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07-03-2022

FMA 111 of 2022
CAN 1 of 2021

Ct. 8

Bengal Amature Kabaddi Association
Versus
Amature Kabaddi Federation of India & Ors.

(Through Video Conference)

Mr. Krishna Das Poddar, Adv.
...for the appellant

This appeal is arising out of an order being Order No.122 dated 15th March, 2021 passed by the learned Judge, VIIIth Bench, City Civil Court at Calcutta.

In respite of service, the respondents are not represented.

It appears from the impugned order that the appellant was disaffiliated on 1st August, 2014 and the appellant did not feel it necessary to amend the plaint challenging the order of disaffiliation unless such leave was granted to the appellant in CO 4146 of 2019. However, the said order granted liberty to the plaintiff to approach the learned Trial Court with an appropriate application if they are prevented in future in respect of the participation in Kabaddi tournament to be organized by the defendant no.1.

The learned Trail Judge seems to have proceeded on the basis of the earlier order by which the order of injunction was vacated and observed that the previous order of 22nd December, 2015 by which the application for vacating the interim order filed by the defendant nos. 1 and 2 having not set aside by the learned Single Judge of this Court in CO 4146 of 2019. It operates as *res judicata* insofar as the present grievance is concerned.

The learned Single Judge, in our view, although had taken note of the fact that the Hon'ble High Court of Delhi in December, 2015 declared the election of the defendant no.2 as illegal and one Administrator was appointed to look into the affairs of the defendant no.1 unless the Administrator takes a decision in this regard. It cannot be definitely said that the removal was proper.

The learned Counsel for the appellant submits that the appellant complains of various irregularities in the functioning of the defendant no.1, which is echoed in the order passed by the Hon'ble High Court at Delhi by which the election of the defendant no.2 was held to be illegal and the defendant no.1 was removed from the post of Administrator.

The appeal was initially admitted by a coordinate Bench on 23rd December, 2021 by which the coordinate Bench observed that the appellant has been able to make out a prima facie case for having the matter heard on urgent basis having regard to the changed circumstances *qua* the management of affairs of the respondent no.1. It was also noticed that, in view of the relief claimed by the appellant against disaffiliation and the appellant along with its constituents was debarred from participating in Kabaddi competitions in India and abroad, presence of Administrator is desired.

In spite of notice, the Administrator is not represented. Affidavit of service filed on 2nd February, 2022 shows that the order dated 23rd December, 2021 was communicated to the Administrator on 31st December, 2021. The learned Trial Judge, in our view, has misdirected its mind in taking into consideration the

earlier order by which the interim order was vacated without taking into consideration the subsequent fact and liberty granted by the learned Single Judge allowing the appellant to file appropriate application for future participation in Kabaddi tournament.

We would have expected the learned Trial Judge to find out if the order of disaffiliation is prima facie valid or invalid. However, considering the pleadings, we are not satisfied that specific grounds have been made in the pleading challenging the order of disaffiliation.

We dispose of this application by granting liberty to the appellant to approach the Administrator with a prayer to consider the prayer for participation in the ensuing 68th Senior National Kabaddi Championship scheduled to be held at Haryana from 10th to 13th March, 2022.

Leave is also given to the appellant to amend the plaint, if so desired.

The appeal and the application are, accordingly, disposed of. However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)