

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision-19.04.2022

1. CWP No.22321 of 2020(O&M)

Ritin Khanna and others ... Petitioners

Versus

State of Punjab and others ... Respondents

2. CWP No.21103 of 2020(O&M)

Tejinder Singh Walia and another ... Petitioners

Versus

State of Punjab and others ... Respondents

3. CWP No.4803 of 2020(O&M)

Sandeep Singh Saini and others ... Petitioners

Versus

State of Punjab and others ... Respondents

4. CWP No.1806 of 2020(O&M)

Pathankot District Badminton Association ... Petitioner

Versus

Union of India and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. S.S. Saron, Advocate
Ms. Shubreet Kaur, Advocate
Mr. Nikhil Sabharwal, Advocate and
Ms. Surabhi Kaushik, Advocate
for the petitioners in CWP No.22321 of 2020.

Mr. Nitin Kaushal, Advocate
for the petitioners in CWP No.21103 of 2020.

Mr. Manish Jain, Advocate and
Mr. Mayur Kanwar, Advocate
for the petitioners in CWP No.4803 of 2020.

Mr. Rajan Bhargava, Advocate for
Mr. Vishal Aggarwal, Advocate
for the petitioner in CWP No.1806 of 2020.

Mr. Ayush Sarna, Asstt. A.G., Punjab.

Mr. Karan Kumar Jund, Central Govt. Counsel
for respondent No.1 in CWP No.1806 of 2020.

Mr. Nitin Kaushal, Advocate
for respondents No.2 to 5 in CWP No.4803 of
2020.

Mr. Ajay Pal Singh Rehan, Advocate
for respondent No.5 in CWP No.22321 of 2020.

Mr. Salil Sabhlok, Advocate
for respondent No.3 in CWP No.4803 of 2020
and for respondent No.10 in CWP No.22321 of
2020.

RAJ MOHAN SINGH, J.

CM No.218-CWP of 2021 in CWP No.21103 of 2020

This is an application under Order 1 Rule 10(2)
read with Section 151 CPC read with Article 226 of the
Constitution of India and Rules 21 and 22 of writ jurisdiction
(Punjab and Haryana) Rules, 1976 for impleading Ritin
Khanna and Daya Shanker Kumaria as party respondents
No.6 and 7 respectively in the writ petition.

Notice of this application was issued to the non-
applicant/petitioner on 25.01.2021.

Reply to the application was filed by the petitioner.

Having heard learned counsel for the parties and in order to consider the controversy in its large spectrum, I deem it appropriate to implead the aforesaid persons as party respondents No.6 and 7 in the writ petition and also consider the written statement filed by them for disposal of the present case as well as connected cases.

Application stands allowed.

Main cases

[1]. Vide this common order, CWP No.22321 of 2020 titled Ritin Khanna and others Vs. State of Punjab and others, CWP No.21103 of 2020 titled Tejinder Singh Walia and another Vs. State of Punjab and others, CWP No.4803 of 2020 titled Sandeep Singh Saini and others Vs. State of Punjab and others and CWP No.1806 of 2020 titled Pathankot District Badminton Association Vs. Union of India and others are being disposed of. Common facts are being noticed.

[2]. In CWP No.22321 of 2020, prayer is for issuance of an appropriate writ, order or direction, especially in the nature of mandamus, directing the official respondents to take appropriate action against the parallel election process being carried out by the private respondents as the same is in contravention of order dated 30.11.2020 passed by

respondent No.2/Principal Secretary, Department of Sports and Youth Services, Government of Punjab, whereby in view of long delay in holding of the fresh elections after expiry of term of the previous administration on 23.06.2019, a three-members committee, consisting of members from Indian Administrative Services was formed to ensure that the elections to the Punjab Badminton Association are held within a period of three months in furtherance of which, the said Committee appointed several members from Punjab Civil Services as Election Officers to prepare the schedule of the election and to conduct the same in a free and fair manner and further, all 19 District Badminton Associations have participated in the said elections as is apparent from letters dated 21.11.2020, 20.11.2020 and 19.11.2020 addressed by them to respondent No.6 (Election Officer-cum-Additional Deputy Commissioner), whereas the parallel election process was being carried out by the private respondents secretly without any authority in order to illegally and arbitrarily usurp the decision making powers of the Punjab Badminton Association by defeating the directions issued vide order dated 30.10.2020. This is further supported by the fact that the members of 14 out of 19 District Badminton Associations have categorically condemned illegal parallel election process vide letter dated 14.12.2020 and have further refused to participate in the same and have expressed their satisfaction

with the previous elections, which were held in accordance with the order dated 30.10.2020. Further a writ in the nature of certiorari is also prayed for setting aside the circulars/letters/minutes dated 19.11.2020, 15.10.2020, 19.02.2020 and 11.08.2019 being in violation of provisions of Memorandum of Punjab Badminton Association, Memorandum of Badminton Association of India, National Sports Code and also the order dated 30.10.2020. Further a writ in the nature of mandamus is also sought, directing the official respondents to form an Ad-hoc Committee consisting of high ranking and responsible members of the Badminton Association of India to administer the affair and functioning of respondent No.8 as the tenure of previous association has expired on 23.06.2019. Directions are also sought for deciding the representation (Annexure P-26) and also to keep the election process in abeyance and stay the operation of the circulars/letters/minutes dated 19.11.2020, 15.10.2020, 19.02.2020 and 11.08.2019.

[3]. In CWP No.21103 of 2020, the writ petitioners have sought issuance of an appropriate writ in the nature of certiorari for quashing the order dated 30.10.2020 passed by the Principal Secretary, Department of Sports and Youth Affairs, Government of Punjab being violative of the principles of natural justice. Further writ is prayed to quash the letter

dated 18.11.2020 issued by the illegally constituted committee, whereby parallel elections of the Punjab Badminton Association have been called, despite the fact that the elections of the Executive Committee of Punjab Badminton Association already stand called in terms of the Memorandum of Punjab Badminton Association. Further writ in the nature of mandamus is sought, directing the State of Punjab not to interfere in the internal functioning/election process of Punjab Badminton Association, which is being conducted as per provision of Memorandum of Punjab Badminton Association. Directions are also sought for staying the operation of order dated 30.10.2020 and subsequent proceedings undertaken thereafter including the letter dated 18.11.2020.

[4]. In CWP No.4803 of 2020, petitioners have prayed for issuance of an appropriate writ in the nature of mandamus, directing the respondent-State to form an Ad-hoc Committee to administer the affairs and functioning of respondent No.2/Punjab Badminton Association. Further directions are also sought, directing respondents No.4 and 5 to forthwith vacate their respective current positions and desist from discharging any official duty in the functioning of Punjab Badminton Association. Further directions are also sought to conduct the election of Punjab Badminton

Association/respondent No.2 in accordance with the Sports Code and order dated 08.03.2019 passed by respondent No.1. Further direction is sought against respondents No.4 and 5 to handover the record of Punjab Badminton Association/respondent No.2 to respondent No.1/Committee of Administrators that may be appointed by this Court.

[5]. In CWP No.1806 of 2020, prayer is for issuance of an appropriate writ in the nature of mandamus, directing respondent No.3 to accept the entries sent by the petitioner (Pathankot District Badminton Association) for participation in the Masters Punjab State Badminton Championships 2019-2020 being conducted from 28th to 30th January, 2020 having been sent by the petitioner-Association as per the rules and regulations. Further directions are also sought to be issued to respondents No.2 and 3 to duly accept the entries being sent by the petitioner-Association in the future tournaments.

[6]. The controversy in all the aforesaid cases is in respect of election of Punjab Badminton Association.

[7]. With the concurrence of the parties, I proposed to take up all the aforesaid cases for final disposal.

[8]. Petitioner No.2/Rajesh Kumar Tandon filed a Public Interest Litigation i.e. CWP (PIL) No.18040 of 2018 titled Rajesh Kumar Tandon Vs. Rajinder Kalsi, Hony. General

Secretary, Punjab Badminton Association and others in the High Court. Learned counsel for the petitioner therein sought to withdraw the writ petition, so as to enable the petitioner to move respondents No.4 and 5 therein i.e. Union of India and Secretary, Department of Sports and Youth Services, Punjab respectively by filing detailed representation as regards the issues as also the grievances raised in the petition. The official respondents were directed to deal with the representation in a specified period. With that liberty, the writ petition (PIL) was ordered to be withdrawn vide order dated 27.09.2018. The issue was with regard to the failure of Punjab Badminton Association to hold the elections to appoint a new managing/executive committee. Vide order dated 07.12.2018 passed by the Deputy Commissioner, Jalandhar being President of District Badminton Association, Jalandhar, interim committee of District Badminton Association, Jalandhar was constituted to conduct the election for executive committee of District Badminton Association, Jalandhar. The interim committee was vested with the power of superintendence, directions and control of preparing electoral rolls and conducting the elections of the elected posts and executive members of District Badminton Association, Jalandhar. The interim committee was consisting of 10 members. Jitender Jarwal, IAS, Additional Deputy Commissioner (D), Jalandhar was the Chairman, Jai Inder

Singh, PCS, AC(D), Jalandhar was Member Secretary, Kartar Singh, Additional Director Sports, Punjab, Chandigarh, Balwinder Singh, District Sports Officer, Jalandhar, Satpal, District Attorney, Jalandhar, Naresh Budhia, Kusum Kay Pee, Anil Bhatti, S.S. Nanda and T.S. Walia were the members. Minutes of the interim committee of District Badminton Association, Jalandhar held on 23.02.2019 would show that Rajinder Kalsi and Tejinder Singh Walia were members of the interim committee and they unanimously voted to admit life members of District Badminton Association, Jalandhar. In the aforesaid minutes of meeting of the interim committee, it was decided unanimously by the Committee that 100 new life members (with life membership of Rs.50,000/-) shall be added to the District Badminton Association, Jalandhar along with 10 honorary life membership for those players who have represented Punjab at Senior or Junior (U-19) National Championship or won National Senior/Junior Championship or have represented India at Commonwealth Games/Olympics/Asian Games.

[9]. In pursuance of order dated 27.09.2018 passed in CWP (PIL) No.18040 of 2018 and also in pursuance of representation dated 05.10.2018 filed by the petitioner therein, the matter was taken up by the Additional Chief Secretary, Sports and Youth Services/respondent No.4. Opportunity of

hearing was granted to the petitioner, his counsel and representatives of Punjab Badminton Association and District Badminton Association, Jalandhar. Opportunity of hearing was also granted to Punjab Olympic Association, but no representative of Punjab Olympic Association participated. In the representation dated 05.10.2018, the representative(s) raised three issues i.e.

(i) to conduct of the elections of management committee of the Punjab Badminton Association and District Badminton Association, Jalandhar.

(ii) to audit the performance of the Punjab Badminton Association, District Badminton Association, Jalandhar and Jalandhar Badminton Academy for promotion of the Badminton sports since last 3 years.

(iii) to audit the books of account of the Punjab Badminton Association, District Badminton Association, Jalandhar and Jalandhar Badminton Academy for last 3 years.

[10]. During course of proceedings, only issue No.1 was pressed by the representative(s). Other two issues were left out of consideration. Rajinder Kalsi submitted that as regards Punjab Badminton Association, the elections were held and management committee/office bearers were validly elected upto 23.06.2019. It was strongly contested by counsel for the representative(s) that General Secretary, Punjab Badminton Association Rajinder Kalsi is holding the office for more than 8

years. As regards District Badminton Association, Rajinder Kalsi is holding the office of Vice President for more than 8 years. Counsel for the representative(s) submitted before the authority that memorandum of Badminton Association of India and Bye Laws i.e. provisions of Clause 11(3)(g), Clause 14(II)(i), Clause 16(1) and Clause 24(3) after reading together, would indicate that no office bearer can be in the office for more than 8 years either continuously or even with brakes. The prayer was made to remove the office bearers and to issue directions for fresh elections of Punjab Badminton Association and District Badminton Association, Jalandhar. Additional Chief Secretary, Sports and Youth Services/respondent No.4 heard all the parties in detail and passed an order dated 08.03.2019 to the following effect:-

"i) The elections of Punjab Badminton Association will be held on 17.03.2019.

ii) The provisions of National Sports Code as regards to office bearers and the provisions of Memorandum of Badminton Association of India as contained in Clause 11 with reference to terms of the office bearers shall also be applicable to the prospective office bears of Punjab Badminton Association. In case of any doubt, this may be treated as a directive from the State Government.

iii) Department of Sports will depute an Observer/Nominee for the elections without whose presence the election will not be deemed to be valid in

terms of the recognition of the Association by the State Government."

All the parties were directed to comply with the aforesaid directions. Copy of the order was ordered to be sent to The President, Punjab Badminton Association, General Secretary, Punjab Badminton Association, General Secretary, District Badminton Association, Jalandhar, Rajesh Kumar Tandon, petitioner, Deputy Commissioner, Jalandhar and General Secretary, Punjab Olympic Association.

[11]. Perusal of the aforesaid order would show that the order was passed after duly considering the arguments of petitioner No.2 and Rajinder Kalsi. Rajinder Kalsi had admitted that tenure of his management was upto 23.06.2019. He had also admitted that Punjab Badminton Association works under control and supervision of State Government and all rights are with the Government of Punjab to issue any instruction. It was categorically held by the Additional Chief Secretary, Sports and Youth Services that election of the Punjab Badminton Association will be held on 17.03.2019. The provisions of National Sports Code as regards office bearers and Memorandum of Badminton Association of India as contained in Clause 11 will be applicable to the prospective office bearers of Punjab Badminton Association. This order was never assailed by any stakeholder and has attained finality.

[12]. After passing of the order, minutes of meeting of Punjab Badminton Association would show that the order dated 08.03.2019 passed by the Additional Chief Secretary, Department of Sports and Youth Services was received in the office of President of Punjab Badminton Association on 09.03.2019 and it was observed that since the directions issued by the Additional Chief Secretary, Department of Sports and Youth Services were not covered under the Constitution of Punjab Badminton Association, therefore, to incorporate the relevant directions of the Additional Chief Secretary, Department of Sports and Youth Services, it was necessary to amend the Constitution, so as to avoid any contradiction. As the Constitution amendment requires some time, therefore, it would not be possible to conduct elections as per schedule. Accordingly, in view of those circumstances, it was thought necessary to postpone the elections for 05.05.2019. Senior Vice President and Vice President of Punjab Badminton Association were requested to draft amended constitution by incorporating especially the orders of the State Government and bring the same before Annual General Meeting for approval. In this way, the elections were postponed from 17.03.2019 to 05.05.2019. Minutes of meeting of Punjab Badminton Association dated 02.05.2019 would show that Senior Vice President and Vice President had informed the President that as per discussion, it was

unanimously agreed that due to the upcoming General Elections in Punjab on 19.05.2019 and imposition of Model Code of Conduct, it was appropriate to postpone the elections. After the Model Code of Conduct of General Elections was over, new date for Annual General Meeting and elections would be informed in due course. This letter was issued under the signature of Rajinder Kalsi (Honorary Secretary).

[13]. Evidently, the election was postponed indefinitely. On 06.05.2019, the interim order was passed in CWP No.11180 of 2019 titled Hirdey Pal Singh Vs. State of Punjab and others, wherein the petitioner misrepresented and concealed before the Court regarding the fact that Deputy Commissioner, Jalandhar was not a member of interim committee. Tejinder Singh Walia and Rajinder Kalsi were themselves members of interim committee of District Badminton Association, Jalandhar. Deputy Commissioner, Jalandhar was transferred. On the basis of aforesaid concealment, the petitioner of CWP No.11180 of 2019 succeeded in misrepresenting the Court.

[14]. Thereafter, letter was written and signed by 10 District Badminton Associations to the Additional Chief Secretary, Punjab, complaining about inordinate and intentional delay in holding elections by Rajinder Kalsi and his

group. The request was also made for appointment of Ad-hoc Committee. On 11.08.2019, minutes of meeting of Punjab Badminton Association under the management of Rajinder Kalsi were prepared. The tenure of executive committee of Punjab Badminton Association had already expired on 23.06.2019. In the aforesaid meeting, agenda item was to amend the Memorandum of Punjab Badminton Association. The amendment was sought to be introduced, whereby only outgoing office bearers were allowed to contest for the post of President. The election schedule was published twice by the then executive committee on 05.09.2019 and 19.02.2020, whereby under the head of 'Eligibility' it was mentioned that any person who is eligible as per the **“newly adopted Constitution”** of Punjab Badminton Association may contest the election. The minutes of the meeting dated 11.08.2019 and consequent proposed amendments were not approved. Till date, the aforesaid amendments have not been approved by Punjab Badminton Association itself, which is apparent from the minutes of meeting dated 15.10.2020 and 19.11.2020. The amendments were not even approved by Badminton Association of India. As per Clause 22.3(c) of the Memorandum of Badminton Association of India, no affiliated units or associations shall amend their constitution without the prior approval of the Badminton Association of India.

[15]. Rajinder Kalsi had already attained the age of 70 years in 2019. Tejinder Singh Walia had already attained the age of 60 years on 24.02.2010. According to the petitioners, both the aforesaid persons are ineligible to hold the post of Punjab Badminton Association or to contest the election further.

[16]. Learned counsel for the petitioner submitted that minutes of meeting of Punjab Badminton Association dated 30.08.2019 would show that Honorary Secretary (Rajinder Kalsi) issued the letter, communicating that Annual General Meeting shall be held on 22.09.2019 at 12.00 PM. As per the agenda, it was to approve the minutes of earlier Annual General Meeting to pass the audited statements of accounts 2015-16 to 2018-19, to elect the officer bearers and members of the executive committee, to appoint the auditors and any other matter with the permission of the Chairman.

[17]. First election schedule dated 05.09.2019 was published by the administration headed by Rajinder Kalsi, whereby under the head of 'Eligibility', it was mentioned that any person who is eligible as per 'new adopted Constitution' of Punjab Badminton Association may contest the elections. The aforesaid amendments were allegedly carried out in the meeting dated 11.08.2019, which were never approved and

this fact was fortified from the minutes of meeting dated 15.10.2020 and 19.11.2020.

[18]. Minutes of meeting of Punjab Badminton Association dated 14.09.2019 would show that the meeting was postponed indefinitely. In minutes of meeting of Punjab Badminton Association dated 05.02.2020, it was shown that Annual General Meeting shall be held on 27.02.2020 for approval of minutes of Annual General Meeting dated 11.08.2019 and also to elect the office bearers and members of executive committee for a tenure of next 4 years. On 14.02.2020, representation was made by the representatives of 13 District Badminton Associations to the Secretary, Sports Department, Government of Punjab, expressing their dissatisfaction with the conduct of Rajinder Kalsi and his group members. The request was made for appointment of Ad-hoc Committee till new administration of the Punjab Badminton Association is elected.

[19]. On 19.02.2020, second election schedule was published by Rajinder Kalsi and his group, whereby under the head 'Eligibility', it was again mentioned that any person who is eligible as per the 'newly adopted Constitution' of the Punjab Badminton Association may contest the election. Consequently, the aforesaid amendment 'new adopted Constitution' was the subject matter of insertion in the meeting

held on 11.08.2019, which was never approved at any point of time.

[20]. Minutes of meeting of Punjab Badminton Association dated 22.02.2020 would show that the elections scheduled to be held on 27.02.2020 was further deferred indefinitely. It was recited that Punjab Badminton Association has adopted Sports Code pursuant to the directions of Additional Chief Secretary, Department of Sports and Youth Services dated 08.03.2019 and elections were scheduled to be conducted as per the same. On 03.09.2020, petitioner No.2 got issued a legal notice to the Principal Secretary, Department of Sports and Youth Services, Punjab, wherein the State was called upon to conduct the election and complying with the directions of the High Court passed in CWP (PIL) No.18048 of 2018 and order dated 08.03.2019 passed by the Additional Chief Secretary, Department of Sports and Youth Services. It was pointed out that as per directions, elections were to be held on 17.03.2019, but the same were continuously and illegally deferred at the behest of Rajinder Kalsi and Tejinder Singh Walia, who continue to illegally function as Honorary Secretary and Joint Secretary of the Association respectively.

[21]. On 15.10.2020, circular was issued by Rajinder Kalsi once again in the context of calling for elections of

Punjab Badminton Association in the next Annual General Meeting without following mandatory procedure prescribed by the Memorandum of Punjab Badminton Association and Badminton Association of India. In this circular also, the agenda of the meeting was to approve minutes of earlier meeting of Annual General Meeting, Special General Meeting of Association dated 11.08.2019 and also to elect the office bearers.

[22]. In the minutes of Special General Meeting of Punjab Badminton Association on 18.10.2020, the working of Rajinder Kalsi and his group was condemned by the members of various District Badminton Associations. In the said meeting, besides other resolutions, it was unanimously decided to constitute Five-Member Sub Committee to look after the entire supervision of the election of the Punjab Badminton Association. The Sub Committee will make all the arrangements or oversee the other procedures for the elections to be held in the month of November, 2020 and an observer from the Department of Sports, Punjab was also to be invited for supervising the elections. In the said meeting, resignations of Senior Vice President and Honorary Secretary were unanimously accepted.

[23]. Principal Secretary, Department of Sports and Youth Affairs, Punjab in response to the legal notice dated

03.09.2020, after noticing that no election of Punjab Badminton Association had taken place for long time and there was no extension granted for the continuation of elected body after its terms had expired, ordered for constitution of three-members committee to hold elections of Punjab Badminton Association within three months. Three-member Committee was comprising of Varinder Kumar Sharma, IAS, Deputy Commissioner, Ludhiana (Chairman), Apneet Riyait, IAS, Deputy Commissioner, Hoshiarpur (Member) and Ghanshyam Thori, IAS, Deputy Commissioner, Jalandhar (Member). The committee was constituted to conduct smooth, fair and transparent elections of the Punjab Badminton Association as per the Memorandum of the Badminton Association of India. The said committee was to ensure that the elections to the Punjab Badminton Association be held within three months. The copy of the order dated 30.10.2020 was sent to the President, Punjab Badminton Association, General Secretary, Punjab Badminton Association, General Secretary, District Badminton Association, Jalandhar, Rajesh Kumar Tandon, petitioner No.2, Deputy Commissioner Ludhiana, Deputy Commissioner, Jalandhar, Deputy Commissioner, Hoshiarpur, General Secretary, Punjab Olympic Association and Rakesh Khanna, Member, Sub-Committee (Punjab Badminton Association) under intimation to the Government.

[24]. On 18.11.2020, the Election Officer-cum-Additional Deputy Commissioner, Ludhiana informed heads of all 19 District Badminton Associations about the elections and requested them to send two representatives. Vide the aforesaid memo, 4 officers of Punjab Civil Services were appointed as Election Officers to conduct the elections. Those officers were Amarjit Bains, PCS, ADC (G), Ludhiana as Elections Officer, Damanjit Singh Mann, PCS, AETC, Ludhiana as Additional Election Officer, Kirpalvir Singh, PCS, Assistant Commissioner (G), Hoshiarpur as Assistant Election Officer and Hardeep Singh, PCS, Assistant Commissioner (G), Jalandhar as Assistant Officer. Besides, the aforesaid appointment of four Government Officers, the election schedule was also duly published in three leading newspapers i.e. The Tribune (English), Ajit (Punjabi) and Punjab Kesari (Hindi).

[25]. On 19.11.2020, letters were sent by the Election Officer to all 19 District Badminton Associations informing them about the election schedule. Despite the aforesaid proceedings, Rajinder Kalsi kept on issuing circular in the context of postponing the Annual General Meeting from 19.11.2020 to 22.11.2020 for the more or less same agenda items. From 19.11.2020 to 29.11.2020, all 19 District

Badminton Associations participated in the elections programme.

[26]. Perusal of participation of District Badminton Association, Ropar would show that the aforesaid association belongs to the fold of Rajinder Kalsi. Similarly, participation of District Badminton Association, Kapurthala would show that the association belongs to the fold of Mr. Rajinder Kalsi.

[27]. Thereafter, CWP No.21103 of 2020 titled Tejinder Singh Walia and another Vs. State of Punjab and others was filed in the High Court, challenging the order dated 30.10.2020 and letter dated 18.11.2020. In the aforesaid writ petition, resolution dated 02.12.2020 was attached authorising Tejinder Singh Walia to file the said writ petition notwithstanding the fact that Rajinder Kalsi had automatically ceased to hold the post on attaining the age of 70 years.

[28]. On 08.12.2020, an order was passed by Punjab State Sports Council, Chandigarh appointing Sh. Sunil Kumar, Deputy Director, Sports Department as an independent observer in the elections. On 10.12.2020, election results were published. Petitioner No.1 was elected as Treasurer and petitioner No.3 was elected as General Secretary. On 10.12.2020 i.e. day fixed for withdrawal, no candidate came to the office of Election Officer for withdrawal of nomination paper till 3:00 PM. Since there was no withdrawal and number

of posts to be filled were more than the candidatures, therefore, all 21 candidates were declared as elected unopposed. Both the above members have also supervised the election process.

[29]. On 11.12.2020, the order was passed by the High Court in CWP No.21103 of 2020, wherein the factum of elections having taken place on 10.12.2020 was noticed and the Court observed that since the elections have taken place during pendency of the proceedings before the High Court, therefore, election result which was declared on 10.12.2020 was stayed. The writ petition was ordered to be heard along with CWP No.4803 of 2020.

[30]. On 12.12.2020, Anupam Kumaria (petitioner No.3) made a representation before the official respondents, highlighting the grievances raised in the present petition, but the said representation has not been adverted to till date. On 14.12.2020 to 16.12.2020, letters were written by 14 District Badminton Associations, condemning the conduct of Rajinder Kalsi and his group members and expressed satisfaction over the election process, which was carried out in a fair and free manner. In this circular issued by 14 District Badminton Association, the satisfaction was expressed with the election carried out by the committee of three IAS Officers. The working of Rajinder Kalsi's administration was condemned

and it was also noted that Rajinder Kalsi's administration was defamed body. Since the elections were held, therefore, the election called by Rajinder Kalsi and his team members for the fifth time were unnecessary and it was declared that District Badminton Associations are not going to participate in the sham election process called by Rajinder Kalsi and his group. Thereafter, the present petition i.e. CWP No.22321 of 2020 was filed.

[31]. After completion of the pleadings, this Court has considered the issue.

[32]. Admittedly, the tenure of Governing Body of Punjab Badminton Association had already expired on 23.06.2019. Rajinder Kalsi and Tejinder Singh Walia are holding the posts of office bearers for the last more than 8 years. The tenure of previous administration ended w.e.f. 23.06.2019 and it was categorically admitted by Rajinder Kalsi before the Additional Chief Secretary, Department of Sports and Youth Services when order dated 08.03.2019 was passed. It was specifically ordered by the Additional Chief Secretary that fresh elections of Punjab Badminton Association be held on 17.03.2019. Despite the aforesaid direction, no election was held for more than two years and the previous administration continued to be in office since then, by way of repeatedly adjourning Annual General Meeting for one reason or the other.

[33]. Perusal of the meeting note would show that the proposed amendments in the context of eligibility of the office bearers to contest elections vide resolution dated 11.08.2019 were never approved. Order dated 08.03.2019 was never assailed by any private respondents in any Forum and the same had attained finality. Rajinder Kalsi became 70 years of age on 13.09.2019. As per Rule 11 Clause 5 Sub Clause (c) of the Memorandum of Punjab Badminton Association, a person having attained the age of 70 years shall automatically cease to hold respective posts. After fixing the date of election as 17.03.2019 by the Additional Chief Secretary, Department of Sports and Youth Services vide order dated 08.03.2019, the private respondents did not conduct the elections for the one reason or the other and kept on deferring the proceedings of the Annual General Meeting according to their own convenience.

[34]. Perusal of the different minutes of meeting would show that unnecessary adjournments were granted and the proceedings were deferred in order to make the tenure of the Governing Body to continue without elections. The tenure of the Governing Body had already expired on 23.06.2019. It was only after the legal notice got issued by petitioner No.2 on 03.09.2020, Principal Secretary, Department of Sports and Youth Affairs appointed three-members committee consisting

of three IAS Officers to hold elections within a period of three months. In pursuance of order dated 30.10.2020, memorandum was issued by the Election Officer, Additional Deputy Commissioner, Ludhiana to all 19 District Badminton Associations, requesting them to send their representatives. Four officers of Punjab Civil Services were appointed as Election Officers to conduct the election. The election schedule was published and in pursuance thereto, letters were issued to all 19 District Badminton Associations informing them about the election schedule. All 19 District Badminton Associations duly participated in the elections. Even the persons in the fold of Rajinder Kalsi duly participated in the election proceedings. The elections were duly supervised and observed by an independent observer. All the District Badminton Associations have shown their satisfaction and have expressed gratitude. They have collectively condemned the conduct of Rajinder Kalsi and his group. The election results were published on 10.12.2020, wherein petitioner No.1 was elected as Treasurer and petitioner No.3 was elected as General Secretary.

[35]. It appears that till date, even after declaration of result of the election, Rajinder Kalsi and Tejinder Singh Walia are portraying themselves to be the office bearers of Punjab Badminton Association in the list of Electoral College of

Badminton Association of India. Rajinder Kalsi and Tejinder Singh Walia have already attained the age of 70 years and have thus become ineligible according to Sports Code. According to the letter dated 03.09.1988 issued by the Ministry of Human Resource Development, Department of Youth Affairs and Sports to all the Secretary General, Indian Olympic Association and Hony. Secretaries of all National Sports Federations (letter is part of National Sports Code), no extension will be allowed after the incumbent has attained the age of 60 years. The age of the incumbent is the relevant criteria for continuing in the office, that is why, conscious decision was taken by Punjab Badminton Association in terms of Rule 11 Clause 5 Sub Clause (c) of the Memorandum of Punjab Badminton Association, wherein a person having attained the age of 70 years shall automatically cease to hold respective posts.

[36]. Article 329 of the Constitution of India provides for bar to interference by Courts in electoral matter. No election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature. As a matter of general principle, Courts should ordinarily refrain from interfering with the

election process between the commencement of such a process and the stage of declaration of the result. Once the election is over, the aggrieved party has always an option to pursue his/her/its legal remedies in accordance with law. Once the election process has started and once the wheels are set into motion, Courts should refrain from interfering in the said process. Even if, there is some illegality or breach of rules, the Courts should forbear from interfering with the election. Reliance can be placed on **N.P. Ponnuswami Vs. Returning Officer, AIR 1952 SC 64** and **Mohinder Singh Gill Vs. Chief Election Commr. (1978) 1 SCC 405**. Following observations were made in para Nos.28 to 30 in **Mohinder Singh Gill's** case supra:-

“28. What emerges from this perspicacious reasoning, if we may say so with great respect, is that any decision sought and rendered will not amount to 'calling in question' an election if it subserves the progress of the election and facilitates the completion of the election. 'Ale should not slur over the quite essential observation "-Anything done towards the completion of the election proceeding can by no stretch of reasoning be described as questioning the election. Likewise, it is fallacious to treat 'a single step taken in furtherance of an election as equivalent to election'.

29. Thus, there are two types of decisions, two types of challenges. The first relates to proceedings which interfere with the progress of the election. The second

accelerates the completion of the election and acts in furtherance of an election. So, the short question before us, in the light of the illumination derived from Ponnuswami, is as to whether the order for re-poll of the Chief Election Commissioner is 'anything done towards the completion of the election proceeding' and whether the proceedings before the High Court facilitated the election process or halted its progress. The question immediately arises as to whether the relief sought in, the writ petition by the present appellant amounted to calling in question the election. This, in turn, revolves round the point as to whether the cancellation of the poll and the reordering of fresh poll is 'part of election' and challenging it is 'calling it in question.

30. The plenary bar of [Art. 329 \(b\)](#) rests on two principles :

(1) *The peremptory urgency of prompt engineering of the whole election process without intermediate interruptions by way of legal proceedings challenging the steps and stages in between the commencement and the conclusion.*

(2) *The provision of a special jurisdiction which can be invoked by an aggrieved party at the end of the election excludes other form, the right and remedy being creatures of statutes and controlled by the Constitution. Durga Shankar Mehta(1) has affirmed this position and supplemented it by holding that, once the Election Tribunal has decided, the prohibition is extinguished and the Supreme Court's over-all power to interfere under [Art. 136](#) springs into, action. In Hari Vishnu(2) this Court upheld the rule in Ponnuswami excluding any*

proceeding, including one under [Art. 226](#), during the on-going process of election, understood in the comprehensive sense of notification down to declaration. Beyond the declaration comes the election petition, but beyond the decision of the Tribunal the ban of [Art. 329\(b\)](#) does not bind.”

[37]. In **Election Commission of India Vs. Ashok Kumar (2000) 8 SCC 216**, the Hon'ble Apex Court held in para Nos.28, 31 and 32 in the following manner:-

“28. Election disputes are not just private civil disputes between two parties. Though there is an individual or a few individuals arrayed as parties before the Court but the stakes of the constituency as a whole are on trial. Whichever way the lis terminates it affects the fate of the constituency and the citizens generally. A conscientious approach with overriding consideration for welfare of the constituency and strengthening the democracy is called for. Neither turning a blind eye to the controversies which have arisen nor assuming a role of over-enthusiastic activist would do. The two extremes have to be avoided in dealing with election disputes.

31. The founding fathers of the Constitution have consciously employed use of the words no election shall be called in question in the body of [Section 329 \(b\)](#) and these words provide the determinative test for attracting applicability of [Article 329 \(b\)](#). If the petition presented to the Court calls in question an election the bar of [Article 329 \(b\)](#) is attracted. Else it is not.

32. For convenience's sake we would now generally sum up our conclusions by partly restating what the two

Constitution Benches have already said and then adding by clarifying what follows therefrom in view of the analysis made by us hereinabove:-

(1) If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections.

(2) Any decision sought and rendered will not amount to calling in question an election if it subserves the progress of the election and facilitates the completion of the election. Anything done towards completing or in furtherance of the election proceedings cannot be described as questioning the election.

(3) Subject to the above, the action taken or orders issued by Election Commission are open to judicial review on the well-settled parameters which enable judicial review of decisions of statutory bodies such as on a case of mala fide or arbitrary exercise of power being made out or the statutory body being shown to have acted in breach of law.

(4) Without interrupting, obstructing or delaying the progress of the election proceedings, judicial intervention is available if assistance of the Court has been sought for merely to correct or smoothen the progress of the election proceedings, to remove the obstacles therein, or to preserve a vital piece of evidence if the same would

be lost or destroyed or rendered irretrievable by the time the results are declared and stage is set for invoking the jurisdiction of the Court.

(5) The Court must be very circumspect and act with caution while entertaining any election dispute though not hit by the bar of [Article 329\(b\)](#) but brought to it during the pendency of election proceedings. The Court must guard against any attempt at retarding, interrupting, protracting or stalling of the election proceedings. Care has to be taken to see that there is no attempt to utilise the courts indulgence by filing a petition outwardly innocuous but essentially a subterfuge or pretext for achieving an ulterior or hidden end. Needless to say that in the very nature of the things the Court would act with reluctance and shall not act except on a clear and strong case for its intervention having been made out by raising the pleas with particulars and precision and supporting the same by necessary material.”

[38]. In **Shri Sant Sadguri Janardan Swami (Moingirid Maharaj) Sahakari DugdhaUtpadak Sanstha and another Vs. State of Maharashtra and others, (2001) 8 SCC 509,**

the Hon'ble Apex Court held as under:-

“12. In view of our finding that preparation of the electoral roll is being an intermediate stage in the process of election of the managing committee of a specified society and the election process having been set in motion, it is well settled that the High Court should not stay the continuation of the election process even though there may be some alleged illegality or breach of rules while preparing the electoral roll. It is not disputed

that the election in question has already been held and the result thereof has been stayed by an order of this Court, and once the result of the election is declared, it would be open to the appellant to challenge the election of returned candidate, if aggrieved, by means of an election petition before the election tribunal.”

[39]. In **Supreme Court Bar Association Vs. B.D. Kaushik, (2011) 13 SCC 774, the Hon'ble Apex Court** again held as under in the following paragraphs:-

“43. It hardly needs to be emphasized that in any Body governed by democratic principles, no member has a right to claim an injunction so as to stall the formation of the Governing Body of the Association. No such right exists in election matters since exercise of a right conferred by a rule is always subject to the qualifications prescribed and limitations imposed thereunder.....

60. Further, the appellants had rightly pointed out to the learned Judge that election process had already started and, therefore, injunction, as claimed, should not be granted. Since 1952 this Court has authoritatively laid down that once election process has started the courts should not ordinarily interfere with the said process by way of granting injunction. The argument advanced by the appellants that election process having started, the injunction should not be granted is dealt with by the learned Judge by holding that in the present case the plaintiffs have not prayed for injunction against the election process.”

[40]. It is a settled principle of law that once the elections schedule is published and elections are held, then the same cannot be questioned or gone into in the writ jurisdiction.

[41]. In the present case, elections were held as per directions issued by the High Court in CWP (PIL) No.18040 of 2018. In pursuance of the order dated 27.09.2018, Additional Chief Secretary, Department of Sports and Youth Affairs passed the order dated 08.03.2019, thereby fixing the date of elections to be 17.03.2019. The private respondents did not adhere to the date and kept on postponing the date of Annual General Meeting of Punjab Badminton Association at their whims and fancies. Order dated 08.03.2019 was passed by the Additional Chief Secretary after hearing all the stakeholders. Thereafter, on the basis of legal notice dated 03.09.2020 got issued by petitioner No.2, the Principal Secretary, Department of Sports and Youth Services vide order dated 30.10.2020, constituted a three-members committee of three Deputy Commissioners. In the said order, no new thing was ordered except to carry out the spirit of order dated 08.03.2019. No right of any effected persons were decided vide the aforesaid order, rather three-members committee further proceeded to carry out the necessary proceedings in issuing memorandum to all 19 District Badminton Associations about the elections and requesting

each of them to send two representatives. Even four officers of Punjab Civil Services were appointed as Election Officers. The election programme was duly published. All 19 District Badminton Associations duly participated in the election programme as per election schedule and after holding of elections and declaration of results, all the District Badminton Associations have shown their satisfaction to the election results.

[42]. Since the elections have been held and result has been declared and published on 10.12.2020, therefore, the aggrieved party may resort to legal proceedings in accordance with law. After declaration of result, normal consequences are required to follow.

[43]. For the reasons recorded hereinabove, CWP No.22321 of 2020 is accepted.

[44]. With the declaration of result, old office bearers are directed to give way to the newly constituted Governing Body. Newly constituted Governing Body will take over the management and affairs of Punjab Badminton Association and would function for the remaining tenure of Punjab Badminton Association. All other prayers have to be disposed of in the light of aforesaid facts. New Governing Body will take charge of the affairs of Punjab Badminton Association. Registrar Firms and Societies, Punjab would also take note of

the aforesaid development and would proceed to take all corrective steps in recognition of newly constituted Governing Body.

[45]. In the light of aforesaid observations, CWP No.21103 of 2020 is dismissed.

[46]. Now newly constituted Governing Body will take charge over the affairs of Punjab Badminton Association, therefore, there is no necessity of directing respondent No.1 to form Ad-hoc Committee to administer the affairs and functioning of Punjab Badminton Association.

[47]. In view of above, CWP No.4803 of 2020 is disposed of as having been rendered infructuous.

[47]. Firstly, the relief clause in CWP No.1806 of 2020 relates to the period of 2019-20 i.e. for the issuance of direction to Punjab Badminton Association to accept the entries sent by the petitioner (Pathankot District Badminton Association) for participation in the Masters Punjab State Badminton Championships 2019-20. Since by now, that championship had already been held, therefore, as of now, no cause of action survives, but in any case, for the future prospects of the petitioner, it would be open to the petitioner to seek any relief in accordance with law and Punjab

Badminton Association would act thereafter as per criteria and norms of Punjab Badminton Association.

[48]. CWP No.1806 of 2020 is disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

19.04.2022
Prince

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No