Delhi, as being illegal, arbitrary, unwarranted and beyond jurisdiction, with a consequential direction to hold election to the said Association only at Hyderabad within the State of Telangana.

Since the impugned proceeding under challenge is one and the same, both the Writ Petitions are taken up together for disposal. For convenience sake, the position of respondents as arrayed in W.P. No.1512 of 2020 is considered.

Heard Sri V. Hari Haran & Sri S. Ashok Anand Kumar, learned counsel for the petitioners-associations, Sri Jayakar, learned Government Pleader for Sports (1st respondent), Sri B. Ravi Chandra, learned counsel for the Telangana Olympic Association (2nd/4th respondent-association), Sri Ramneek Mishra, learned counsel for the Indian Olympic Association (4th/3rd respondent).

The 4th respondent Association being on caveat and having been served with the papers on 24.01.2020, did not

choose to file counter affidavit to till date. Hence, these matters are taken up for disposal.

Counter on behalf of 4th/3rd respondent is filed.

The 4th respondent Telangana Olympic Association is a registered association having its office at Hyderabad and is an apex body for promotion of Sports and Games covering the State of Telangana. It is claimed that at the extraordinary general body meeting held on 04.01.2020, the issue relating to the holding of elections to the said Association was discussed whereat it was decided to hold annual general body meeting on 09.01.2020. However, there was no decision with regard to the elections being held at New Delhi, as indicated in the notice dated 13.01.2020. It is claimed by the petitioners that taking advantage of the attendance of the members at the said meeting, the Association represented by its General Secretary has chosen to tamper with the minutes and decided to hold elections at New Delhi. It is further submitted that there are 23 member Association under the 4th respondent and each member having two votes would be required to travel New Delhi to participate at the voting if Election permitted to be held at New Delhi, without any valid reason for holding such election thereat. Further, it is also submitted that since, all the member associations also being registered at Hyderabad, there is no reason to hold election at

New Delhi, is the main submission of the learned counsel for the petitioners.

The counter filed on behalf of the 3rd respondent-Indian Olympic Association, it is stated that the 3rd respondent is the parent body in relation to promotion of sports covering the entire country whereat each State association like the 4th respondent would be members therein. It is further stated that the intent of the 3rd respondent is have a free, fair and impartial elections to the 4th respondent association and has no objection for holding such election at Hyderabad. It is also submitted that the main responsibility of the said respondent is only to depute its Observer with regard to the conduct of elections.

Insofar as the first respondent-State of Telangana is concerned, the first respondent has no objection for holding elections at Hyderabad.

Opposing the above submissions of the petitioner-associations as well as the supporting respondents, the Counsel for the 4th respondent, which is the association to which the elections are to be held, represented by its General Secretary, would submit that the two writ petitions as filed are not maintainable, since the issue relating to the election, being an internal matter, the petitioners would be required either to approach the competent civil Court or the Society Tribunal and this Court cannot go into the internal issues of

the Association. Further, it is also submitted that in the annual general body meeting held on 04.01.2020, 34 members of the association have unilaterally agreed for holding election at New Delhi and therefore, the petitioners would not be entitled to question the same.

In support of the said submission, the learned counsel for the respondent has placed before this Court a copy of attendance sheet showing the members attending the meeting and the minutes of Extraordinary General Body meeting.

A bare perusal of the minutes as well as the attendance sheet placed before this Court would indicate that, while in the minutes of meeting, 30 members are shown as having taken part at the meeting held on 04.01.2020, the attendance sheet produced before this Court would indicate 34 members as having taken part, with Serial No.31 & 32 of the said attendance sheet having been left blank, without being struck off. Further, the submission made by placing reliance on the minutes and the attendance sheet, whereby it is claimed that all the members present thereat approved for holding election at New Delhi, on the face of it cannot be accepted for the reason that the petitioners in Writ Petition No.1404 of 2020 who are shown at Serial No.10, 24 and 22 have raised objection to the holding of said election at New Delhi by their letter dated 14.01.2020 addressed to 3rd respondent. Similarly, the petitioner in W.P.No.1512 of 2020 who is shown

at Serial No.8 of the minutes, who is also claimed to have approved for holding of such election at New Delhi, having raised objections to holding of annual general body meeting at New Delhi, by itself indicates that the minutes, as recorded and sought to be relied upon by the 4th respondent association are not true reflection of the proceedings that took place at the Extraordinary General Body Meeting held on 04.01.2020.

Further, as seen from the election schedule that is issued by the election officer, it would indicate that out of the ten activities that are to be performed in connection with the election process, seven activities i.e., 1 to 7 are to be undertaken at Hyderabad only. It is only the election and the announcement of result of such election is to be slated to take place at New Delhi. There is no justifiable cause or reason stated for holding such election at New Delhi. It is also to be seen that when the 4th respondent can hold its Extraordinary General body Meeting at Hyderabad to decide with regard to conduct of Annual General Meeting and election, no reason is stated for holding such election to the State Body at New Delhi. Further, even the election officer, who has been appointed to conduct election, is also from Hyderabad. That being so, no useful purpose would be served in calling upon the members to travel to New Delhi to exercise their franchise for an association which is to function at Hyderabad and also the activities concerning the state of Telangana.

With regard to the submission of the learned counsel for the 4th respondent, that the matters of election are internal matters between the respondent and its members and for the said reason no writ petition would be maintainable, it is to be seen that the respondent association is not an independent association. The respondent association is in receipt of grants in the form of land from State for promoting games in the State and as such it is not open for the said association to claim that the same is not amenable to writ jurisdiction.

Further, the claim of the respondent that the petitioners are required to approach the civil Court or Society or Tribunal in relation to conduct of Election, it is to be seen that by proposing to hold Election at New Delhi, while the respondent and its member associations all being registered at Hyderabad, would effect the petitioner associations taking part at such election by exercising their right to vote thereat, the submission of the respondent counsel that the matter relating to election is an internal matter does not merit consideration. The absurdity of the said proposition can be compared by taking the example of the elections to be held to State Bar Council, which is also a member of the Bar Council of India, if such elections instead being held in the State whereat all the members who are enrolled with the State Bar Council could exercise their franchise, if called upon to travel to New Delhi to vote their at, it is a foregone conclusion as to

how many members would exercise their right. Thus, the condition/decision to hold election at New Delhi acts as a restraint, and cannot stand the judicial scrutiny.

Further, as noted herein above, since 4th respondent is a State body registered in the State of Telangana having office at Hyderabad and all the members being also from Hyderabad, this Court finds no justiciable reason for the 4th respondent to choose to hold the election at New Delhi.

The 3rd respondent, who is appointed as election officer to conduct election, when an objection is raised by the petitioners by their letter dated 14.01.2020, instead of deciding the issue by himself, has sought to refer the matter to the 4th respondent and on obtaining the response, merely forwarded the same to the petitioners, without he himself examining the correctness and validity of such claim.

In similar situation, a Division Bench of Kerala High Court in Writ Appeal Nos.57 to 60 of 2019, when a challenge was made with regard to change of place of election from Ernakulam in Kerala to New Delhi, it was held that holding of election outside the place of Kerala and changing the same to New Delhi is to be unnecessary and hardly can be justified. Though, the said judgment of Kerala High Court is of persuasive value, in the absence of any contra decision being placed before this Court, I see no reason to take a different view therefrom.

Having regard to the conclusions arrived at as above, this Court is of the view that the decision of the 4th respondent in seeking to hold election to the 4th respondent-association on 09.02.2020 at New Delhi, cannot be upheld and also not being in consonance with the objects of the respondent-Association as the respondent being state body for Promotion of Sports and Games in the State of Telangana, apart from the fact that the same would cause unnecessary expenditure to the members of the association to travel to New Delhi to cast their vote, and in a way acts as a deterrent on the members taking part, depriving their right to cast vote thereat.

Accordingly, the action of the 4th respondent authority in issuing the impugned proceeding i.e., Notice in TOA/AGM/2020 dated 13.01.2020 to hold elections to the 4th respondent association dated 09.02.2020 at New Delhi cannot be sustained and the 4th respondent and the Election Officer appointed by the 4th respondent association for conduct of election are hereby directed to hold the election of the 4th respondent-association only at Hyderabad either on 09.02.2020 or any other date thereafter. The respondent authorities are directed to act upon the operative portion of the order pronounced orally in the open Court.

Subject to the above observations and directions, these writ petitions are disposed of. However, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in these writ petitions shall stand closed.

T. VINOD KUMAR, J

Date: 03.02.2020

Note: Issue CC in three days
(B/o.)
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