

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P(C) No.12060 of 2022  
(Through hybrid mode)**

***District Cricket Association, Boudh  
and another*** ....

***Petitioners***

Mr. Prafulla Kumar Rath, Advocate

*-versus-*

***Collector-cum-DM, Boudh and  
others*** ....

***Opposite Parties***

Mr. A.K.Sharma, AGA  
for O.Ps.1 and 2

Mr. Manoj Mohanty, Advocate  
for O.P.3

**CORAM: JUSTICE ARINDAM SINHA**

**ORDER**

**13.05.2022**

**Order No.**

**01.**

1. Mr. Rath, learned advocate appears on behalf of petitioners, who claim to represent and be a Cricket Association. He submits, the association is registered under Societies Registration Act, 1860. He relies on Odisha Amendment inserted as section 11A in the Act. The provision is reproduced below.

*“In the event of any dispute arising among the members of the society in respect of any matter relating to affairs of the society including election, continuance of an office bearer in the society any member of the society may file a petition in the Court of Senior Civil Judge having jurisdiction over the place at which the office of the society is situated and the said Court shall, after making necessary inquiry, pass such order as it may deem fit.”*

2. Inter alia, private opposite party no.3 moved this Court by W.P.(C) no.15580 of 2020 and without obtaining direction for notice

upon petitioner no.2, who was opposite party no.5, obtained from co-ordinate Bench order dated 1<sup>st</sup> July, 2020. The direction made thereby is reproduced below.

*“ Considering the limited grievance of the petitioners, this Court, without expressing any opinion on the merits of the case, disposes of the writ petition directing opposite party no.1 to take a decision on the representations filed by the petitioners vide Annexure-2 and 5 and pass appropriate order in accordance with law within a period of three months from the date of production of authenticated/certified copy of this order.”*

3. He submits, impugned order dated 5<sup>th</sup> May, 2022 was made by Collector and District Magistrate, Boudh directing, inter alia, present office bearers have no official capacity or authority to hold any meeting of the Association and the District Sports Officer was to start process of election within 10 days of the order. Relying on inserted by Odisha amendment section 11A he submits, the provision mandates that any dispute in respect of any matter relating to affairs of the society, including election, continuance of an office bearer in the society, may be filed by petition in the Court of Senior Civil Judge having jurisdiction. By operation of the provision the Collector did not have jurisdictional, power or authority to have made impugned order since, the controversy sought to be addressed by the directions therein are regarding continuance of office bearers and election. He seeks quashing of impugned order, failing which interim relief.

4. Mr. Mohany, learned advocate appears on behalf of opposite

party no.3 and submits, the process of election has already been started by issuance of memo dated 10<sup>th</sup> May, 2022 by Additional District Magistrate, Boudh, who is Registrar of the society. As such, the writ Court should not interfere, is the settled law declared by the Supreme Court.

5. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State and submits, the Collector has acted with authority under direction made by said order dated 1<sup>st</sup> July, 2020 and in good faith.

6. It is clear that impugned order was made regarding controversy on persons holding office in the Association and acting as well as necessity of conducting elections. Also, fact is that said order dated 1<sup>st</sup> July, 2020 was obtained by private opposite party no.3, without requiring Court to notice petitioner no.2, who was opposite party no.5 therein. It is clear from the direction made that the Court did not go into the merits to appreciate whether or not the subject matter of the representations, forwarded to the Collector for consideration, were covered by the amended provision requiring approach to Court of Senior Civil Judge having jurisdiction.

7. It follows that the Collector having complied with direction made in said order dated 1<sup>st</sup> July, 2020 had thereby assumed the power vested with the Court of Senior Civil Judge having jurisdiction. In the

result, impugned order is without authority or jurisdiction. As a consequence, the commencement of election process pursuant to such direction cannot be said to be due commencement, creating a bar or interference in writ jurisdiction. There is no doubt that the commencement of election process by memo dated 10<sup>th</sup> May, 2022 was pursuant to impugned order as it was copied to office of the Collector.

8. Petitioners will by 25<sup>th</sup> May, 2022 approach the Court of Senior Civil Judge having jurisdiction with their grievance on persons being allowed to continue in offices held in the Association as well as election thereto, upon notice to, inter alia, private opposite party no.3. Till then impugned order will remain stayed. In event said Court is moved, impugned order will stand quashed but available for reference by said Court, for adjudicating the disputes including making interim directions with regard thereto. Otherwise, on no approach to the civil Court or approach without noticing, inter alia, private opposite party no.3, impugned order will revive and continue unless interfered in accordance with law.

9. The writ petition is disposed of.

**(Arindam Sinha)**  
**Judge**

*Prasant*