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

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Decided on: 6th April, 2023

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CS(OS) 576/2018**HARYANA CARROM ASSOCIATION & ORS. Plaintiffs****Represented by: Mr.Jai Sahai Endlaw, Advocate.****versus****ALL INDIA CARROMM FEDERATION & ORS. Defendants****Represented by: Mr. Atif Suhrawardy, Adv. for D-1&4.****Mr. V.D. Narayan/D-3 in person.****CORAM:****HON'BLE MS. JUSTICE MUKTA GUPTA****I.A. 1241/2020 (delay of 37 days in filing addl. Counter affidavit)**

1. In view of the reasons stated in the application, the delay of 37 days in filing additional counter affidavit is condoned.
2. Application is disposed of.

CS(OS) 576/2018

1. The present suit was filed in representative capacity by 13 plaintiffs, i.e., Carrom Associations of Haryana, Tamil Nadu, Hyderabad, Mizoram, Tripura, Uttar Pradesh, Assam, Rajasthan, Kerala, Orissa, Pondicherry, Punjab and Gujarat impleading All India Carrom Federation (in short AICF), Rakibul Hussain, V.D. Narrain, P.S Bachher, Mahesh Sekhri, Mukul Kumar Jha, Dinanath Pilarnekar, Prem Dass and P.S. Datta as defendants No.1 to 9.
2. In the suit, plaintiffs have prayed for a decree of declaration declaring that the Electoral College published by defendant No.1/(AICF) on 4th November, 2018 as illegal, null and void; declaring that the order dated 10th

November, 2018 passed by defendant No.1 along with the list of valid nomination as illegal, null and void, mandatory injunction directing defendant No.1 to include the names submitted by the plaintiffs to defendant No.1 for preparation of Electoral College, decree of permanent injunction directing defendant No.1 to constitute a proper valid Electoral College and hold elections for the post of office bearers of defendant No.1 strictly in accordance with Sport Code and rules and regulations of defendant No.1, injunction restraining the defendant No.3, 5 to 8 from contesting the elections to be held on 18th November, 2018. The plaint was filed by S.K. Sharma claiming to be the authorized representative of all the plaintiffs.

3. The suit came up for hearing before this Court on 14th November, 2018 when summons in the suit were issued to the defendants returnable on 22nd January, 2019. In I.A. 15492/2018 seeking ex-parte ad-interim injunction, this Court while issuing notice for the date fixed, permitted the election to be held on 18th November, 2018, however, directed that the representatives of the plaintiffs shall be allowed to cast their vote separately, which shall be kept in a sealed cover and that the result of the election shall be subject to further orders that may be passed by this Court. Defendant No.1 and 7 were also directed to ensure that the complete record of the election including the electoral list, ballot papers are duly preserved and kept in a sealed cover for scrutiny of the Court, if so required. Further, I.A.15653/2018 was filed by the plaintiffs which came up for hearing on 16th November, 2018, inter alia, praying directions to defendant No.1 to 9 to accept and include candidates nominated by the plaintiffs in the List of Nominated Candidates for contesting the elections on 18th November, 2018 and include their names in Form-4. On the said application, this Court

passed the ex-parte ad-interim order directing that the candidates nominated by the plaintiffs be also allowed to contest the forthcoming elections. This Court reiterated that all votes cast by the plaintiffs would be kept in a sealed cover.

4. The defendant No.1 and 4 entered appearance, and on 27th March, 2019, learned counsel for the plaintiffs and defendant No.1 and 4 stated that the suit can be disposed of based on the pleadings and the documents on record. Learned counsel for the defendant No.1 stated that he is supporting the stand taken by defendant No.4 in the written statement. Subsequently, defendant No.3 also appeared in person, who also adopted the written statement of defendant No.4. Since none had appeared for defendants Nos.2, 5, 6 and 9 despite service, they were proceeded ex-parte vide order dated 16th September, 2019.

5. Learned counsel for the plaintiffs stated that he does not seek any relief against defendant No.7 and 8 and they be deleted from the array of parties. Accordingly, defendant No.7 and 8 were deleted from array of parties and an amended memo in this regard was filed by the learned counsel for the plaintiff. Considering the fact that the written statement had been filed by defendant No.4 and defendant No.1 & 3 adopted the written statement filed by defendant No.4 and rest of the defendants had been proceeded ex-parte, in terms of the earlier order of the Court noting that the suit could be decided based on the pleadings and the documents, this Court proceeded to hear the suit and applications on merits itself.

6. However, before proceeding to hear the suit, the Court sought for nominations sent by each of the State/ Union Territories Association to the

defendant No.1 to find out whether the so-called list prepared by defendant No.4 was in consonance with the rules and regulations of defendant No.1. All original records of defendant No.1 relating to the elections conducted pursuant to the undertaking before this Court in W.P.(C) 3314/2016 was also directed to be produced before this Court. The suit and applications were listed for 9th October, 2019. On 9th October, 2019 this Court directed presence of defendant No.1 to file an affidavit as to the basis on which the representation of the 13 associations, who are the plaintiffs before the Court, were not permitted to cast their votes initially. The President/ General Secretary of defendant No.1 pursuant to the elections held in the year 2012 was also directed to be present in Court. Pursuant thereto affidavits of Rakibul Hussain, President of defendant No.1 was filed.

7. Case of the plaintiffs in the suit is that on 22nd July, 2012 the last valid election for the post of office bearers of defendant No.1 was conducted. Thereafter, the election conducted in 2015 was declared as null and void by the Ministry of Youth Affairs and Sport on 4th February, 2016. The validity of the letter dated 4th February, 2016 issued by the Central Government to the extent it directed the defendant No.1 to conduct fresh elections in a fair and transparent manner strictly in accordance with law was challenged before this Court in W.P.(C) 3314/2016 wherein vide order dated 6th August, 2018 the Single Bench of this Court upheld the validity of the letter dated 4th February, 2016 issued by the Central Government. Aggrieved by the order dated 6th August, 2018 defendant No.3 herein filed L.P.A. No. 526/2018 titled as '*All India Carrom Association Vs. Union of India & Ors*' which appeal is pending, however the operation of the judgment dated 6th August, 2018 in W.P.(C) 3314/2016 has not been stayed

in the appeal. On 22nd October, 2018 defendant No.1 undertook to hold the election for the office bearers of the All India Carrom Federation within 30 days before the Division Bench. Defendant No.1 acting through defendant No.4 released an election notice intimating to all the States/ Union Territories Associations that the elections for the posts of 24 office bearers of the defendant No.1 would be held on 18th November, 2018 at New Delhi. On 4th November, 2018 defendant No.4 herein on behalf of defendant No.1 published the list of Electoral College in respect of the elections to be conducted on 18th November, 2018, which according to the plaintiffs arbitrarily excluded names of several candidates and included candidates who were ineligible for the said post. Plaintiffs made several representations to the Returning Officer as well as Court observer regarding the arbitrary electoral college, however no action was taken and the Returning Officer allowed ineligible persons to continue to participate in the elections to the prejudice of the plaintiffs resulting in the plaintiffs filing the suit.

8. Responding to the suit defendant No.4 filed a written statement which has been adopted by defendant No.1 and defendant No.3 wherein the two major preliminary objections taken are that S.K. Sharma, who has filed the suit on behalf of the plaintiffs is not a duly recognized and authorized agent of the plaintiff Associations. It was further contended that the special power of attorney executed by the alleged associations have been executed by the so-called members in their individual capacity and not on behalf of the Associations. While issuing authorization in favour of S.K. Sharma, there is no disclosure about the designation held by such person. Further, there is no special power of attorney from plaintiff No.4 in favour of S.K. Sharma. It

was stated that the elections for the office bearers of defendant No.1 were held on 18th November, 2018 in the presence of a retired Judge of this Court appointed as observer vide the judgment dated 6th August, 2018 in W.P.(C) 3314/2016. Pursuant to the directions of this Court dated 14th November, 2018, the representatives of the plaintiffs were allowed to cast their votes separately, which were kept in a sealed cover and two separate partitions were made one for casting the votes by members of the Electoral College and another for representatives of the plaintiffs. Each representative of the plaintiffs was given an envelope with complete set of 13 ballot papers for different posts and after casting their votes each and every envelope was sealed in the presence of candidates and observer and the sealed envelope was put in a box which was sealed by the Returning Officer in the presence of observer. Finally, after counting and recording the votes of members of the Electoral College in the presence of observer, the Returning Officer declared the result which was duly signed by the observer.

9. Defendant No.4 further states that defendant No.1 is a National Sports Federation and responsible for promoting/ managing its administrative affairs, conducting championships at national level and selecting and sending Indian Carrom Teams at international competitions. As per the guidelines of the Government of India and the constitution of defendant No.1, only State Carrom Associations are eligible to be the members of defendant No.1. Therefore, defendant No.1 has 31 States/UTs Associations as its members. Every National Sports Federation is required to follow the Model Election Guidelines issued by the Ministry of Youth Affairs and Sports, Govt. of India (in short 'the MYAS'). It is stated that S.K. Sharma, the so-called authorized representative who has filed the suit on behalf of

the plaintiff associations remained General Secretary of defendant No.1 for a period of 17 years from 1995 to 2012 and had to vacate his position due to the National Sports Code made applicable by the Govt. of India on all National Sports Federations of India. Consequent to the general election results of 2012 for the defendant No.1, P.S. Bachher took over as General Secretary, however being a new person, he was dependent on S.K. Sharma who had a long tenure and thus knew of all the practices and procedures of the defendant No.1. Further, Headquarter of AICF is in New Delhi and S.K. Sharma is a resident of Gurgaon whereas, P.S. Bachher is a resident of Akola, Maharashtra, hence, S.K. Sharma continued to act as de-facto President, which fact was later realized by P.S. Bachher and also that S.K. Sharma was indulging in illegal and unethical actions in relation to the day-to-day working of the federation. From August 2014, S.K. Sharma started acting contrary to P.S. Bachher. S.K. Sharma sought the resignation of P.S. Bachher, however since P.S. Bachher did not listen to him and performed his duties, S.K. Sharma filed a Court case in March, 2015 seeking stay of the Annual General Meeting of the defendant No.1 wherein no stay was granted. Subsequently, S.K. Sharma also circulated a false document stating that P.S. Bachher has been suspended by Govt. of India due to which the entire working of defendant No.1 got paralyzed for about 4 years. Finally, this Court vide judgment dated 6th August, 2018 in W.P.(C) 3314/2016 held that P.S. Bachher was never suspended. Thereafter, by filing the present suit and application S.K. Sharma and his associates are trying to paralyze the functioning of defendant No.1. The newly elected committee after taking charge on 19th November, 2018 started organizing various tournaments/ games.

10. Based on the pleadings of the parties, the two issues that arise for determination are:

- (i) Whether the suit instituted by S.K. Sharma is valid or not or liable to be dismissed for no proper authorization, and
- (ii) Whether the suit filed by the plaintiff associations is liable to be decreed in terms of the prayers made.

MAINTAINABILITY

11. The defendant No.1, 3 and 4 have seriously objected to the maintainability of the present suit claiming that S.K. Sharma has no *locus standi* to maintain the suit. According to the defendants, the power of attorneys executed in favour of S.K. Sharma by plaintiffs No.2 to 13 are not accompanied by any resolution of the respective associations and the said attorneys issued by individual members of the State Association authorizing S.K. Sharma can at best give him the authority to act on behalf the said individuals. The individuals who had authorised S.K. Sharma to initiate the present litigation have not attached any resolution passed by the Management Committee of their respective State Association authorising them to initiate the present suit on behalf of the respective State Association. It was thus the case of the defendant that it was only the individuals who have executed the Special Power of Attorney in favour of another individual i.e. S.K. Sharma, to take decision on their behalf in their individual capacity. Reliance was placed on the decision cited as AIR 1993 Del. 96 Kanti Chaudhari vs. Indian Olympic Association, wherein the Court had held that individuals did not have any locus to litigate on behalf of the Federation in their individual capacity. Furthermore, there is no special power of attorney

executed in favour of S.K. Sharma on behalf of plaintiff No.4 i.e. Mizoram Carrom Association. It was further contended that S.K. Sharma, was banned by the International Carrom Federation (in short, “ICF”), which is defendant No.1’s parent body, and, therefore, S.K. Sharma cannot hold any valid authority to represent the plaintiffs and pursue the present suit. The defendant also objected to the manner in which the power of attorneys have been executed in favour of S.K. Sharma on the ground that within one day power of attorneys in favour of S.K. Sharma have been executed in different States and it is impossible for a person to be present in different States on one day. It was also pointed out that all the SPAs in favour of S.K. Sharma have identical wordings.

12. Refuting the contention that a ban was imposed on S.K.Sharma by the International Carrom Federation, learned counsel for the plaintiffs submitted that the letter of the ICF relied by the defendants was issued without any authority and this fact stands clarified by the letter of the ICF dated 19th May, 2018. Thus, the so called ban on S.K.Sharma having been lifted much prior to the filing of the suit, the present suit has been validly instituted. Learned counsel for the plaintiff pointed out that there is no objection to the maintainability of the suit qua plaintiff No.1 and hence, a valid action being maintainable qua plaintiff No.1 the suit cannot be dismissed on the ground of maintainability.

13. It was further submitted by learned counsel for the plaintiff that lack of power of attorney is an irregularity which can be cured at any stage of the trial for which reliance was placed on the decision reported as 2010 SCC OnLine Del. 3952 Mrigendra Pritam Vikramsingh Steiner and Ors. vs. Jaswinder Singh & Ors. Thereafter, on the matter being listed for

clarifications on 8th December, 2022, learned counsel for the plaintiffs also brought on record Special Power of Attorneys along with affidavits and resolutions on behalf of all the plaintiff State Associations except the State Association of Tripura, Mizoram and Punjab. As regards the Tripura Carrom Association, plaintiff No.5, their dispute with the defendants stood resolved and therefore, no documents on their behalf were brought on record; as regards Mizoram Carrom Association/plaintiff No.4 and Punjab Carrom Association/plaintiff No.12, fresh Special Power of Attorneys and resolutions have been placed on record, however, affidavits ratifying the actions of S.K. Sharma in respect of the present suit have not been placed on record. Further, even with the suit, SPA of Sh.Mohinder Khanna in favour of S.K.Sharma for Punjab Carrom Association was on record. It was also submitted that till date none of the plaintiffs' associations have ever come forward to object to the authority of S.K. Sharma, to file and contest the present suit on their behalf and therefore, in view of the resolutions and the power of attorneys as aforesaid, as also the affidavits by the State Associations ratifying the execution of SPA in favour of S.K. Sharma, the primary objection of the defendant qua the authority of S.K. Sharma does not survive.

14. After the filing of the above-said power of attorneys, resolutions and affidavit on 8th December, 2022, learned counsel for defendants took the plea that all these SPAs which were placed on record were dated post the institution of the present suit and, therefore, on the date of the institution of the suit, S.K. Sharma neither had any authority nor the mandate of the State Associations to file and contest the present suit and therefore, S.K. Sharma was not the "Recognised Agent" as per Order III Rule 2 (a) of the Code of

Civil Procedure, 1908 ('CPC'). It was also contended that neither the original resolutions prior to the institution of the suit nor the notice and minutes of meeting wherein the decision to file the present suit by the State Associations was taken, were brought on record by the plaintiffs.

15. Countering this contention put forth on behalf of the defendants, learned counsel for the plaintiffs brought on record the minutes of meeting of Telangana Carrom Association/plaintiff No.3 (formerly known as "Hyderabad Carrom Association"), Rajasthan Carrom Association/plaintiff No.8, Orissa State Carrom Association/ plaintiff No.10 and UT Pondicherry Carrom Association/plaintiff No.11.

16. This Court finds merit in the contention of learned counsel for the plaintiffs that non-filing of power of attorney or defective power of attorney on behalf of the Associations is not a ground for dismissal of suit, rather is a procedural irregularity which can be cured at any stage during trial and before the judgment is pronounced. In the decision cited as Mrigendra Pritam Vikramsingh Steiner (supra), it was held:

"29. Further merely by stating that the statement made in this paragraph are true on the basis of information received or belief to be true is sufficient compliance and is not necessary in the verification clause to disclose the grounds or the source of information with regard to the averments which are based on the information received. Reliance in this regard is placed on AIR 1995 Rajasthan 50. Similarly, so far as the contention of the learned counsel for the plaintiff with regard to the maintainability of the plaint itself on account of lack of power of attorney is concerned, the said power of attorney is not attached as Annexure 1 to the suit this is at best an irregularity which can be cured at any stage of the trial. The plaintiff has chosen to file an affidavit adopting supporting all the acts which have been done by her mother during the

hearing of the case. Having chosen to file the said affidavit the Court feels that there was sufficient authority with the mother of the plaintiff of Baljeet Dhillion to file the present suit against the defendant. Therefore, lack of authority, defective verification or even the absence of the affidavit are at alleged irregularities which can be cured during the trial.

(Emphasis supplied)

17. At the time of filing the suit, SPA in favour of S.K. Sharma was filed by the Tamil Nadu Carrom Association/plaintiff No.2, Hyderabad Carrom Association/plaintiff No.3, Tripura Carrom Association/plaintiff No.5, Uttar Pradesh Carrom Association/ plaintiff No.6, Assam Carrom Association/plaintiff No.7, Rajasthan Carrom Association/plaintiff No.8, Kerala State Carrom Association (Regd.)/plaintiff No.9, Orissa State Carrom Association/plaintiff No.10, U.T.Pondicherry Carrom Association/ plaintiff No.11, Punjab Carrom Association/plaintiff No.12 and Gujarat Carrom Association/plaintiff No.13. Thereafter, as noted above, SPAs and resolutions in favour of S.K.Sharma were filed by the Carrom Associations of Tamil Nadu, Telangana (formerly known as Hyderabad Carrom Association), Mizoram, Uttar Pradesh, Assam, Rajasthan, Kerala, Orissa, U.T.Pondicherry, Punjab and Gujarat. Further, affidavits ratifying actions of S.K.Sharma were filed on behalf of Carrom Associations of Haryana, Tamil Nadu, Telangana (formerly known as Hyderabad Carrom Association), Uttar Pradesh, Assam, Rajasthan, Kerala, Orissa, U.T.Pondicherry and Gujarat. Furthermore, minutes of meeting on behalf of Telangana Carrom Association/plaintiff No.3 (formerly known as “Hyderabad Carrom Association”), Rajasthan Carrom Association/plaintiff No.8, Orissa State Carrom Association/ plaintiff No.10 and UT Pondicherry

Carrom Association/plaintiff No.11 were placed on record. Even otherwise, S.K. Sharma had also filed a fresh affidavit dated 7th December, 2022, by which he sworn to be the authorised representative of Haryana Carrom Association/ plaintiff No.1 and that out of the total 13 plaintiff associations, 11 associations had duly authorised him. Therefore, perusal of these documents clearly shows that S.K. Sharma is duly authorised to represent 11 plaintiff associations i.e. plaintiffs No.1, 2, 3, 5, 6, 7, 8, 9, 10, 11 and 13. The decision of this Court in Kanti Chaudhari (supra) relied upon by learned counsel for the defendant would not be thus applicable to the facts of the present case.

18. As regards the second objection of the defendants objecting to the manner in which several SPAs filed with the plaint were executed on the same day, it may be noted that on 5th November, 2019 plaintiffs No.5 to 8 and 10 executed SPAs in favour of S.K. Sharma out of which, person authorizing the SPA on behalf of plaintiff No.5 was in Agartala; persons representing plaintiff Nos.6, 7, 8 were in Delhi and person representing plaintiff No.10 was in Bhubaneswar, Orissa. Further, plaintiff No.3, 12 and 13 executed SPAs in favour of S.K. Sharma on 6th May, 2019 wherein, the person authorizing on behalf of plaintiff No.3 was at Hyderabad whereas, person representing plaintiff No.12 was at Barnala, Punjab and plaintiff No.13 was at Vadodara, Gujarat. On 7th November, 2019 Special Power of Attorney by persons representing plaintiff No.2 and 11 were executed, and the persons authorising were present at Chennai and Pondicherry respectively. Person representing plaintiff No.9 executed the SPA in favour of S.K. Sharma on 8th November, 2019 at Trivandrum. Thus, the improbability, if any, as per learned counsel for the defendant is in the SPAs

executed on 5th and 6th November, 2019. As noted above, on 5th November, 2019 three SPAs were executed at New Delhi, whereas one each was executed at Agartala and at Bhubaneswar. As regards SPAs dated 6th November, 2019 one was executed at Hyderabad, the other at Barnala, Punjab and the third at Vadodara. In the present-day scenario, people taking number of flights and visiting number of States on the same day is not improbable, though difficult, and in the absence of the individuals who have executed the SPAs refuting the genuineness of the Special Power of Attorneys, SPAs cannot be held to be fictitious and the suit cannot be rejected on this ground. Hence, the objection of learned counsel for the defendants with regard to the maintainability of the suit on this count is rejected.

19. The suit on behalf of plaintiff No.1 was also filed by S.K. Sharma and the only objection taken by the defendant qua plaintiff No. 1 was that ban was imposed by International Carrom Federation ('ICF') on S.K. Sharma, and therefore, the suit on behalf of plaintiff No.1 was also not maintainable. In this regard learned counsel for the defendant relied upon two letters issued by ICF. In response thereto, learned counsel for the plaintiffs relied upon a letter issued by Mohamed Saeed on behalf of the ICF, addressed to S.K. Sharma dated 19th May, 2018, by which it was communicated to him that the ban imposed on him was lifted with immediate effect as the same was imposed in violation of ICF statutes. Refuting the letter dated 19th May, 2018, learned counsel for the defendants contended that Mohamed Saeed, who was the Secretary General of the ICF did not have any authority to communicate on behalf of ICF and therefore, ban imposed on S.K. Sharma was never lifted. Nothing has been brought on record by the defendants to

show that Mr. Mohamed Saeed, had no authority to communicate on behalf of ICF except a bald assertion. It is thus apparent from the record that the ban imposed on S.K. Sharma was lifted vide the letter dated 19th May, 2018 by the Secretary General of ICF, about seven months before the suit was instituted on 12th November, 2018. Therefore, the suit as filed in respect of plaintiff No.1 was valid and maintainable as on the date of institution. Further S.K. Sharma is also an aggrieved person as his nomination was rejected by the defendant No.1, thus S.K. Sharma is competent to maintain the suit in his individual capacity as well as on behalf of plaintiff No.1. Moreover, since besides the authorisations filed by individuals with the suit, the necessary authorisations on behalf of the Associations i.e. Carrom Associations of Haryana, Tamil Nadu, Hyderabad, Uttar Pradesh, Assam, Rajasthan, Kerala, Orissa, U.T.Pondicherry, Punjab and Gujarat have been filed subsequently, the suit cannot be held to be non-maintainable.

MERITS:

20. As noted above, the elections which are the bone of contention in the present suit took place after the Ministry of Youth Affairs and Sports (in short MYAS), Govt. of India found that the election of the defendant No.1 held on 29th November, 2015 were not in conformity with the election guidelines of the Sport Code vide its letter dated 4th February, 2016 requiring the defendant No.1 to conduct fresh elections. The letter dated 4th February, 2016 of the MYAS, GOI was challenged by the defendant No.1 by filing W.P.(C) 3314/2016 through V.D. Narayan and simultaneously, a writ petition was filed by Vijay Kumar being W.P.(C) 5684/2016. The writ petition filed by the defendant No.1 was dismissed. In writ petition filed by defendant No.1 this Court upheld the letter dated 4th February, 2016 of the

MYAS to the extent it directed conducting fresh elections and to ensure elections are held by the members and thus the Court directed that the elections should be held by the members elected in the elections of the year 2012 in a transparent, free and fair manner strictly in accordance with the guidelines of the National Sport Code/ Byelaws. This Court also directed that the Management Committee of the year 2012 shall continue to be the Management Committee of the defendant No.1 till the new Management Committee is appointed, pursuant to the election held in terms of the order. This Court also appointed a retired Judge of this Court as an observer to conduct the elections. In view of the directions passed in writ petition filed by the defendant No.1 it was held that the prayers made in the writ petition by Vijay Kumar did not survive and the said petition was dismissed.

21. The defendant No.1 challenged the order of the learned Single Judge disposing of the writ petition vide LPA No. 526/2018 wherein on 22nd October, 2018 learned senior counsel appearing on behalf of defendant No.1 on instructions from V.D. Narayan stated that the elections will be held within a period of 30 days from that date, whereafter the elections which are bone of contention in the present suit before this Court were held.

22. When the scrutiny of the nomination papers was going on S.K. Sharma and Vijay Kumar submitted two representations which were identical wherein the following irregularities were pointed out:

“a) State Associations of Tamil Nadu, Hyderabad, Tripura and Mizoram have not been included in the Electoral College without any reasons.

b) The name of S.K. Sharma has not been included in the Electoral College without any reason.

c) Four new State Associations with new names and titles in

place of existing State Associations of U.P., Pondicherry, Punjab and Orissa have been included.

d) Different 8 ineligible persons have been included in the Electoral College.

e) Legally valid General Secretaries of two properly State Associations of Kerala and Gujarat have not been accepted and instead four new names have been included who cannot contest election.

f) The name submitted by Presidents of Two State Associations namely Assam and Rajasthan have been accepted by rejecting the names submitted by the General Secretaries of those two State Associations.”

23. The Returning Officer Mr.Partha Sakha Datta rejected the contentions raised by S.K. Sharma and Vijay Kumar primarily on the ground that the Returning Officer has no role in preparing the electoral roll which has to be prepared by the President and the Secretary of the defendant No.1. While scrutinizing the Returning Officer considered the various objections and *inter alia* rejected the candidature of Pradeep Kumar Hazarika. Objection of S.K. Sharma and Vijay Kumar with regard to the candidature of Mahesh Sekhri on the ground that he is a bank officer and cannot participate in the election in view of the Govt. of India Circular No. F.No.9-38/2016-SP-I dated 14th February, 2017 and Govt. of India Circular No. 14-82/2009-SP-IV dated 4th February, 2010 was also not accepted by the Returning Officer on the ground that the said circular does not apply to employees working in PSUs. The candidatures of V.D. Narayan and Mukul Kumar Jha were also opposed on these grounds which were rejected and the election proceeded ahead.

24. Before proceeding with the rival contentions of the parties, it would be appropriate to note relevant provisions of the Model Election Guidelines:

“3. *Manner of Election:*

- (1) *Office Bearers and members of Managing Committee of _____ shall be elected by secret ballot.*
- (2) *Election shall be held at the Annual General Council Meeting (AGM) in accordance with the procedure prescribed hereinafter, from amongst the representatives of the Permanent Member States/ Union Territories/ Boards/ Institutions.*

4. *Electoral College:*

- (1) *Each Permanent Member State/ Union Territory duly affiliated by _____ (abbreviation of Federation) as its Permanent Member shall have two votes at the elections of the Office Bearers and Managing Committee Members.*
- (2) *For the purposes of sub-clause (1), each Permanent Member State/ Union Territory shall be represented by two members authorized by the President or Secretary General/ Secretary of the affiliated Permanent Member State/ Union Territory; however, in case President/ Secretary General/ Secretary nominates different person(s), the person(s) authorized by the President shall be deemed to be the duly authorized person(s). Irrespective of the Date.*
- (3) *Each Board or Institution duly affiliated by as its Permanent member under shall be represented by only one representative.*
- (4) *Each Permanent Member State/ Union Territory and each Permanent Member Board/ Institution shall intimate the name(s) of their representative(s) mentioned in sub-clauses (2) and (3), latest by _____ (Day __1 – e.g. 13th December, 2010); and such intimation shall be addressed to the President/ Secretary General of _____ on their letter head duly signed by*

President/ Secretary General/ Secretary of that member unit, so as to reach him on or before the aforesaid date; any change in the name of any authorized representative after _____ (Day ____ 1 e.g. 13th December, 2010) or any intimation received thereafter shall be permitted only with the approval of the President of _____.

- (5) *The President/ Secretary General of _____ shall prepare the list of the authorized representatives of the Member States/ Union Territories/ Boards/ Institutions in Form 1, and circulate a copy of the list so prepared by him to all Member States/ Union Territories/ Boards/ Institutions, latest by _____ (Day ____ 2 – e.g. 14th December, 2010), by display, on the website of _____.*
- (6) *The President/ Secretary General shall also furnish a duly authenticated copy of the list mentioned in sub-clause (5) to the Returning Officer as soon as may be after his appointment by the President of _____ under clause (5) below.*

National Sports Code

..... ”

25. Grievance of the plaintiffs is that the plaintiffs sent their nominations to the defendant No.1, however no response rejecting the same was ever given to them. It is the case of the plaintiffs that since as per the decision of the learned Single Judge of this Court in W.P.(C) 3314/2016 the Executive Body of the 2015 elections could not act and 2012 Body was to take actions, the entire actions are vitiated for the reason the then President of defendant No.1 had no power to reject the nominations. It is further stated that after filing of the present suit, the Govt. of India has itself held that in respect of the nominations of Mahesh Sekhri, Dinanath Pilarnekar and Mukul Kumar

Jha the circular dated 14th February, 2017 and 4th February, 2010 will be applicable to them and in the absence of any prior permission from the competent authority they could not have contested the elections. Hence, their election is invalid.

26. The letter dated 17th January, 2020 which accepted the elections subject to the outcome of the writ petition and as there was no stay granted by this Court against the elections, accepted the elections of AICF recognizing Rakibul Hussain, Baij Nath Singh, Francis Serrao, Prabhjeet Singh Bachher, Shiv Kumar, Bharti Narayan, Bigek Goswami, Arif Ahmed Khan, V. Subramani and Arun Ramakant Kedar, however, clarified that the elections of Mahesh Sekhri, Mukul Kumar Jha and Dinanath Pilarnekar as Vice President, Joint Secretary East and Joint Secretary West respectively, was not in accordance with the provisions of National Sports Development Code of India, 2011 (NSDCI) as they had not obtained prior clearance from their employer, as such they may be asked to demit office of AICF and if appropriate conduct fresh elections for these posts. Thus, one of the major objections taken by S.K. Sharma and Vijay Kumar at the time of scrutiny of the nomination papers has already been accepted by the Govt. of India that elections of Mahesh Sekhri, Mukul Kumar Jha and Dinanath Pilarnekar has been held to be invalid.

27. Case of the defendants is that the present suit has been filed by the plaintiffs in their individual capacity and not representing the respective associations. It is also the case of the defendants that the present suit is motivated to destabilise the functioning of defendant No.1. P.S. Bachher who became the General Secretary of defendant No. 1 pursuant to the elections in 2012, was dependant on S.K. Sharma for the day-to-day

functioning of defendant No.1 as S.K. Sharma had been the Secretary to defendant No.1 for the last 17 years, however, during his tenure, the irregularities in the functioning of the defendant No.1 committed by S.K. Sharma came to light and ever since then, attempts are made to paralyse defendant No.1, and the present suit is also one such attempt, however, no material as to how S.K.Sharma was interfering or was committing irregularities has been placed on record and is also not the scope of determination in the present suit.

28. Grievance of the Haryana Carrom Association/ Plaintiff No.1 is that out of the two nominations sent by the association for inclusion in the electoral college, one nomination was accepted and the other was not accepted. Names of S.K. Sharma and Gaurav Sharma were submitted, but in the Electoral College, name of SK Sharma was excluded. Response of the defendant is that in view of the ban imposed by the International Carrom Federation for a period of four years from July, 2016, name of S.K. Sharma could not be included in the electoral college. It was further submitted that the International Carrom Federation is the parent body of defendant No.1 and thus, its decisions are binding on defendant No.1

29. Even accepting the version of defendant No. 1 that the directions of ICF are binding on the defendant No.1, ICF being the parent body, however, as noted above, the ban imposed on S.K. Sharma was revoked by a letter issued by the Secretary General of the ICF, dated 19th May, 2018 and thus, he was not incapacitated to be a part of the electoral roll. Name of S.K. Sharma was validly submitted on behalf of the Haryana Carrom Association to be included in the electoral college, however the same was excluded. Thus the defendant No. 1's action in deleting the name of S.K.Sharma from

the electoral roll is clearly illegal.

30. As regards the Carrom Association for the State of Tamil Nadu/ Plaintiff No.2, Hyderabad/ Plaintiff No.3, Mizoram/ Plaintiff No.4 and Tripura/ Plaintiff No.5, the case of the plaintiffs is that these four associations formed part of election 2012 which was the last valid election of the defendant No.1. However, in the elections of the year 2018 they were deleted altogether resulting in a difference of 8 total votes.

31. As regards the Carrom Association for the State of Tamil Nadu/ Plaintiff No.2 is concerned, according to defendant No.1 it did not receive two names nominated by the President or General Secretary of the Association. However, the said two names were received from J.H. Martin claiming to be the General Secretary of Tamil Nadu Carrom Association, nominating J.H. Martin and G. Venkateswaran and they were not included in the list of Electoral College and were included in the list prepared as per direction of this Court dated 14th November, 2018. According to the defendant No.1, while scrutinizing the members who were given voting rights it was revealed that Tamil Nadu Carrom Association had also given voting rights to the outgoing office bearers besides existing office bearers. According to the defendant No.1, Tamil Nadu Carrom Association has only 21 district associations which can be given the voting rights. Thus, vide the letter dated 26th October, 2018 the General Secretary of defendant No.1 communicated to G. Vijayraj that the election conducted by him in the present form was not acceptable to the defendant No.1 and that fresh elections be held.

32. As per the plaintiffs, the election of Tamil Nadu Carrom Association took place on 30th June, 2018, and the same was communicated to the

defendant No.1 vide email dated 27th September, 2018, despite that the defendants intentionally sent the election notice to the earlier office bearers. However, newly elected General Secretary took it on himself to send representation on behalf of the association, but the same was not included in the list. It is thus apparent that so close to the elections for defendant No.1 federation, a decision was taken by the President and Secretary of Defendant No.1 elected pursuant to the elections of 2015, that the elections of Tamil Nadu Carrom Association was not validly conducted vide letter dated 26th October, 2018. Further no hearing was provided to the concerned association. This letter was issued after 22nd October 2018, the date on which undertaking was made to the Division Bench of this Court. This act of the defendant No.1's President and Secretary had the effect of deleting two votes from electoral roll and was clearly illegal.

33. The case of the plaintiffs in respect of Hyderabad Carrom Association/plaintiff No. 3 was that the names sent by the Association were neither added nor included in the electoral college despite being affiliated to defendant No. 1. On the other hand, the defendants disputed the existence of Hyderabad Carrom Association and also claimed that the "Carrom Association of Telangana State" was not an affiliated unit of defendant No.1. In response thereto, the plaintiffs pointed out that the Hyderabad Carrom Association was already excluded from the electoral college on 4th November 2018 without notifying any reason and the Hyderabad Carrom Association had sought change in records of defendant No. 1 to Carrom Association of Telangana State on 14th December 2018 i.e. much later after the elections.

34. The President and Secretary of the Hyderabad Carrom Association

and the Carrom Association of Telangana State were the same i.e. B.K. Haranth and S. Madanraj respectively. It is also evident from record that Telangana Association was not a newly incorporated association, but was same Hyderabad Association with a new name, and therefore, the said association would continue to be a validly associated member of defendant No.1. Further, it is the case of the plaintiffs that after the impugned elections, Hyderabad Carrom Association sought change of name of the Association to “Carrom Association of Telangana State” vide letter dated 14th December 2018, however, the names recommended were already excluded on 4th November 2018. Since Hyderabad Association was a validly recognised member of the defendant no. 1, there was no reason for the defendant no.1 to not accept the names sent on behalf of the association whether in its original name or in its new name i.e. “Carrom Association of Telangana State”. Hence, the defendant No. 1 illegally declined the two names of the Hyderabad/Telangana Carrom Association from electoral rolls.

35. As regards the State Association of Mizoram, the case of the defendant was that K. Vanlalmiawia was not the President of the Association and that the defendant No.1 was never intimated about his election to the post of president. Moreover, it was also contended that the defendant No.1 did send an election notice to the Association, but it did not receive any response from the Association.

36. Qua the Mizoram Carrom Association, this Court has already found that there was no valid authorisation in favour of SK Sharma on behalf of the Mizoram Carrom Association and thus, there is no need for this Court to go into the merits of the case qua Mizoram Carrom Association.

37. As regards Tripura Carrom Association/ Plaintiff No.5, the case of the

defendant is that since Electoral College was required to be published on the next day of the last date fixed for sending names of nominated persons, all members State/UT Associations were given the option to send the names at the official e-mail ID of the defendant No.1 and since no nomination was received from Tripura Carrom Association till 3rd November, 2018 hence it was not included in the list of Electoral College.

38. Vide the affidavit filed by SK Sharma dated 7th December 2022, it is stated that dispute between the Tripura Carrom Association and the defendant had been resolved, hence this Court need not go further into the alleged illegality qua the plaintiff No.5 i.e. Tripura Carrom Association.

39. In relation to the State Association of Uttar Pradesh / Plaintiff No.6, contention of learned counsel for the plaintiff is that despite the said State Associations having nominated two persons during the scrutiny, names of two other persons were accepted. It is contended that as per the Model Code of Conduct, the President or the General Secretary of the State Associations could nominate two persons, and in case of conflict, the nomination sent by the President of State Associations would prevail. It is contended that in case there was no President, the nomination sent by the General Secretary has to prevail and not by a working President when the Association had a President.

40. In response, in relation to Uttar Pradesh Carrom Association, it was submitted by the defendants that as per the records of defendant No.1, Zulfiqar Ali was the General Secretary of the Association and he was suspended by the General Council of the Association under the Presidency of Baij Nath Singh in 2016. Thereafter, elections to the association were held in 2017 wherein Baij Nath Singh was re-elected as a President and

Zaheer Ahmed was elected as a General Secretary of the Association. In various activities conducted by defendant No.1 since 2016, Zulfiqar Ali never claimed that his team be allowed to participate in those activities in his capacity as General Secretary, however, it was Baij Nath Singh and Zaheer Ahmed who sent team from U.P.

41. It may be noted that defendant No.1 did not accept names sent by Zulfiqar Ali, but those sent by Baij Nath were accepted, who did not have any authority as he was removed by a no-confidence motion of the Association, after which, Baij Nath formed a new association in the name of UP Carrom Association at Varanasi, however, still the recommendations of Baij Nath was accepted. Despite the fact that for other associations, defendants have taken serious objection to the change of President and Secretaries and their elections not being recognized by Defendant No.1, in this case the defendants chose to side with Baij Nath against whom a no confidence motion had been passed in the original association. This act of the defendants clearly depicts that they had been choosing nominations as per their convenience without following any set pattern as per the Code. Thus, the defendant No. 1 illegally accepted the names recommended by Baij Nath.

42. In relation to the State of Assam/ Plaintiff No.7, grievance of the plaintiffs is that one nomination was accepted and the other was not accepted. Response of the defendants is that different persons were nominated by the President/General Secretary/ Secretary of these State Associations, hence the names nominated by the President were included in the Electoral College as per the details given.

43. As regards the Assam Carrom Association, names of Rakibul Hussain

i.e. the Defendant No.2 herein and Pradeep Kumar Hazarika were submitted, but the name of Pradeep Kumar Hazarika was not included and instead name of one Bibek Goswami was included in the electoral college. Further the change in the names occurred as the President of the Association, with P S Bachher who was the observer, conducted elections within the Association, without issuing any formal notice, pursuant to which, name of the General Secretary of the Association was removed. Thus, the elections of the President of Assam Carrom Association whose names were accepted by the defendant No. 1 as electoral roll was in itself in cloud, hence his subsequent action cannot be held to be valid.

44. In relation to the State of Rajasthan/ Plaintiff No.8, grievance of the plaintiff is that one nomination was accepted and the other was not accepted. Names of Ashok Swamy and Jai Prakash Thakur were submitted however, the name of Ashok Swamy was excluded and in his place name of Sh. Dinesh Singh Negi was included.

45. There is no explanation in written statement qua the decline of the second nomination i.e. Ashok Swamy from Rajasthan, thus the said action of defendant No. 1 was clearly illegal without any justification.

46. In relation to the State Association of Kerala/ Plaintiff No.9, contention of learned counsel for the plaintiff is that despite the said State Association having nominated two persons during the scrutiny, names of two other persons were accepted. It is contended that as per the Model Code of Conduct, the President or the General Secretary of the State Associations could nominate two persons, and in case of conflict, the nomination sent by the President of State Associations would prevail. It is contended that in case there was no President, the nomination sent by the

General Secretary has to prevail and not by a working President when the Association had a President. According to the plaintiff, the Kerala State Carrom Association sent the nomination of P. Raveendran. The said nomination was rejected, however nomination of M.P. Chandrasekran was accepted.

47. According to the defendant No.1, P. Raveendran was neither the President nor the General Secretary of the Kerala State Carrom Association which recommendation had to be cancelled. Defendant No.1 received the representation by more than 2/3rd members of the Kerala Carrom Association that they have conducted their elections in a requisition meeting of Kerala Carrom Association. The defendant No.1 did not accept the plea and continued to communicate with Raveendran being the Secretary of Kerala State Carrom Association. Raveendran himself brought the newly elected General Secretary K. Chandrasekran to the meeting of General Council and introduced him as General Secretary of Kerala State Carrom Association at the meeting held at Chennai on 2nd November, 2017. Accordingly, defendant No.1 started recognizing K. Chandrasekran as General Secretary and accepted the two names sent by him in November 2018 election.

48. It is thus evident from the reply on behalf of the defendant that merely because one person represented himself as General Secretary, names sent by him were accepted. The Associations do not work on the representations made orally but based on complete documents to show that how elections have taken place and who was the person in-charge who had been elected. Thus, the defendant No.1 committed an illegality in accepting the nomination of K. Chandrasekran merely on the representations made.

49. Contention of learned counsel for the plaintiffs in regard to the Orissa State Carrom Association was that the said association was not included in the electoral college for the year 2015 due to some disputes. However, it was pointed out that despite the fact that these disputes were resolved, the names submitted by the Association were not accepted. Rather, name submitted by a parallel body operating under the name of “Odisha State Carrom Association” were accepted i.e. names of S.K. Abdulla and Probodh Kumar Patnaik were included, while names of Sriranjana Mohanty and Rajesh Shahoo sent by General Secretary of ‘Orissa’ State Carrom Association i.e. plaintiff No. 10 were rejected.

50. Further, contention in regard to the Associations relating to Pondicherry and Punjab are that in the year 2012 and 2015 the same associations participated, however in the year 2018 Management Committee of 2015, of the defendant No.1 removed these three associations and added three different associations from these States. Learned counsel for the plaintiffs submits that the elections of the Executive Committee constituted pursuant to the 2015 elections having been quashed by the Govt. of India vide its letter dated 4th February, 2016 which letter has been upheld by this Court in W.P.(C) 3314/2016 the action of 2015 Committee in deregistering these three associations of Orissa, Punjab and Pondicherry and registering three different associations for these States is invalid.

51. Case of the defendants was that these three associations were validly removed in 2017. As regards Punjab Carrom Association, case of the defendant is that its membership was disaffiliated by the General Council of the defendant No.1 in its meeting held on 2nd November, 2017 and membership of the original member State Association i.e. Punjab State

Carrom Association (Registered) represented by Gurinder Singh was accepted. As noted above, since the elections of the 2015 Executive Committee were set aside by the Govt. of India vide its letter dated 4th February, 2016, the office bearers of the said associations could not grant recognition to the other State Association and accept its nomination.

52. Plaintiffs' contention in respect of State Associations of Orissa and Punjab are valid and once the elections of the 2015 Executive Committee of the defendant No.1 was set aside vide letter dated 4th February, 2016, the said Committee could not have de-registered the two associations and instead provide registrations to two different associations from these very States. Hence the nominations accepted during the scrutiny in relation to the associations from these States i.e. Orissa and Punjab were in fact illegal for the reason when the erstwhile three associations were de-recognized the letter dated 4th February, 2016 of the Govt. of India was in operation and the Executive Committee of the defendant No.1 could not have taken the action in the year 2017.

53. As regards the UT Pondicherry Carrom Association, it was disaffiliated following a direction of the General Council Meeting of All India Carrom Federation held at Chennai on 2nd November, 2017 on the basis of directions of Court at Pondicherry and it is 'Pondicherry Amateur Carrom Association' which is a duly affiliated unit of AICF.

54. In relation to the State Association from the State of Gujarat contention of learned counsel for the plaintiff is that despite the said State Association having nominated two persons during the scrutiny, names of two other persons were accepted. It is contended that as per the Model Code of Conduct, the President or the General Secretary of the State

Associations could nominate two persons, and in case of conflict, the nomination sent by the President of State Associations would prevail. It is contended that in case there was no President, the nomination sent by the General Secretary has to prevail and not by a working President when the Association had a President. On behalf of defendant it was contended that the President of the Association submitted the names of Virjesh Jindal and S.S. Gupte while the General Secretary of the Association submitted the names of Satish Mahant and Ms.Nirmala Rajesh Mahant. Plea of the plaintiff is valid as the working President cannot partake the character of duly elected President, in such a situation the nomination by the duly elected General Secretary would be valid. Hence, acceptance of the names sent by working President of the State Association of Gujarat was clearly illegal.

55. In view of the discussion as aforesaid, this Court finds:

- (i) That the action of defendant No. 1 in deleting the name of S.K.Sharma on behalf of Haryana Carrom Association/plaintiff No. 1 was illegal.
- (ii) The letter dated 26th October 2018 issued by the defendant No.1 declaring the elections of Tamil Nadu Carrom Association/plaintiff No.2 as invalid, after making an undertaking before the Division Bench of this Court on 22nd October 2018, was illegal.
- (iii) Names recommended on behalf of the Hyderabad Carrom Association/plaintiff No.3 (now, Carrom Association of Telangana State) were illegally excluded from the electoral roll by defendant No. 1.
- (iv) The suit on behalf of Mizoram Carrom Association/plaintiff

No.4 was found to be not maintainable and thus, this Court does not need to go into the merits of the case qua the said Association.

- (v) The dispute between Tripura Carrom Association/plaintiff No.5 and defendant No.1 having been resolved as per the affidavit filed by S.K.Sharma dated 7th December 2022, this Court need not go into the aspect qua State Association of Tripura.
- (vi) With respect to Uttar Pradesh Carrom Association/plaintiff No.6, defendant No. 1 illegally accepted names recommended by Baij Nath against whom, a no confidence motion has been passed by the Association.
- (vii) The election of the President of Assam Carrom Association/plaintiff No.7 was itself in cloud and therefore, the name sent by the said President of the Association could not be accepted.
- (viii) No justification was provided in respect of the Rajasthan Carrom Association/ plaintiff No. 8 in the written statement filed by the defendant which amounts to deemed admission to the plaintiff's case and hence, the exclusion of name of Ashok Swami from the electoral roll was illegal.
- (ix) Defendant No. 1 again illegally accepted the nomination of K.Chandrasekran with respect to Kerala State Carrom Association/plaintiff No. 9 when K.Chandrasekran orally represented himself to be the General Secretary of the Association without any documents.
- (x) Nominations accepted with respect to State Associations of

Orissa/plaintiff No. 10, Pondicherry/plaintiff No. 11 and Punjab/plaintiff No. 12 were illegal for the reason that the Executive Committee of defendant No. 1 of the year 2015 could not have deregistered these three Associations, when the election of the 2015 Executive Committee of defendant No. 1 was already set aside by the Govt. of India's letter dated 4th February 2016.

- (xi) The names accepted on behalf of the State Association of Gujarat/plaintiff No. 13 were also illegally accepted as in the absence of a duly elected President, nomination sent by the duly elected General Secretary should have been accepted.

56. Consequently, the suit is decreed declaring the impugned elections dated 18th November, 2018 of the defendant No.1 as also the electoral college published by the defendant No.1 on 4th November, 2018 as illegal and setting aside the same, and defendant No.1 is directed to constitute a proper and valid electoral college and thereafter hold elections to the post of office bearers of defendant No.1 strictly in accordance with the Sports Code, rules and regulations of defendant No.1 and applicable notifications issued by the Central Government. It is further directed;

- (i) The elections shall be conducted after finally determining the affiliations of the member associations to the defendant No.1.
- (ii) Elections of the defendant No.1 shall be held under the supervision of Ministry of Youth Affairs and Sports, Government of India.
- (iii) The entire process of elections starting with identifying the affiliated members of defendant No. 1 shall be completed

within a period of six months from the date of this order.

57. Suit is accordingly disposed of.

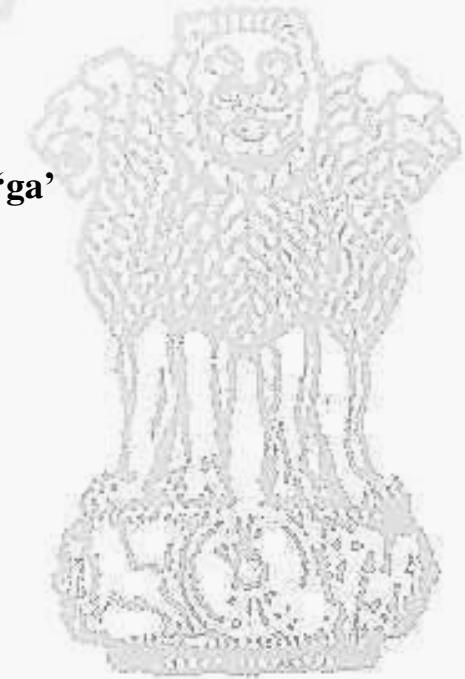
I.A. Nos.15492/2018, 15653/2018, 2397/2019 & 5779/2020 (u/O XXXIX Rule 1 and 2 CPC)

I.A. No.14142/2019 (u/O VII Rule 11 CPC – by D-1)

In view of the suit being decreed and directions passed, applications are disposed of as infructuous.

**(MUKTA GUPTA)
JUDGE**

APRIL 06, 2023/‘ga’



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