



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 03rd July, 2023

Pronounced on: 06th July, 2023

+ **LPA 504/2023 & CAV 312/2023, CM APPLs. 32400-32403/2023, 32711/2023**

MR KISHOR BANDEKAR AND ORS

..... Appellants

Through: Mr. Nikhil Nayyar, Senior Advocate with Mr. Sangramsingh R. Bhonsle, Ms. Samridhi S. Jain, Mr. Dhananjay Baijal, Ms. Pushkara A. Bhonsle, Ms. Sneha S. Bhonsle, Mr. Riway Rai, Mr. Naman Sherstra, Mr. Nrupal Din Ganikar and Ms. Aarti Bhonsle, Advocates.

versus

MR MAHESH CANDOLKAR AND ORS

..... Respondents

Through: Mr. J. Abrev Lobo, Mr. Ivo M. S. D'Costa and Mr. Gajendra Singh Negi, Advocates for R-2.
Mr. Sanjay K. Chadha, Advocate for R-8.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

SANJEEV NARULA, J.

1. The present appeal is directed against judgment dated 02nd June, 2023 passed by the learned Single Judge in W.P.(C) 15097/2021, upholding the order dated 14th December, 2021 passed by Appellate Authority of All-India Chess Federation, New Delhi ["AICF"].



Factual Background

2. Brief facts leading to the filing of the present appeal are as follows:

2.1. The Goa Chess Association [“GCA”] is a state-level sports federation, registered under the Societies Registration Act, 1860, that holds affiliations with both the AICF and the Sports Authority of Goa. The GCA’s governance is dictated by its Memorandum of Association [*hereinafter*, “MoA”] and its Rules and Regulations, both of which have been approved by the association’s General Body.

2.2. The General Body, in its meeting held on 08th January, 2017, carried out a pivotal amendment in the constitution of GCA, thereby increasing the number of elected members of the Executive Committee from seven to twelve.

2.3. On 22nd July, 2021, the GCA notified elections for the Executive Committee. The list of approved nomination forms was published on 05th August, 2021, and after the closure of withdrawal window, the Presiding Officer [“PO”] released the list of candidates elected to the North and South Goa Taluka Associations on 10th August, 2021. At the same time, holding that each taluka can be represented by an individual candidate, the nomination forms of Respondents No. 1 to 4 were declared to be invalid and certain candidates from Barder, Tiswadi, Ponda and Salcete talukas were declared to be elected unopposed.

2.4. The aforesaid disqualification of candidature by the PO was challenged by Respondents No. 1 to 4 before the Ethics Commission of AICF, in accordance with AICF’s Code of Ethics. The Commission, through their order signed on 19th October, 2021, rescinded PO’s decision with a direction to carry out the voting process within two weeks from the date of



receipt of said order. Against this order, the Appellants preferred an appeal to the Appellate Authority of AICF, which was disallowed on 14th December, 2021, and decision of the Ethics Commission was affirmed.

2.5. Dissatisfied with Appellate Authority's decision, Appellants filed W.P.(C) 15097/2021 under Article 226 of the Constitution of India, 1950. However, on 02nd June, 2023, the learned Single Judge ruled against the Appellants, thereby upholding Appellate Authority's decision [*hereinafter*, "*impugned judgement*"].

The Appellants' contentions

3. Mr. Nikhil Nayyar, Senior Counsel for Appellants, raised the following grounds of challenge:

3.1. The learned Single Judge has failed to appreciate that the enhancement in number of elected members to the Executive Committee, was intended to ensure that all twelve talukas are duly represented in the Committee.

3.2. Clause 13 of the amended MoA and Rule 42(i)(a) of the Rules and Regulations which entail the words "*...one delegate representing each affiliated Taluka Association...*", must be read *ejusdem generis* with the resolution that brought about the change in the constitution (dated 08th January, 2017). Thus, the extant rules also provide that only one delegate of an affiliated taluka shall occupy a post in the Executive Committee. The impugned judgement essentially nullifies the mandate behind introduction of the amendment incorporated in the Minutes of the Meeting dated 08th January, 2017 and also violates the mandate of Rule 42(i)(a) of the Rules and Regulations of the GCA.



3.3. The learned Single Judge has erred in holding that the PO's decision dated 10th August, 2021 is based on misconstruction of GCA's MoA and Rules and Regulations. His decision merely allowed the nomination forms of the candidates who faced no opposition and consequently, were elected unopposed. However, in the bargain, the nomination forms of other candidates from the same taluka came to be held invalid. Respondents No. 1 to 4 themselves have withdrawn their nominations for the other posts on an interpretation and understanding that one taluka shall have only one representative in the Executive Committee.

Analysis

4. The short question in this appeal revolves around the interpretation of GCA's rules and regulations, specifically, whether each of the twelve representatives in the Executive Committee must hail from a different taluka, or whether it is permissible for multiple representatives to belong to the same taluka.

5. The backdrop of the dispute can be traced to the General Body's meeting conducted on 08th January, 2017, wherein *inter alia* it was resolved to increase the number of elected members of the GCA's Executive Committee. This decision was driven by the need to expand the scope of the association's activities and accommodate more committee members who could contribute to development of chess in Goa. The resolution resulting from this meeting approved the amendments to the MoA and Rules and Regulations of GCA. The amended bye-laws and MoA stipulate that the Executive Committee of the GCA would consist of twelve elected members and one nominated member from each affiliated Taluka Chess Association.

6. Rule 42 of the Rules and Regulations of the GCA which relates to the



elections of Executive Committee, reads as under:

“42 (i) Election of members of Committee:

(a) The General Body of the association shall by a majority of votes elect the President, 4 Vice President (2 each from North Goa and South Goa), Hon. Secretary, Treasurer 4 Joint secretaries and 1 Joint Treasurer for a term of 4 years one delegate from each affiliated Taluka Association duly authorized in writing by the said Taluka Association shall be a member of the Executive Committee of the Association.

(b) The Committee shall notify the dates of filing nominations forms, scrutiny of nomination forms, withdrawal of nomination forms and date, time and place of election.

(c) The General Body of the association shall by a majority of votes elect the President, 4 Vice-Presidents (2 each from North Goa and South Goa), Hon. Secretary, Treasurer and 4 Joint Secretaries (2 each from North Goa and South Goa) and 1 Joint Treasurer for a term of 4 years) one delegate from each affiliated Taluka Associations duly authorized in writing by the said Taluka Association shall be a member of the Executive Committee of the association, &

(d) All Committee members shall hold the office for a term of 4 years in the normal course and will be eligible for re-election for any like term/terms.

(e) The Secretary and the Treasurer shall hold the same Office only for 2 terms consecutively. However they are eligible to seek any other Office other than the one they have held presently. They are eligible to contest for the same Office after a gap of 4 years.

(f) The candidate being individual member, he must be a member of the Taluka Association at least for a minimum period of six months.

(g) Any vacancy in the Executive Committee shall be filled up by the election of the particular post by the members in the General Body meeting.

(ii) Mode of Elections of Office Bearers:

(a) Filing of Nomination: Anybody who wishes to contest the election of the Executive Committee has to be a delegate from Taluka Associations with voting rights and should be proposed by a Taluka Association. Any two executive members among nine elected members of the executive members of the affiliated taluka chess associations duly authorized in writing can be nominated to contest and vote for any posts of the executive committee of the Goa Chess Association and such nomination for the post of. Executive Committee shall be made in the Nomination Form as per Annexure A, at least 14 clear days before the election fixed in the Annual General Body Meeting.

(b) Scrutiny of Nominations: The President and Secretary shall nominate the one Presiding Officer and one deputy Presiding Officer. The Secretary along with the nominated Presiding Officer shall scrutinize the Nominations sent by the Members for the respective posts in the ensuing elections, immediately on the closure of receipt of the Nominations and finalise the list of candidates contesting in the elections for the various posts of Office Bearers and communicate the List of Candidates to all Members at least by giving 7 clear days before the date of elections.”

7. Taking note of the above, the learned Single Judge rejected the



grounds which Mr. Nayyar has urged before us, observing as follows:

“21. The resolution emphasized on an increase in the number of representatives so that the maximum talukas can have adequate representation. The same cannot be read to mean that twelve representatives must be from all twelve talukas.

22. The amended Clause 13 of the MoA would indicate that the general function of the association shall be carried out at the discretion of the general body of the association by the Executive Committee consisting of office bearers and one delegate representing each affiliated talukas duly authorised in writing and all of them shall be allowed to attend and vote for any of the matters in the Executive Committee of the association.

23. A careful reading of Rule 42 of the Rules and Regulations also nowhere suggests that there is any restriction on any taluka to have more than one office bearer in the Executive Committee. Rule 42 (I)(a) of the Rules and Regulations would only indicate that the general body of the association shall, by a majority of votes, elect the office bearers and one delegate from each affiliated taluka would be the nominated member authorised in writing by the said taluka association. It is thus seen that, Rule 42(I)(a) of the Rules and Regulation speaks about the constitution of the general body which includes the elected representative as well as the nominated representative.

24. The same would not be read to mean that each taluka should be ensured to have representation in the Executive Committee or that no taluka can have more than one representative as an elected member of the Executive Committee. What is required for filling up the nominations to contest the election of the Executive Committee is to have authorisation from the concerned taluka with voting rights. Two executive members amongst the elected members of the executive member of the appellate taluka chess association can be nominated to contest and vote for any post of the Executive Committee of the GCA. Such an interpretation is reinforced by the language used in Rule 42(II)(a) of the Rules and Regulations.

25. It is thus seen that neither under the MoA nor under the applicable Rules and Regulations is there any restriction on any taluka association to have more than one representative in the Executive Committee of the GCA. A comprehensive reading of the resolution, the amended Clause 13 of the MoA and the scheme of Rule 42 of the Rules and Regulations, does not evince any restriction on the number of representatives that can contest elections from a taluka.”

8. The impugned judgement demonstrates a detailed evaluation of the provisions of the MoA and Rules and Regulations of GCA. Rule 42(i)(a) (extracted above) specifies the election process, roles, tenure of the Committee members, requirements for a candidate and the procedure for filling any vacancy in the Executive Committee. It also outlines the mode of elections, detailing the requirements for nomination, scrutiny of nominations and role of the President, Secretary and nominated Presiding Officer in this



process. Contrary to what has been emphasized by Mr. Nayyar, this provision does not substantiate his claim. The Minutes of Meeting mention the intention to increase the number of representatives, but do not explicitly state that these representatives should be uniformly distributed across all talukas. This suggests that it is possible for a taluka to have more than one representative on the Executive Committee.

9. The amended Clause 13 of the MoA, reinforces this perspective as it states that one delegate from each affiliated taluka should be a part of the Executive Committee, but it does not limit the number of office bearers that can be elected from each taluka. Rule 42(i)(a) of GCA's Rules and Regulations also does not put forth any restriction on the number of office bearers that can be elected from a given taluka. It merely states that the General Body of GCA, by a majority of votes, elects the office bearers and one delegate from each affiliated taluka. The language used in Rule 42(ii)(a) supports the learned Single Judge's interpretation, as it stipulates that anyone wishing to contest the elections of the Executive Committee should be a delegate with voting rights of, and proposed by a Taluka Association. This rule seems to emphasize eligibility based on being a delegate and having voting rights, rather than on the number of representatives per taluka.

10. The resolution, aiming to increase the number of representatives, does not specifically dictate that all twelve representatives must hail from twelve distinct talukas. Rule 42(i)(a), which is instrumental in the formation of Executive Committee comprising of both elected and nominated representatives, does not impose any limitations as canvassed by the Appellants. Rule 42(i)(a) cannot be interpreted as an obligation to ensure



each taluka's representation in the Executive Committee. This interpretation aligns with the learned Single Judge's opinion, with which we concur.

11. As regards the challenge to the exercise of power by the PO, Mr. Nayyar has candidly acknowledged that the challenge to his power rests on interpretation of the Rules. He concedes that if the Court were to disagree with his interpretation, PO's decision would not hold ground. Indeed, we find this to be the case. The PO's decision is grounded on the MoA and Rules and Regulations. Since we do not find merit in the Appellants' challenge to the interpretation of such rules, we see no reason to interfere with the impugned finding pertaining to the PO's decision. Therefore, the opinion expressed by the learned Single Judge remains unassailable on this aspect as well.

12. In conclusion, the learned Single Judge's interpretation based on the explicit language used in the GCA's Rules and Regulations as well as the General Body resolution, appears to be correct. The primary intention of the said provisions seems to be increasing representation and ensuring that each taluka has at least one delegate on the Executive Committee, rather than limiting the number of office bearers per taluka.

13. For the foregoing reasons, the present appeal is dismissed.

SANJEEV NARULA, J

SATISH CHANDRA SHARMA, CJ

JULY 6, 2023/d.negi/nk