



W.P.No.25668 of 2022

WEB COPY **IN THE HIGH COURT OF JUDICATUTURE MADRAS**

DATED : 07.10.2022

CORAM :

**THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN
and
THE HONOURABLE MRS.JUSTICE N.MALA**

**W.P. No.25668 of 2022
and W.M.P.Nos.24686, 24687, 24688 and 26200 of 2022**

M.Naveen Raja Jacob

... Petitioner

-Vs-

- 1 Secretary to Government
Ministry of Youth Affairs and Sports
Government of India Sasthri Bhavan New
Delhi 110 001
- 2 Secretary to Government/ Principal
Secretary, Sports Welfare and
Cultural Activities Department, Government
of Gujarat, Sachivalaya Gandhi Nagar,Gujarat
- 3 Secretary to Government of Tamil Nadu
Environment and Pollution Control
Youth Welfare and Sports Development
Secretariat Chennai 09
- 4 Indian Olympic Association
Olympic Bhawan B-29 Qutab Institutional
Area New Delhi Delhi 110 016 Rep. by its
Secretary
- 5 The General Secretary
Gujarat Olympic Association Nirmal Complex



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Parimal Garden Ahmedabad Gujarat.

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6. Tamil Nadu State Volleyball
Association Room No.3 Jawaharlal Nehru
Stadium Periamet Chennai 03 Rep. by its
General Secretary
7. Volleyball Federation of India
Room No. 72 Jawaharlal Nehru Stadium
Chennai 03, Rep. by its General Secretary
8. J.Nadarajan
9. M.Prabhakaran
10. M.Pradeep John
11. M.Ashwin Raj
12. S.Nandhagopal
13. M.Michael Elcin
14. S.Bharanidharan
15. V.Jeeva Jothi
16. M.Muthu Srinivas
17. K.Mohan Kumar
18. M.Kabilan
19. K.Karthikeyan

(Respondents 8 to 19 impleaded vide
order dated 06.10.2022 in WMP Nos.

25481 and 25483 of 2022)

... Respondents



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Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings dated 6.8.2022 Ref. No. VFI/ TNOA/ 2022-2023 issued by the 7th respondent relating to the selection of players for the National event to be conducted Viz. National Games 2022 Gujarat or any other National tournament/ championship and quash the same and consequently direct the respondent authorities 1 to 5 to recognise and permit the team of volleyball players officially selected by the 6th respondent Tamil Nadu State Volleyball Association in all National tournaments and championships including National Games 2022 Gujarat.

For Petitioner : Mr.V.R.Kamalanathan
For Respondents : Not in ready – for R1, R2,R4 & R5
Mrs.R.Anitha, Special Govt.Pleader
-for R3
Mr.S.Thankasivan – for R6
Mr.P.V.Balasubramanian for M/s.BFS Legal
- for R7
Mr.Sricharan Rangarajan – for impleaded
Respondents 8 to 19.



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ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

The case on hand pertains to participation of men and women teams representing the State of Tamil Nadu in Volleyball and Beach Volleyball events in the 36th National Games 2022 at Gujarat. The Volleyball Federation of India (VFI) is the apex body in the country representing this game. Tamil Nadu State Volleyball Association (TNSVA), a body registered under the provisions of the Tamil Nadu Societies Registration Act, 1975, is the principal body at the State level. All District Volleyball Associations and recognized Volleyball Clubs in the State of Tamil Nadu are members of TNSVA. TNSVA is affiliated to VFI and is also recognized by Tamil Nadu State Olympic Association and Sports Development Authority of Tamil Nadu.

2. There arose certain disputes regarding the constitution of the executive committee of TNSVA. O.A.No.105 of 2019 and A.No.930 of 2019 and A.Nos.2217 and 2218 of 2019 were filed on the original side of the Madras High Court in this regard. Vide order dated 27.04.2019 certain directions were issued. A former Judge of this Court (Hon'ble Mr.Justice



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D.Hariparanthaman) was appointed as Election Officer to conduct election to elect the administering body for the Association for the next term of four years from 2019. Election was conducted and a set of office bearers was chosen. Vide order dated 27.09.2019 in A.Nos.7203 and 7205 of 2019 directions were given to the Volleyball Federation of India (VFI) and Tamil Nadu Olympic Association to recognize the body of office bearers elected for TNSVA for the term 2019-23. Pursuant thereto, the Secretary General, VFI issued certificate dated 25.11.2019 recognizing the aforesaid election.

3. When Section 15(4) of Tamil Nadu Act 27 of 1975 mandates that the term of office of the members of the Committee shall not exceed three years from the date of their appointment, we wonder as to how the office bearers of TNSVA can enjoy a four year tenure. It appears that the bye-laws provide for four year term. But no provision in the bye-laws can override the statutory scheme. However, these are only incidental observations and they have no bearing on the merits of the matter.

4. Vide communication dated 06.08.2022, VFI constituted a selection committee to select the members of the men and women teams for volleyball



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and beach volleyball to represent the State of Tamil Nadu in the 36th National Games. The writ petitioner has challenged this communication. The Hon'ble First Bench stayed the same vide order dated 21.09.2022.

5. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. The learned counsel appearing for TNSVA sailed with him. The writ petition has been styled as a PIL. There is no dispute that the writ petitioner's credentials are fairly impressive. The learned counsel appearing for the impleaded respondents has filed a detailed written note questioning the very maintainability of this writ petition. It is alleged that the petitioner had been set up by TNSVA. It is also argued by the contesting respondents that the writ petitioner is aged about 34 years and that there is no prospect of he being selected. Though it was argued that this PIL is not maintainable in view of the petitioner's personal interest, we are of the view that the case deserves a disposal on merits.

6. VFI constituted the selection committee on 06.08.2022. On 17.08.2022, Mr.T.Balachandran, Chairman, Selection Committee wrote to the Presidents / Secretaries of all the District Volleyball Associations as well as



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Departments and Institutions to send their players to participate in the selection trials to be held on 20.08.2022 at 7.00 a.m. at Jawaharlal Nehru Stadium, Chennai-3. A press release was also simultaneously made. Indian Olympic Association informed the stakeholders that the team entries shall be closed by 31.08.2022 and that the accreditation process completed by 08.09.2022. This writ petition was filed only on 19.09.2022. It was listed for admission on 21.09.2022. On the said date, an interim order of stay was granted as prayed for. It is obvious that by then the impugned communication dated 06.08.2022 had worked itself out. The selection committee constituted by the impugned communication had conducted the selection trials and also finalized the team members. The lists had been submitted to the Games Technical Conduct Committee (GTCC) constituted by the Indian Olympic Association which is conducting the National Games. The writ petitioner is guilty of gross laches. The counsel for the contesting respondents would remark that the writ petitioner was present in the stadium when the selection trials were held but he did not participate. The writ petitioner as someone involved in the game of volleyball for several years was very much in the know of things. He had come to the court after the accreditation process was already concluded. In other words, the writ petition had become infructuous by the time it was filed and listed for



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7. In **U.P.Jal Nigam -Vs- Jaswant Singh (2006) 11 SCC 464**, the Hon'ble Supreme Court held that laches and delay have been considered to be an important factor in exercise of the discretionary relief under Article 226 of the Constitution. In determining whether there has been such delay as to amount to laches, the chief points to be considered are (i) acquiescence on the petitioner's part and to any change of position that has occurred on the respondents part. It is unjust to give the petitioner a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases, lapse of time and delay are most material. This principle that has often been emphasized by the Hon'ble Supreme Court squarely applies to the case on hand. The impleaded respondents had been selected and their names have also been entered by the organizers of the National Games. On account of the interim order granted in this writ petition, they have been deprived from participating in beach volleyball event. It is well known that participation in National Games would enhance the educational and



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employment prospects of the participants. Their rights guaranteed under Article 19 and 21 are at stake. The petitioner has knocked the doors of this Court after a gap of almost 45 days. This delay is fatal.

8. Of course, if the issue concerns jurisdiction, then certainly, laches may not be an impediment. The petitioner has anchored his entire case on the de-recognition of as many as 54 National Sports Federations by the Government of India vide communication dated 25.06.2020. VFI figures at Sl.No.51. The learned counsel for the writ petitioner was at pains to emphasize that this communication has not been challenged till date and that de-recognition by Union Government holds good. Interestingly, the learned counsel appearing for TNSVA strongly endorsed every submission including the one premised on the de-recognition letter dated 25.06.2020. We are however not impressed. This is for more than one reason. TNSVA after all is affiliated to VFI. When it comes to participation in National and International events, TNSVA can only be considered as a constituent body of VFI. TNSVA cannot be placed on a higher footing or pedestal. It cannot take advantage of the letter dated 25.06.2020. Whatever adverse consequence falls on VFI on account of the aforesaid letter would equally affect TNSVA.



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9. There is another aspect of the matter. De-recognition by the Central Government was in response to certain allegations made in respect of the functioning of the National Sports Federations. As a result, they may be deprived of certain concessional facilities and subsidies and funding. It will not affect all their activities. The bodies are not dissolved. They continue to exist. They do not lose their legal standing which they otherwise possess. Materials have been enclosed in the typed set of papers indicating that VFI continues to be recognized by the international body. Indian Olympic Association is dealing only with VFI. It is seen that VFI has been active and has been selecting and sending teams even subsequently. In these circumstances, it is futile to place reliance on the aforesaid de-recognition letter. In our view, it has no relevance to decide the issue on hand. In any event, neither the petitioner nor TNSVA can take advantage of the same.

10. What clinches the issue is the sequence of events. As already noted, VFI had conducted the selection trials and finalized the list of team members on 20.08.2022 itself. Even according to TNSVA, they conducted selection matches only from 10-14 September 2022. The counsel for the contesting respondents would impeach the label of selection trial that has been given to what was something else. According to them, it was a State



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tournament. We do not want to go into the controversy as to whether TNSVA properly finalized its team or not. But what is beyond dispute is that TNSVA woke up only after the entire accreditation process was over. We find merit in the contention of the learned counsel appearing for VFI as well as the impleaded respondents that on account of inaction on the part of TNSVA, VFI had to constitute the selection committee and finalize the list of team members. It was repeatedly asserted by the contesting respondents that Tamil Nadu qualified within the top 8 teams in the 70th Senior Nationals, Bhubaneswar, Odisha held from 07th to 13th February 2022 which performance alone enabled Tamil Nadu to gain entry in the present National Games and that it was VFI and not TNSVA which selected the State team which participated in the 70th Senior Nationals. The learned counsel for TNSVA could not rebut or controvert this assertion.

11. For the foregoing reasons, we dismiss the writ petition. The interim order of stay stands vacated. W.M.P.Nos.24687 and 24688 of 2022 are dismissed. Consequently, connected miscellaneous petitions are also dismissed. No costs.

(G.R.S.,J.) (N.M.,J.)

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Index : Yes/No



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AND
N.MALA, J.

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