

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12237 OF 2022

Maharashtra State Wrestling Association ...Petitioner
V/s.

Union of India and Ors. ...Respondents

IIII

Mr. I.K. Tripathi i/by. Mr. Tushar Pawar Advocate for the
petitioner.

Mrs. Neeta V. Masurkar a/w. Mr. Ajinkya Jaibhave, Advocate
for respondent no.1.

Mr. Sanjay Singh, Senior Advocate a/w. Mr. Ajinkya Udane
i/by. Mr. Ganesh Gadhe, Advocate for respondent no.2.

Mr. Pankaj Kowli a/w. Mr. Mittal Mannoth a/w.Mr. Sanjay Shete i/y. Kookada and Associates, Advocate for the Intervenor.

CORAM : SANDEEP K. SHINDE, J.

CLOSED FOR JUDGMENT ON : 17TH OCTOBER, 2022.

JUDGMENT PRONOUNCED ON : 9TH NOVEMBER, 2022.

JUDGMENT :

1. Rule. Rule, made returnable forthwith.

2. By consent of the parties, taken up for hearing forthwith.

3. Petitioner is State Wrestling Association, a public Charitable Trust registered in the year 1953 under the provisions of the Bombay Public Trusts Act, 1950 ("the Act" for short). Taluka and Zilla Wrestling Associations are the Unit Members of the petitioner-Trust. Petitioner-Trust is administered by General Council consisting of President, Executive President, Vice-Presidents, General Secretary, eight Regional Secretaries and 23 Governing Council Members.

4. On 28th February, 2020, Mr. Landge reporting Trustee/General Secretary, filed Change Report in Schedule-III in the office of the Deputy Charity Commissioner for recording names of elected Members of General Council and office bearers, for the period 2019-2023. The Change Report of petitioner-Trust, is pending for consideration.

5. The respondent no.2 is the Wrestling Federation of India ("WFI" for short). It is governing body of Wrestling in India having 28 affiliated Unit Members; including Maharashtra State Wrestling Association-petitioner herein.

Facts of the case, in brief are as under :

6. The Executive Committee of WFI in its meeting held on 30th June, 2022 dissolved three of its' Unit Members; (i)Associations of Karnataka, (ii)Maharashtra; and (iii)Haryana;

and appointed three Members Ad-Hoc Committee to conduct fresh election and run the day-to-day affairs of these Associations till the new Body enters the Office. Whereafter, Wrestling Federation of India's, Joint Secretary was appointed as, the Chairman of the Ad-Hoc Committee of the petitioner Association.

7. Minutes of Meeting records the reasons, which forced WFI to dissolve petitioner-Association. It reads as under :

"2. Maharashtra : The President, WFI informed the Committee that the WFI has been receiving many complaint against Sh. B.S. Landge. The complaints were made by the local wrestles/officials of the Maharashtra State. Not only this, 30 District Wrestling Associations out of 45, have also made complaints against Sh. B.S. Landge. The President, WFI expressed great concerned about the activities of the Office Bearers of the Maharashtra Wrestling Association especially Sh. B.S. Landge as the Maharashtra is one of the biggest state of Wrestling. However, the Committee framed the following charges against the Office Bearers of the Maharashtra State Wrestling Association :

2. As the Maharashtra is the biggest wrestling State and the wrestlers of this State have brought many laurels for the country but due to mismanagement in the Association, the wrestlers are not getting any benefit in the State.

3. Sh. B.S. Landge has approached many times to the General Council of WFI to conduct the National Events in the State but he always backs out at the last minute. This was happened during the Under-23 National Championship held at Shirdi which was offered to Maharashtra but later they refused to hold this competition. Finally, the local sport lovers organized this event in Shirdi. Not only this, Sh.

B.S. Landge requested to General Council to allot Under-15 National Championship for the year 2022 but at last moment they refused to hold they refused to hold this competition and later it was organized by Jharkhand State Wrestling Association. In view of the above, the Executive Committee of WFI unanimously dissolved the Maharashtra State Wrestling Association and authorised the President, WFI to form an Ad-Hoc Committee to conduct the fresh elections of the Maharashtra State and also to run the day-to-day affairs of the Association till the election is held so that the wrestlers of the State doesn't suffer."

8. Whereafter, on 4th July, 2022 WFI communicated, its decision to the Secretary of the petitioner-Association, stating that "the Executive Committee of Wrestling Federation of India in its Meeting held on 30th June, 2022 at New Delhi, has unanimously dissolved the Maharashtra State Wrestling Association".

9. This letter was addressed to Shri. B.S. Landge, General Secretary of petitioner-Association.

10. The above intimation, was followed by notice dated 11th July, 2022 circulated by Ad-Hoc Committee, Maharashtra State Wrestling Association, conveying that election of the Office bearers and Members of the Executive Committee of petitioner's-Association for the next four years, will be held in the Special Meeting scheduled on 31st July, 2022 at Nagpur. As such, all District Units were requested to send name of Authorised Representative, who would be attending the Special Meeting. The said notice outlined the schedule of

election of the petitioner's-Association. As per the programme, polling for the election was scheduled on 31st July, 2022.

11. That before polling, petitioner questioned legality of WFI's resolution to dissolve its' Association, in Writ Petition No. 8785/2022.

12. On 27th July, 2022 (before polling date), WFI's Counsel, on instructions made a statement, before the Division Bench that, till the next date, the result of election would not be declared. The statement was accepted and at the request of WFI, petition was adjourned to 23rd August, 2022.

13. On 24th August, 2022 Division Bench of this Court, relegated the petitioner to remedy of Appeal before the President of WFI in terms of WFI's Constitution and granted 10 days, to file an Appeal and further directed the Appellate Authority to dispose of Appeal within 30 days. Until then, statement of WFI, that result of election shall not be declared was continued till Appeal is decided and for 10 days thereafter. As such, petition was disposed of on 24th August, 2022.

14. Thereafter, petitioner filed Appeal before President of WFI. The Appellate Authority, vide letter dated 6th

September, 2022, addressed to Mr. Landge, called upon him to submit the following documents;

- (i) copy of decision passed by the Assistant/Deputy Charity Commissioner in Charge Report of the year 2019-2023.
- (ii) copy of latest Schedule-I of Maharashtra Wrestling Association.
- (iii) copy of Resolution passed by the dissolved Executive Committee Members to file the Appeal and authorising Mr. Landge to file Appeal.
- (iv) copy of bye-laws of Maharashtra State Wrestling Association with update amendment.

15. Appellate Authority alleged that Mr. Landge did not respond to this communication. Therefore, President of WFI, vide letter dated 26th September, 2022 again requested Mr. Landge to submit above documents.

16. The Appellate Authority vide order dated 3rd October, 2022 dismissed the Appeal. Hence, this petition.

17. Heard learned Counsel for the parties. Perused constitution of petitioner-Association; constitution of WFI; Affidavit in reply of WFI and rejoinder thereto, filed by the petitioner.

18. In view of the facts of the case, the petition raises the following questions for consideration

(a). Whether WFI is empowered to dissolve, elected Governing Council of its Unit Member i.e. Maharashtra State Wrestling Association, which is subject to administrative, inquisitive and supervisory control of the Charity Commissioner under Section 3 of the Maharashtra Public Trusts Act.

(b) Assuming WFI being Apex Body is empowered to dissolve its Member Unit, whether decision of its Executive Committee to dissolve the petitioner-Association was in accordance with its Constitution ?

(c). Whether decision to dissolve the petitioner-Association was in accordance with principles of natural justice ?

REASONS :

19. It is evident from record, that on 13th June, 2022, Secretary of WFI issued Circular, conveying Meeting of its Executive Committee on 30th June, 2022 for transacting the following business;

(i) to consider and approve Minutes of the Meeting of Executive Committee held on 12th November, 2021 at Gonda (U.P.),

(ii) to discuss amendment of the Constitution of WFI (attached at Annexure-A) as per National Sports Code, 2011.

(iii) to discuss the issue regarding National Sports Code, 2011; and

(iv) any other points with the permission of the Chair.

20. Therefore, the Agenda circulated did not contain subject to dissolve the unit members of WFI.

21. In any case, Mr. Balasaheb Landge, Member of Executive Committee attended the Meeting. The Minutes of Meeting of the Executive Committee of WFI held on 30th June, 2022 records and note that, President of WFI with the permission of Chair, expressed great concern about the functioning of State Associations of Karnataka, Maharashtra and Haryana which according to President were not actively involved in promotion of the game of Wrestling in their State. In so far as petitioner is concerned, President informed the Committee that;

(i) WFI has been receiving many complaints against Mr. B.S. Landge, Secretary, for mismanaging affairs of the petitioner-Association.

(ii) The complaints were made by local wrestlers/officials of the State.

(iii) 30 District Wrestling Associations, out of 45, have made complaints against Shri. B.S. Landge.

22. It also appears from the Minutes that, President, WFI expressed great concern about activities of office bearers of Maharashtra Wrestling Association, especially, Shri. B.S. Landge, as Maharashtra is one of the biggest State of Wrestling, whereafter the Executive Committee framed charges against the office bearers of the petitioner's Association. The charges were;

(a) due to mismanagement in the Association, the wrestlers are not getting any benefit in the State; and

(b) Mr. B.S. Landge, though approached many times, to the General Council of WFI to conduct the national events in the State, but he backs out at last minute.

23. In view of above charges, Executive Committee of WFI, unanimously dissolved the Maharashtra State Wrestling Association and authorised the President, WFI to form an Ad-Hoc Committee to conduct the fresh elections of the Maharashtra State and also to run day-to-day affairs of the Association till the election is held, so that Wrestlers of the State do not suffer.

24. From the above noted facts, it is large enough to notice that, before superseding and/or dissolving the elected body of petitioner-Association, neither Association was heard, nor its elected Governing Council Members were apprised of the allegations-cum-charges, which forced WFI to dissolve the State Body, although tenure of the Council Members, is yet to come to an end. Therefore, decision of the Executive Committee of WFI was, not only in breach of principles of natural justice, but behind their back. Indisputably, Mr. Landge was present in the meeting held on 30th June, 2022 but as a Member of Executive Committee of WFI. However, the minutes do not show or suggest that, material on which reliance was placed by the President of WFI for dissolving the petitioner-Association, was provided to Mr. Landge. Therefore, the procedural fairness has been given complete go-by, before taking the impugned decision. Moreover, the resolution on the face of it, clearly suggests that local wrestlers and officials of the Maharashtra State made complaints against Mr. Landge alone, and not against other governing Council Members of the petitioner-Association. Mr. Singhvi, learned Senior Counsel appearing for the WFI, in all fairness, did not dispute this fact.

25. In any case, dissolving and superseding the elected body of Association is a harsh action and therefore the WFI ought to have afforded adequate opportunity to the elected Members of petitioner-Association before taking the

impugned decision. Be that as it may, in the course of the hearing, the WFI supplemented its decision by placing on record various complaints alongwith the Affidavit-in-reply. I have perused the same. The complaints on the face of it, do not inspire confidence of this Court, as to its genuineness. Reasons being; (i) Pune District Wrestling Association, made a complaint against Mr. Landge alone, on 15th June, 2022 (i.e. after circulating agenda of Meeting. Question is, why such a complaint cropped up just before the scheduled date of meeting and not before; (ii) complaint by Amravati Wrestling Association was against Mr. Landge alone; however the complaint does not bear the date. Likewise, complaints made by Aurangabad, Beed, Dhule, Gondia, Latur, Mumbai City, Nasik City, Parbhani and Vidarbha Region Wrestling Association, Nagpur, purportedly signed by local Associations, neither bore the date, nor make allegations against elected Council Members of the petitioner-Association. However, on the whole, complaints were against Mr. Landge alone. Moreover, WFI could not explain or place on record, details as to when, these complaints were received from District/Taluka Association and whether, WFI held enquiry into the allegations. For want of explanation on this aspect, it appears, the complaints were accepted as a gospel truth without making any enquiry by the WFI. Therefore, from the attending circumstances, it is to be inferred that, the WFI has committed gross irregularity, and in haste, dissolved the petitioner-Association and that too, without circulating the Agenda for

the same. As such, it is obvious that, the WFI made faint efforts to collect the material from Taluka/Zilla Associations to suit its pre-set decision.

26. Infact, the material on record, distinctly suggests that;

(i) before dissolving petitioner-Association, WFI did not enquire into allegations of irregularity in functioning of petitioner-Association;

(ii) WFI could not explain as to why elected Governing Council Members of petitioner were removed, although no allegations were made against them.

(iii) the complaints sought to be relied on, were undated, cyclostyled, lacking material particulars as to when and how these complaints were forwarded to WFI. It casts, serious shadow of doubt on these complaints; and

(iv) Apparently, the material sought to be collected and placed on record with the Affidavit-in-reply, was a weak attempt by WFI to suit its pre-set decision, to supersede the Committee of the petitioner-Association, for whatever reason not known to this Court and that too, in breach of the principles of natural justice and without adhering to the procedural fairness.

27. Thus, the decision of WFI to dissolve the petitioner-Association and superseding the elected Committee, being taken in violation of principles of natural justice and in gross violation of procedural safeguards and fairness, I have no hesitation to hold that the Resolution passed in the meeting of the Executive committee in its Meeting dated 30th June, 2022 to dissolve the petitioner-Association and authorising the President, WFI to form an Ad-Hoc Committee, to conduct fresh election and also to run day-to-day affairs of the Association, till the election is held, was unreasonable, illegal and not in “sporting spirit”. Therefore, it deserves to be quashed and accordingly, quashed and set aside.

28. In so far as the power of Executive Committee of WFI to dissolve the Committee of Unit Members is concerned, Mr. Singhvi, learned Senior Counsel, relied on the constitution of WFI. Mr. Singhvi, contended that, Article-V and Article-VI of the Constitution of WFI, empowers the Council and Executive Committee to take a suitable action against any member, Unit for indiscipline, misbehaviour or any other undesirable activity, or for violation of Constitution, bye-laws, rules or direction of the Council or Executive Committee issued from time to time for not functioning properly and further empowers to appoint an Ad-Hoc Committee to discharge the functions of the said Association till the formation of new representative Association. Mr. Singhvi, would rely on Clause-(g) of Article-V of the Constitution. This Clause empowers,

‘General Council’, to take a suitable action against a Member Unit. In the case at hand, the decision was taken by the Executive Committee of WFI and not by the General Council. Therefore, it is imperative to ascertain the powers and duties of the Executive Committee. Clause-(b) of Article-VI of the Constitution of WFI, empowers Executive Committee, to impose or enforce penalties or take any other suitable action against any member Association, Player and official for indiscipline, or for any other cause or action that the Executive Committee may consider injurious or against the interest and welfare of the Federation or any Association or member, that the Executive Committee, may deem fit, provided two third majority members vote in favour of proposal and adequate opportunity of being heard has been given; AND, the action taken by the Executive Committee is ‘ratified’ by the Council.

29. Thus, it could be seen from the Clause-(b) of Article-VI, that, the Executive Committee is empowered to impose the penalty and enforce the penalty and/or to take suitable action against any member Association, as it deems fit, provided two-third majority members vote in favour of proposal and adequate opportunity of being heard is given. The expression “opportunity of being heard” is qualified by word “adequate”. In the case at hand, leave aside, adequate opportunity, but not even, opportunity of being heard was given to Council Members and/or Office Bearers of

the petitioner-Association. Moreover, the WFI did not bother to circulate the Agenda of the Meeting in which the decision to dissolve the Committee has been taken. Besides, in terms of Clause-(b), the action taken against any Member of Association by the Executive Committee, is to be ratified by the Council. Here, there is nothing on record, either in form of Resolution, or otherwise, suggesting that, decision of Executive Committee was ratified by General Council. Therefore, on this count also, it is to be held that, decision of the Executive committee was not in accordance with its' constitution. Thus, bad in law and not enforceable. Questions are answered accordingly.

30. It is not in dispute that, the petitioner-Association, is subject to supervisory control of the Charity Commissioner. It is a Trust registered under the said Act. The powers exercised by the Charity Commissioner under the various provisions of the said Act, are not only judicial or quasi-judicial, but administrative, inquisitive and as a delegate of the powers of the governmental supervision over the Trust. It is apparent from the Scheme of the Act, that Section 3 enables the Charity Commissioner, subject to general or special orders of Government to superintend administration and carry out the provisions of the Act. Therefore, functioning and administration of the Trust, is subject to the provisions of the said Act, Rules and by-laws. In the case at hand, the petitioner-Association is a Unit Member of WFI. The WFI is,

therefore, a 'person interested' in the petitioner-Association. That being the case, WFI could have taken recourse to Section 41-D of the Maharashtra Public Trusts Act, which empowers the Charity Commissioner to suspend, dismiss and remove the Trustee. Instead of taking recourse to this remedy, the WFI, through Executive Committee dissolved the duly elected body of the petitioner-Association. Be that as it may, assuming, that WFI was empowered to dissolve its State Unit, Yet, the impugned Resolution, superseding and/or dissolving the petitioner-Association, passed in the Meeting of Executive Committee, was without affording adequate opportunity to petitioner-Association and to its' Members and further the said action of dissolving and appointing the Ad-Hoc Committee has not been ratified by the General Council. In any case, in terms of the Constitution of WFI, Article-v(g), the General Council alone has powers to appoint the Ad-Hoc Committee upon ratifying the decision of the Executive Committee. However, in the case at hand, the Ad-Hoc Committee has been appointed by the Executive Committee and therefore the decision to appoint the Ad-Hoc Committee and further empowering the Ad-Hoc Committee to look after the day-to-day affairs and to hold the election of the petitioner-Association, was equally illegal and bad in law.

31. In consideration of the facts above and for the reasons stated, I hold that the Resolution passed in the Meeting of the Executive Committee of WFI, on 30th June, 2022

to dissolve and to supersede the petitioner-Association, was unreasonable, illegal and unenforceable. In consequence thereof, the election held on 31st July, 2022 by the Ad-Hoc Committee of the Maharashtra State Wrestling Association, pursuant to notice dated 11th July, 2022 being illegal, it is quashed and set aside. In the result, the elected body of the petitioner-Association, shall hold the office till its' tenure comes to an end and shall carry on its day-to-day functions in accordance with its Constitution.

32. However, it is clarified that, WFI being a "person interested", within the meaning of Section 41-D of the Maharashtra Public Trusts Act, it may take recourse to this provision, as it deems fit and proper.

33. Rule is made absolute in above terms. Petition is allowed and disposed of.

**NEETA
SHAILESH
SAWANT**

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NEETA SHAILESH
SAWANT

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(SANDEEP K. SHINDE, J.)