

The Neutral Citation number : 2023/DHC/000974

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

% Judgment delivered on: 10th February, 2023

+ W.P.(C) 8915/2019 & CM APPL. 36773/2019, 53240/2019, 53241/2019 & 53316/2019, 14216/2022, 16788/2022

K. P. RAO Petitioner
Through Dr. Menaka Guruswamy, Senior Advocate with Mr. Sravan Kumar, Mr. Yash S. Vijay, Mr. Utkarsh Pratap and Ms. Medha Singh, Advocates.

versus

UNION OF INDIA & ORS Respondents
Through Mr. Harish Kumar Garg and Ms. Falguni Rai, Advocates for R-1
Mr. Ruchir Mishra and Mr. Sanjiv Kumar Saxena and Mukesh Kumar Tiwari, Advocates for Indian Olympic Association
Ms. Nandita Rao, Mr. Amit Peswani and Mr. Kunal Prakash, Advocates for AKFI.

+ W.P.(C) 9287/2019 & CM APPLS. 38312/2019, 38314/2019, 49976/2019, 49979/2019, 49985/2019, 50521/2019, 51062/2019, 52204/2019, 220/2020, 221/2020, 2086/2020, 5322/2020, 5323/2020, 5324/2020, 5325/2020, 6489/2020, 7752/2021, 7753/2021, 9405/2021 & 9406/2021, 23206-07/2021 & 12267/2022

AC THANGAVEL Petitioner
Through Ms. Nandita Rao, Mr. Amit Peswani and Mr. Kunal Prakash, Advocates for AKFI.
Mr. Sravan Kumar, Advocate.

versus

UNION OF INDIA & ANR Respondents
Through Mr. Vijaya Bhaskar, Advocate for R-2.

WP(C) 8915/2019; 9287/2019; 6355/2021; 6356/2021 & 8439/2021

Page 1 of 32

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The Neutral Citation number : 2023/DHC/000974

Ms. Prerna Singh and Mr. Guntur Pramod Kumar,
Advocate for R-3.

Mr. A. Ushi Reddy, Ms. E. Subhavati, Mr. Deepak
K. Singh, Mr. Kanhaiya Kumar, Mr. Hemant
Shukla, Mr. Vaibhav Gupta, Mr. Raushan Kumar,
Advocates for Telengana Kabaddi Association.

Mr. Gurbaksh Singh, Advocate.

Mr. Arjun Pant, Mr. Kartik Rathi and Mr. Abhaid
Parikh, Advocates for application in C.M. APPL.
21588/2022.

Mr. Rajiv Tyagi, Advocate for intervener

+ W.P.(C) 6355/2021

GOVIND NARAYAN SHARMA Petitioner
Through Mr. B.P. Singh Dhakray and Mr. Shakti Singh
Dhakray, Advocates.

versus

RAJASTHAN STATE SPORTS COUNCIL (RSSC) & ORS.
Respondents

Through Ms. Kiran Suri Senior Advocate along with Ms.
Aishwarya Kumar, Mr. Purvesh Buttan, Mr. Fahad
Imtiaz and Mr. Prateek Narwar, Advocates,
Advocates for R-2 and R-3.

Ms. Nandita Rao, Mr. Amit Peswani and Mr. Kunal
Prakash, Advocates for AKFI.

Mr. Anil Soni, CGSC with Mr. Sahaj Garg and Mr.
Devesh Dubey, Advocates for UOI.

+ W.P.(C) 6356/2021

GOVIND NARAYAN SHARMA Petitioner
Through Mr. B.P. Singh Dhakray and Mr. Shakti Singh
Dhakray, Advocates.

The Neutral Citation number : 2023/DHC/000974

versus

UNION OF INDIA AND ORS & ORS. Respondents
Through Mr. Ruchir Mishra and Mr. Mukesh Kumar Tiwari
Advocates for Indian Olympic Association

Ms. Nandita Rao, Mr. Amit Peswani and Mr. Kunal
Prakash, Advocates for AKFI.

+ W.P.(C) 8439/2021 & CM APPL.26141/2021

SH. JITENDER KUMAR GAHLYAN Petitioner
Through Mr. Bharat Bhushan and Mr. Himanshu Jain,
Advocates.

versus

UNION OF INDIA & ORS. Respondents
Through Mr. Anil Soni, CGSC and Mr. Devesh Dubey,
Advocate for UOI.

Ms. Nandita Rao, Mr. Amit Peswani and Mr. Kunal
Prakash, Advocates for AKFI.

Ms. Kiran Suri Senior Advocate along with Ms.
Aishwarya Kumar, Mr. Purvesh Buttan, Mr. Fahad
Imtiaz and Mr. Prateek Narwar, Advocates,
Advocates for R-1 and R-4

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

1. The issues that arise for consideration in these batch of petitions are:

(i) Whether the '*age and tenure restriction*' on the members

of the Governing Body imposed by the National Sports Development Code of India 2011 (hereinafter referred to as the '*Sports Code*') applies only to the Amateur Kabaddi Federation of India (AKFI for short) a National Federation or also applies to its constituents i.e. the State and District Association which are members of the AKFI?

- (ii) What would be the effect, if any, of the State Association refusing or failing to comply with the '*age and tenure restriction*' imposed by the Sports Code?
- (iii) Whether the amendment carried out to the Memorandum of Association/Constitution of AKFI is contrary to the directions issued by this court by Judgment dated 03.08.2018 in WP(C) 4601 of 2013 "*Mahipal Singh & others versus Union of India*" 2018 SCC OnLine Del 10284?
- (iv) Whether the representatives of the State Associations to the National Federation have to be compliant of the '*age and tenure restriction*' imposed by the Sports Code?
- (v) Whether the representatives of the State Associations who contravene the '*age and tenure restriction*' imposed by the Sports Code can constitute the electoral college for the elections of the Governing Body of AKFI and can be permitted to vote?

2. In WP(C) 8915/2019, the Petitioner – Mr. K.P. Rao has sought *inter alia* quashing of the election notification dated 07.08.2019 for elections to the AKFI issued by the Administrator in alleged contravention of the directions issued by this court in *Mahipal Singh (supra)*. Petitioner also seek quashing of the amended Bye Law/clause

No. 30 of the AKFI and further seeks a direction to hold proper and fair elections of the Member State Units and then to hold elections of the Governing Body of AKFI.

3. In WP(C) 9287/2019, the Petitioner – Mr. A.C. Thangavel had sought quashing of the election notification, notification of the electoral college of AKFI and rejection of the objections to the name of the representative of the Tamil Nadu Amateur Kabaddi Association. Further, Mandamus has been sought against AKFI to only affiliate State Associations that are compliant with the ‘*age and tenure restriction*’ imposed by the Sports Code.

4. In WP(C) 6355/2021, Petitioner – Govind Narayan Sharma, (claiming to be the Secretary of Rajasthan State Kabaddi Association) has sought *inter alia* quashing of the order of the Administrator whereby the removal of his name from the electoral college of AKFI (as a representative of Rajasthan State Kabaddi Association) has been accepted and the names recommended by its President have been included in the electoral college.

5. In WP(C) 6356/2021 Petitioner – Govind Narayan Sharma has sought a restraint on the AKFI and its Administrator from interfering in the electoral college of the Rajasthan State Kabaddi Association.

6. In WP(C) 8439/2021, Petitioner – Jitender Kumar Gahlyan has sought a direction to AKFI to quash the elections of the Amateur

Kabaddi Association of Haryana; declare Respondent No. 5 (Kuldeep Singh Dalal) as disqualified to contest elections to the post of Secretary and to hold elections of the Amateur Kabaddi Association of Haryana in accordance with the Sports Code.

7. WP(C) 9287/2019 was filed by Mr. A.C. Thangavel contending that the election notified by the Administrator was contrary to the mandate of the Sports Code as it did not comply with the age and tenure restrictions.

8. On 18.08.2021 an application (CM 26931/2021) was filed by Mr. A.C. Thangavel seeking to withdraw the petition. Said application was opposed by learned counsel appearing for the Administrator contending that as the petition involved substantial questions of great public importance, particularly for the sport of Kabaddi in the country, the application be dismissed or alternatively the Administrator be substituted as the Petitioner.

9. Noticing that AKFI was being represented by the Administrator appointed by this court, the Administrator was transposed as the Petitioner and Mr. A.C. Thangavel was permitted to withdraw from the proceedings.

10. Petition has been strongly opposed particularly on behalf of the Telangana Kabaddi Association and Mr. Ashok Anandrao Deshmukh (Respondent No. 3 and Respondent No. 8) in W.P. (C) 9287 of 2019.

11. Ms. Perna Singh, Advocate, learned counsel appearing for the Telangana Kabaddi Association and Mr. Ashok Anandrao Deshmukh submits that Sports Code does not contemplate that the members of the Electoral College must adhere to the *age & tenure restriction* and it applies only to certain Office Bearers of the National Sports Federations. She submits that the Right to Vote and The Right to Contest in Elections are distinct and the two cannot be conflated.

12. She further contends that the Amendments carried out to the constitution of AKFI are in terms of the Judgment in *Mahipal Singh (supra)*.

13. For the purpose of answering the questions that arise for consideration in these petitions it would be necessary to understand the history and rationale behind the Sports Code.

14. The Department-related Parliamentary Standing Committee on Human Resource Development constituted a Sub-Committee on the 'Functioning of National Sports Federations'.

15. The Sub-Committee had a detailed examination of the subject with special focus on the development and promotion of the sports disciplines, holding of national/international sports events by National Sports Federations, training/coaching of sportspersons, problem areas in the functioning of the federations, coordination with the Ministry of Youth Affairs and Sports and other bodies and suggestions for

improvement of the same. A Report was presented to the Rajya Sabha and laid on the table of the Lok Sabha on 20.02.2014.

16. The Committee noted that in order to promote adoption of good governance practices by National Sports Federations (National Federations for Short) and development of healthy sports in the country, the Government of India had issued comprehensive guidelines in 1975, 1988, 1997 and 2001 and also taken several major initiatives post 2001 *inter alia* implementation of *age and tenure* limits in respect of office-bearers of National Federations. Pursuant thereto the Sports Code encompassing all the earlier orders / notifications / instructions / circulars was published and brought into force with effect from 31.01.2011. It noted that all 53 recognized National Federations have accepted to amend their constitution.

17. The Committee also noted that the National Federations are the primary agencies and nodal authorities for development and promotion of sports in the country.

18. It also noted that the Sports Federation are responsible for manifold activities like holding of sports events, selection of sportspersons for participating in national as well as international events, preparing the sportspersons by providing adequate training, equipment etc., engagement of coaches, conducting coaching camps, providing medical insurance and sports kits to sportspersons etc.

Government also supplements the efforts of National Federations by providing financial assistance for the different tasks assigned to them.

19. The Report records that the Committee was informed that most of the sports federations were headed by the non-sportspersons and the whole federation structure was dominated by non-sportspersons. Position was the same at state level. As a result, all these federations were no more sports-oriented.

20. The Parliamentary Committee in its report *inter alia* concluded as under:

“17.1 National Sports Federations are the main stakeholders which are mandated to work from the grassroot level to identify and nurture the hidden sports talent. NSFs are required to work in close co-ordination with their State counterparts, Ministry, Sports Authority of India, other sports bodies and the Indian Olympic Association. Our young sportspersons’ hopes, aspirations and ambitions are solely dependent on NSFs. Their entry into the competitive sports scenario, both at the national and international level is governed by these NSFs. This study and analysis of the functioning of NSFs by the Committee has brought forth one underlying fact that the goal of every agency/authority connected directly or indirectly with sports is to give the right impetus to uplift the status of sports in all viable disciplines. However, it seems that there are underlying, not very visible factors, resulting in the stakeholders working at cross purposes. In the process, our young aspiring

sportspersons become the victim of circumstances.
.....”

21. Reference may also be had the Statement of Purpose of the Sports Code which, *inter alia* stipulates that *Sport development is a national priority, as it promotes active lifestyle, child and youth development, social inclusiveness, employment opportunities, peace and development, and above all a sense of belongingness and national pride.*

22. It also stipulates that “*even though national sports bodies are autonomous in nature both, the Supreme Court of India and several High Courts have, in various judgments, maintained that although national sports bodies are not ‘State’ within the meaning of Article 12 of the Constitution of India, they come within the writ jurisdiction of High Courts under Article 226 of the Constitution of India because they perform state-like functions such as the selection of national teams and representing the country in international sports events and forums.*”

23. The Sports Code notices that “*Globally, countries across the world have enacted laws or enunciated guidelines for the regulation of sports in public interest and in national interest. The need to regulate sports arises out of several considerations such as the need to prevent racism in sports, eradicate doping in sports, prevent age fraud in sports, protect athletes’ rights, prevent child abuse and*

sexual harassment in sports, protect gender equality in sports, prevent betting and gambling in sports, ban dangerous sports, promote professional management and managerial and financial accountability in sports, address anti-trust and competition policy issues related to sports, regulate sports broadcasting rights, regulate the price and entry to sports events, etc.

24. It also records that Government of India had been, from time to time, taking various steps and initiatives to promote good governance practices in the management of sports at the national level in pursuance of successive *National Sports Policies* which policies were based on the *Basic Universal Principles of Good Governance of Olympic and Sports movement* and did not, in any manner, contradict or interfere with the autonomy of the national sports bodies in discharging their functions and duties in accordance with the International Olympic Committee Charter.

25. From time to time Government of India has been issuing guidelines which are binding on the National Sports Federations as the National Sports Federations regulate and control sports in India. If the National Sports Federations wish to use the name of India, represent India within or outside India, or avail various benefits and concessions, including financial benefits such as customs duty exemption or income tax exemption they have to mandatorily comply with the guidelines issued by the Government of India for regulating

the functioning of these National Sports Federations even though they may be registered in different states under the Societies Registration Act or the Companies Act.

26. Government of India has also taken various steps to further improve the management of the National Sport Federations in the country *inter alia* introduction of annual recognition of National Sport Federations to ensure transparency and accountability of National Sport Federations; enforcement of age and tenure limit in respect of office bearers of National Sport Federations, including the Indian Olympic Association; bringing National Sport Federations under the purview of Right to Information Act; measures to ensure free, fair and transparent elections by the National Sport Federations.

27. A Division Bench of this Court in *Rahul Mehra versus Union of India* 2022 SCC OnLine Del 2438 considering *inter alia* the question as to whether the Age and Tenure limits should be applied to all the members of the Executive Committee and not only to President, Secretary and Treasurer as well as to everyone in the General Assembly *inter alia* held as under:

“Age:

50. *As noted above, the Government has clearly asserted that the age and tenure restrictions should extend to all office bearers. Indeed, even the IOC had advised the IOA that such restrictions should apply not only to the President, Secretary General and Treasurer but also to all Office Bearers and members of the EC.*

51. *In Board of Control for Cricket v. Cricket Association of Bihar (2016) 8 SCC 535, the Supreme Court has held that the upper age limit of 70 years should be applied to all members of the EC of the BCCI along with tenure restrictions for an EC member of not more than three tenures, with a compulsory cooling-off period between two terms. The BCCI Apex Council has been restricted to a nine-member Body, of whom five are to be elected office bearers, while four are to be nominated Councillors; each term is to be for three years; the total period for which a person can be a member or Councillor of the Apex Council is nine years, with a compulsory cooling-off period after each term. In order to ensure that there is an appropriate cooling-off period, no person can be a member of the Apex Council for two consecutive terms. A selected Councillor shall stand automatically disqualified after nine years in office.*

52. *The Sports Code has prescribed 70 years as the upper age limit for Office Bearers of NSFs. Largely, the sporting fraternity has accepted the same as a reasonable limit.*

Tenure:

53. *Clauses 15, 15.4, 15.5, 15.6 and 15.7 of the IOA Constitution, read as under:—*

“15. Tenure of Posts

Office-bearers and Members of Executive Council of the Association shall be elected for a term not exceeding four (4) years as per the procedure for elections defined in Bye-law 1 to the Rules.

They may be eligible for re-election as below:

15.4 *No member shall hold a post of Office Bearer, as defined in Rule 14 upon attaining the age of superannuation as prescribed in the Statutes of the International Olympic Committee (IOC).*

15.5 *No member shall hold one or more Office Bearer Post for more than 5 consecutive terms or 20 years, whichever is less.*

15.6 *No Member shall hold the post of President for more than three consecutive terms or twelve years, whichever is less.*

15.7 *No Member shall hold the post of Secretary General or Treasurer for more than two consecutive terms or eight years, whichever is less, but can contest for the post of President after completion of two terms without a cooling off period."*

(emphasis supplied)

54. *Ex facie these clauses enable perpetuation of a person/group for decades, over the IOA's affairs. They have to be rectified in consonance with the preceding observations, otherwise, the very purpose of democratic representation will be defeated and hegemony of one group or camp could continue for years on end. The induction of fresh talent and vigour would be discouraged. The clauses are contrary to the provisions of Sports Code. Recognition cannot be granted to the IOA till due amendments are made.*

55. *The learned Senior Advocate for the UOI supports the petitioner's contention. He says that the very purpose of providing strict age and tenure restrictions is to prevent the mischief noted in Narinder Batra v. Union of*

India20, ILR (2009) 4 Del 280 as well as in Indian Olympic Association v. Union of India (supra)21.

56. *The Olympic Games are held every four years. The tenure of each EC of the IOA is four years. If an Office Bearer holds the same position for two successive tenures, there will necessarily have to be cooling-off period of one tenure, after which elections for another tenure could be contested. In effect at least, 16 years would have gone by before completion of three tenures by an individual. This is a long period for any person to occupy a position in the top management of a NSF/IOA. In 16 years, subsequent generations of sportspersons, who would have represented India in about four Olympic Games and other international sports competitions, would be knocking at the IOA's doors, to be let in and contribute to better sports administration in the country. Understandably, with equal, if not a greater sense of pride and commitment for the office which they aspire to serve. It is only prudent, therefore, that the tenure of Office Bearers or members of EC be restricted to three tenures with at least one cooling-off period in between, irrespective of the post which the individual occupies in the EC.*

57. *The 1975 Circular provides that “no office bearer shall hold office consecutively for more than two terms or 8 years”. However, the second successive term will have to be secured by a majority of not less than 2/3rd of the members. The term “Office Bearers” has been defined in the Model Election Guidelines. The Government's letter of 01.05.2010 notes that the IOA President can serve for maximum 12 years. The different tenures of President and other office bearers of international organizations such as World Badminton Federation, International Hockey Federation (‘FIH’) and International Governing*

Body of Swimming ('FINA') were also discussed in the said letter. Some of them permit a maximum of two terms in the EC. In that context, the Government fixed a maximum tenure of 12 years for the President. The rationale for limiting the maximum tenure of an individual to 12 years/3 tenures in the EC, irrespective of the position in the EC, has been discussed above. Let it be so implemented by the IOA and NSFs. The maximum term for the President and likewise to all Office Bearers and members of the EC will accordingly be limited to 3 tenures.

(underlining supplied)

28. The Division Bench in *Rahul Mehra (supra)* also considered the question as to whether the Sports Code must be made applicable to the IOA and to every constituent NSFs and to every State and District Level Association and inter alia concluded that:

"102. As has been discussed hereinabove, the legal regime apropos sports administration in India has to be implemented fully and effectively. Compliance with the Sports Code is non-negotiable. If a sports federation does not comply with the law of the land, it will receive no recognition from the Government. All benefits and facilities to it will stop promptly. It is better that a legitimate body represents the cause of sportspersons than one simply masquerading as the real champion of Indian sports. Fairness and legitimacy needs to imbue all public affairs. Recalcitrant entities which defy adherence to rules of the game, while continuing to unjustly enjoy government's largesse and patronage, must be called-out."

(underlining supplied)

29. Concurring with the view expressed in *Rahul Mehra (supra)* by

Najmi Waziri J, Manmohan J supplemented and held as under:

“110. What the present writ petition highlights is that electoral colleges of most of the sports bodies are controlled by a few individuals where genuine sportsmen find it difficult to get elected and play an important role in management. Most of the sports bodies are split down the middle. Even the Electoral College/list of authorised representatives to attend and vote at the General Body meeting of the IOA is seriously disputed.

111. This Court is surprised that the IOA Constitution in vogue stipulates that President of IOA can be for life. Seeing the present Constitution, one is reminded of the mausoleum of first Emperor of China Qin Shi Huang, where terracotta soldiers were buried with the purpose of protecting the Emperor in his afterlife!

112. Despite lapse of a few decades, a preliminary and a small step taken by the Union of India in the form of Circulars/Sports Code have not been accepted by all the sports bodies till date. What is surprising is that even those individuals who agreed to abide by the suggestions of the Union of India & IOC in the minutes of meeting executed between the IOC, Union of India and IOA on 18th June, 2010 voted against their compliance in the General Body of IOA as noted by Union of India in its letter dated 23rd February, 2011.

113. This is baffling as nearly the entire money and infrastructural support is provided by the Central and State Governments.

114. Consequently, this Court is of the view that the Sports Code must be made applicable to every constituent of every NSF, including IOA as well as its constituents. This is conceded by Union of India in its

affidavit dated 3rd October, 2012, wherein it is stated, “In response to para 17 it is submitted that the Government Guidelines of 1st May, 2010 are binding on the National Sports Federations recognized by this Ministry. Be that as it may, as a matter of Basic Principles of Good governance and International Best Practices including restrictions on age and tenure as mandated in the Olympic Charter, what is good for the parent NSF's including IOA should also be good for their Members State/District Level Federations and/or Associations.” Accordingly, respondent No. 1/Union of India is directed not to grant recognition or any facility (monetary or otherwise) to the IOA or to any NSF and/or any of its affiliated Associations, if they refuse to comply with the Sports Code as directed by this Court.

115. Further, those who mismanage the sports bodies and those who have converted the sports bodies into their personal fiefdoms, dare the Government/Authorities and Courts that if they try to democratize the sport association and remove the mis-management, the country would suffer derecognition and the Indian sportsmen would not be able to participate under the country's flag in the immediate future. In fact, the respondents have tried their best to brand the ‘problem solver’ (i.e. the Court/Government) as the ‘problem’.

116. It is high time that structural reforms are implemented to remove the mis-management in the sports bodies and to democratize these institutions. The Central and State Governments may well consider passing a comprehensive legislation with regard to recognition and management of sports bodies incorporating the best practices and the IOC Charter without which no facility (monetary or otherwise) should be granted by any State and Union of India.

117. This Court clarifies that the intent of the judgment is to improve the 'eco system' and bring about structural reforms and is not directed against a particular individual or sports federation."

(underlining supplied)

30. The Supreme Court of India by its order dated 03.08.2022 in *All India Football Federation versus Rahul Mehra, S.L.P. (Civil) 30748-30749 of 2017*, while recognising the tenure and age limit requirement, directed that the elections should be held in conformity with the Sports Code and be consistent with provisions of Article 26 of the draft constitution of the All India Football Federation which provides for the tenure and age limit and directed that the persons chosen as representatives shall have to conform to the said Article 26.

31. At this juncture it would be expedient to refer to the case of *Mahipal Singh (supra)*. The Petitioners in *Mahipal Singh (supra)* had approached this court alleging the hegemonic control exercised over AKFI by Respondent No. 4 therein i.e. Mr. Janardhan Singh Gelhot and his wife Mrs. Mridula Gehlot (Respondent No. 5 therein). Challenge was *inter alia* made to the amendment of the constitution of AKFI, whereby Respondent No. 4 therein was made the Life President and Respondent No. 5 therein was enabled to be nominated as the President of AKFI.

32. This court in its Judgment dated 03.08.2018 allowed the Writ Petition and directed as under:

“77. In view of the above discussion, we allow the present writ petition. Resultantly, Clauses 8.9, 15.22, 15.8 and 17.2 of the amended MOA of the AKFI, are struck down as illegal. The appointment of Respondent No. 4 as Life President of the AKFI, is also, consequently, declared illegal. Equally, the election and consequent appointment of Respondent No. 5, as President of the AKFI, on 19th May, 2013 and 23rd April, 2017, are also declared illegal, and are accordingly quashed and set aside.

78. Given the totally clandestine and surreptitious manner in which the provisions of the MOA were illegally amended, in order to enable Respondent No.5 to contest for the post of President, we further direct that Respondent No. 5 render accounts of all financial benefits, which have enured to Respondent No. 5, as and in her capacity as President of the AKFI since the time of her appointment to the said post on 19th May, 2013 until date, and the same be recovered from her, forthwith.

79. Additionally, in view of the apparent anarchy, prevailing in the affairs of the AKFI, owing to the machinations of Respondents No. 4 and 5, we are of the opinion that it would be necessary, to preserve the very existence of the AKFI, to entrust its control and affairs to an impartial Administrator. We, therefore, issue additionally, the following directions:

- (i) We appoint Shri Sanat Kaul, IAS (Retd.) as Administrator, who would, till further orders, take over control of the AKFI, and administer all its affairs. He shall stand substituted in place of the President of the AKFI, and shall be entitled to exercise all powers which existed, heretofore, in the President of the AKFI.*

- (ii) *The Administrator shall ensure that the Electoral College of the AKFI is prepared, and elections held, in accordance with the Model Election Guidelines, within three months thereof.*
- (iii) *The body so elected shall carry out the amendments to the MOA, to bring it in conformity with the NSCI.*
- (iv) *Once this is done, a fresh round of elections shall be carried out, as per the amended MOA and in terms of the NSCI, ensuring that all stipulations in the NSCI, including age and tenure restrictions, are strictly complied with.*
- (v) *The entire exercise shall be carried out within a period of six months from today.*
- (vi) *The AKFI shall make available to the Administrator an appropriate office space and facilities for the discharge of the aforesaid directions and make available such staff and personnel as the Administrator may express the need for. Alternatively, the Administrator may appoint such personnel to assist him in the aforesaid matter and expense towards the same shall be borne by the AKFI.*
- (vii) *Till the elections are conducted and results declared in consonance of the NSCI and in compliance with the preceding directions, the AKFI shall not make any new financial commitments except with the prior approval of the Administrator. Routine expenses of AKFI too shall be defrayed, with the due prior approval of the Administrator.*

- (viii) *The Administrator would submit a three-monthly report, to this Court, so as to enable this Court to be satisfied that the affairs of the AKFI are in order. The monthly remuneration of the Administrator is fixed at ₹ 1,00,000/- per month apart from miscellaneous expenses, tour and travel, secretarial assistance, etc., on actuals which would be disbursed, by the 5th of every month, by Respondent No. 1.*
- (ix) *The Bank accounts and other assets of AKFI shall be handed, and dealt with, only by the Administrator, or such other person (s), whom he may choose to depute/appoint in this regard.”*

33. Subsequently, the Administrator was changed and Mr. Justice S.P. Garg (retired) former Judge of this Court was appointed as the Administrator.

34. Pursuant to the directions issued in *Mahipal Singh (supra)*, an interim body was elected and the amendments were carried out to the Memorandum of Association/Constitution of AKFI. However, it is contended that some of the amendments that were carried out to the Memorandum of Association/Constitution of AKFI are contrary to the directions issued by this court in *Mahipal Singh*.

35. It is pointed out by Ms Nandita Rao learned Counsel appearing for the Administrator that the interim body, besides carrying out amendments to the Constitution to bring it in conformity with the Sports Code has made certain amendments that in fact give an

opportunity to the State Bodies to defy the directions of AKFI and violate the Sports Code.

36. Reference maybe had to Clause 3 of the Constitution of AKFI which stipulates as under:

“3. *Jurisdiction: The jurisdiction of the federation will extend to all states and union territories (U.T) of India having governing bodies of Kabaddi (as described in 8.2), which accept and agree to abide by the provisions of this constitution and rules framed by AKFI. The jurisdiction will also extend to the Institutions and/or organizations of any nature including NGO's of all India Nature having either governing bodies for Kabaddi and/or Sports like Services Sports Control Board, Railway Sports Promotion Control Board etc.*”
(underlining supplied)

37. Clause 3 of the Constitution of AKFI stipulates that its jurisdiction would extend to all states and union territories that accept and agree to abide by the provision of the AKFI constitution and rules framed by AKFI.

38. Further as noticed hereinabove in *Rahul Mehra (supra)*, the Division Bench has clearly held that the Sports Code must be made applicable to every constituent of every National Sports Federation. Only its players will have an opportunity to participate in district, state and national level events and avail of the facilities that are made available by the AKFI and the Government and even have an

opportunity to represent India in international level events.

39. Once a district or state body becomes part of the AKFI, it is entitled to several benefits and facilities. The National Sports Federations work from the grassroot level to identify and nurture the hidden sports talent. NSFs have to work in close co-ordination with their State counterparts, Ministry, Sports Authority of India, other sports bodies and the Indian Olympic Association. Young sportspersons' hopes, aspirations and ambitions are solely dependent on NSFs. Their entry into the competitive sports scenario, both at the national and international level is governed by these NSFs. The goal of every agency/authority is to give the right impetus to uplift the status of sports in all viable disciplines.

40. The object of the Sports code is to *inter alia* promote active lifestyle, child and youth development, social inclusiveness, employment opportunities, peace and development, and above all a sense of belongingness and national pride. There is a need to promote professional management and managerial and financial accountability in sports, address anti-trust and competition policy issues related to sports. Steps and initiatives have been taken by the Government to promote good governance practices in the management of sports.

41. What could be a more glaring example of misuse of position than that in the case of AKFI where one individual, who was elected

as its president in 1984 continued as its president till 19.05.2013, without a single election and on his presidency coming to an end, it devolved upon his wife who was not only a complete stranger to all the member Units of the AKFI, but was a practicing gynecologist.

42. It has been held in *Mahipal Singh (supra)* “While handing over the reins of the AKFI to his wife, he ensured that his pre-eminence remained undisturbed, by creating, for himself, a post of “Life President”, having himself appointed thereto, and permitting himself, as Life President, to represent the AKFI at all international sports fora.” His wife also had two terms as President of the AKFI till her election and the Life Presidency was declared illegal in *Mahipal Singh (supra)*.

43. In view of the above, it is held the ‘age and tenure restriction’ on the members of the Governing Body imposed by the National Sports Development Code of India 2011 applies not only to the Amateur Kabaddi Federation of India but also to all its constituents at the State and District Level.

44. Further, the representatives of the State Associations to the National Federation have to be compliant of the ‘age and tenure restriction’ imposed by the Sports Code and likewise the representatives of the District Associations/bodies to the State Association have to be compliant of the ‘age and tenure restriction’

imposed by the Sports Code.

45. Clause 8.4 of the Constitution of AKFI defines the General Assembly of AKFI to mean and includes the Representatives deputed by the Member Units in accordance with the Rules of AKFI.

46. Clause 15.4 of the Constitution of AKFI dealing with “*Authorisation to attend the General Body Meeting*” in clause 15.4.1. stipulates that *Affiliated Members will forward the names of the representatives who should be the members of the Affiliate Member unit, entitled to attend the Annual General Meeting 15 days prior to the holding the Annual General Meeting in which the elections of AKFI are scheduled, to the secretary of AKFI. Preferably the President and Secretary of the affiliated Member unit should attend the meeting in person, but if they are unable to attend the meeting, they should nominate a person by joint signatures authorizing him/her to attend the meeting. In case of a dispute between President and Secretary the Nomination(s) done by the President will prevail.*”

47. Clause 16 of the Constitution of AKFI dealing with the procedure for election of the members of the Executive Council in Clause 16.3.1 stipulates that “*the right of exercising the vote will vest in the President and Secretary of the State Kabaddi Association and Kabaddi Associations of Union Territories. As an exception the President and/or Secretary if are unable to attend the meeting, the*

State or U.T Kabaddi Association will nominate a representative by name to attend the meeting of the General Assembly. This nomination should be done by the signatures of both i.e., President and Secretary. In case of a dispute between President and Secretary the Nomination(s) done by the President will prevail.

48. Accordingly, as per the Constitution of AKFI, it is the President and Secretary of the affiliated Member unit who have to attend the General Body Meeting, however, if they are unable to attend or are disqualified that they can jointly nominate their representative. If there is a dispute on the nomination, then the nomination by the President shall prevail. However, the nominated person should be qualified to attend.

49. The District Associations/bodies and/or State Association are also liable to comply with the '*age and tenure restriction*' imposed by the Sports Code and if they fail or refuse to comply with the same, they would be liable for action which may entail disaffiliation and/or removal as a recognized District and State constituent of the AKFI.

50. Now coming to the dispute with regard to the amendment carried out by the Interim Body to the Constitution of AKFI pursuant to the directions in *Mahipal Singh (supra)*.

51. It is pointed out by Ms. Nandita Rao, learned Counsel appearing for the Administrator, that the Interim body did not inform

the Administrator about the amendments carried out and merely filed them with the Registrar of Societies.

52. It is submitted by Ms. Rao that instead of carrying out amendments to the Constitution, amended and adopted on 07.01.2012, amendments were carried out on 09.03.2019, 05.05.2019 and 18.06.2019, to an amended constitutions dated 02.01.2018 and 02.07.2018 which were not filed on the record of the Registrar of Societies.

53. It is pertinent to note that the Interim body, which was mandated to amend the constitution of AKFI to bring it in conformity with the Sports Code, *inter alia* deleted Clause 15.10 and amended Clause 30 which would militate against the Sports Code.

54. However, as the challenge is to some of the clauses and the purpose is to bring it in conformity with the Sports Code, reference is made only to the Clauses that are in derogation to the Sports Code.

55. The deleted Clause 15.10 prior to its deletion on 10.03.2019 stipulated as under:

“15.10 Holding of Office – No office-bearer of AKFI will be eligible to be office bearer simultaneously in any other National Sports Federation, excluding Indian Olympic Association.”

56. Clause 3.6 of Annexure –II of the Sports Code prescribing for

Guidelines for Recognition of National Sports Federations provides that “3.6 No office bearer of a National Federation shall hold office simultaneously, in any other National Federation, excepting the Indian Olympic Association.”

57. Clearly the deletion of Clause 15.10 from the constitution of AKFI is in derogation to the Sports Code and was beyond the clear mandate of the Interim Body and thus cannot be countenanced.

58. Further, the following table depicts a comparison in the Clause 30 of the Constitution of AKFI prior and post the amendment by the Interim Body:

<u>Pre amendment</u>	<u>Post amendment</u>
30. The Affiliated Member Units will abide by the Constitution of AKFI.	30. The Affiliated Units will abide their obligations if any under the constitutions of AKFI, however, for the purpose of their own organisation, they shall continue to be governed by the respective state legislation(s) applicable to them

59. Comparison of Clause 30, pre and post amendment, shows that the amendment would give an opportunity to the State Bodies to defy the directions of the AKFI and violate the Sports Code. Clearly this

was not the mandate of this court in *Mahipal Singh (supra)*, when this court directed that “*the body so elected shall carry out the amendments to the MOA, to bring it in conformity with the NSCI.*”

60. As noticed above, the amendments carried out to Clause 15.10 and 30 violate the Sports Code and are contrary to the directions in *Mahipal Singh (supra)* and accordingly are quashed. The Original Clause 15.10 and Clause 30, extracted hereinabove, are restored.

61. The sequitur of the above is that all the State and District Associations and bodies, if they want to continue to be members of the AKFI would have to amend their Memorandum of Associations/Constitutions and bring them in conformity with the Sports Code particularly in respect of the *Age and Tenure restrictions* imposed by the Sports Code.

62. Since the AKFI continues to be under the control of the Administrator and elections of the Executive Committee of AKFI have to be held, the petitions are disposed of in the following terms:

- (i) *the ‘age and tenure restriction’* on the members of the Governing Body imposed by the National Sports Development Code of India 2011 applies not only to the Amateur Kabaddi Federation of India but also to all its constituents at the State and District Level; and
- (ii) the amendments carried out to Clause 15.10 and Clause 30 of the AKFI Constitution are quashed. The Original Clause 15.10 and Clause 30, extracted hereinabove, are restored; and

- (iii) all the State and District Associations and bodies, if they want to continue to be members of the AKFI have to amend their Memorandum of Associations/Constitutions and bring them in conformity with the Sports Code particularly in respect of the *Age and Tenure restrictions* imposed by the Sports Code; and
- (iv) if, the District Associations/bodies and/or State Association refuse or fail to comply with the '*age and tenure restriction*' imposed by the Sports Code, they would be liable for action which may entail disaffiliation and/or removal as a recognized District and State constituent of the AKFI; and
- (v) the representatives of the State Associations to the National Federation have to be compliant of the '*age and tenure restriction*' imposed by the Sports Code and likewise the representatives of the District Associations/bodies to the State Association have to be compliant of the '*age and tenure restriction*' imposed by the Sports Code; and
- (vi) if the representatives of the State Associations to the National Federation and the representatives of the District Associations/bodies to the State Association are not compliant of the '*age and tenure restriction*' imposed by the Sports Code, then they shall not constitute the electoral college and shall be disqualified from contesting for any post of the executive committee and also from casting their vote for such an election; and
- (vii) the State Associations and the District Associations, after the expiry of the term of the existing Executive Committee, shall hold fresh elections strictly in accordance with the '*age and tenure restriction*' imposed by the Sports Code; and

The Neutral Citation number : 2023/DHC/000974

- (viii) the election notification dated 07.08.2019 for elections to the AKFI and the notification of the electoral college of AKFI issued by the Administrator are quashed; and
- (ix) the Administrator shall prepare and notify the schedule for the holding of the elections of the office bearers of AKFI in accordance with these directions, which should not be later than 3 months from the date of this order; and
- (x) the President and Secretary of the affiliated Member unit should attend the General Body Meeting of AKFI, however if the President and Secretary of an affiliated member are unable to attend or are not compliant of the '*age and tenure restriction*' imposed by the Sports Code, they may nominate, in accordance with the Constitution of AKFI, a person who is compliant. If there is a dispute on the nomination, then the nomination by the President shall prevail.

63. Petitions are disposed of in the above terms.

64. I would like to place on record my appreciation for the able assistance rendered by the learned counsels appearing for the parties particularly by Dr. Menaka Guruswamy, Senior Advocate, Ms. Nandita Rao, Ms. Prerna Singh and Mr. A. Ushi Reddy Advocates.

SANJEEV SACHDEVA, J.

FEBRUARY 10, 2023

HJ