

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13405 of 2021

Aditya Prakash Verma, son of Shri Mahavir Prasad Verma, resident of Lotus Apartment, Flat No. B-607, Road No. 1F, Sai Temple, Polytechnic Chowk, P.P. Colony, Opposite Church Road, Patliputra Colony (New), P.S.- Patliputra, District- Patna, Pin Code- 800013, Secretary, Cricket Association of Bihar, B-607, Lotus Apartment, Patliputra Colony (New), P.S.- Patliputra, District- Patna, Pin Code- 800013.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Department, Bihar, Patna.
2. Inspector General Registration, Prohibition, Excise and Registration Department, Bihar, Patna.
3. Board of Control for Cricket in India, 4th Floor, Cricket Center, Wankhede Stadium 'D' Road, Churchgate, Mumbai- 400020, India through its Secretary.
4. Chairman Board of Control for Cricket in India, 4th Floor, Cricket Center, Wankhede Stadium 'D' Road, Churchgate, Mumbai- 400020.
5. Secretary, Board of Control for Cricket in India, 4th Floor, Cricket Center, Wankhede Stadium 'D' Road, Churchgate, Mumbai- 400020.
6. Bihar Cricket Association Bindhya Wasani Commercial Complex, S.K. Bhattacharya Road, District- Patna, through its Secretary.
7. Committee of Management Bihar Cricket Association, Bindhya Wasani Commercial Complex, S.K. Bhattacharya Road, District- Patna, through its Secretary.
8. President Bihar Cricket Association, Bindhya Wasani Commercial Complex, S.K. Bhattacharya Road, District- Patna.
9. Secretary Bihar Cricket Association, Bindhya Wasani Commercial Complex, S.K. Bhattacharya Road, District- Patna.
10. Kumar Rajnish, Son of Rathindra Prasad, resident of Flat No.- 201, Shiv Priya Bihar Apartment, Kurji, Gosai Tola, Sadakat Ashram, Police Station- Patliputra, District- Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Abhinav Srivastava, Advocate Mr. Arpit Anand, Advocate Mr. Pushkar, Advocate
For the State	:	Mr. P.K. Shahi, Advocate General Mr. Pawan Kumar, Advocate



		Mr. Amish Kumar, Advocate
		Mr. Sanjiv Kumar, Advocate
For the BCCI	:	Mr. Bindhyachal Singh, Sr. Advocate
		Mr. Parijat Saurav, Advocate
For the BCA	:	Mr. Raju Giri, Advocate
For the Resp. No.9	:	Mr. Ashhar Mustafa, Advocate
		Mr. Vikash Kumar Jha, Advocate
		Mr. Ranjeet Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
C.A.V. JUDGMENT
Date : 05-08-2024

By way of this writ petition, the petitioner has
prayed for the following reliefs:-

- “(i) *Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Board of Control for Cricket in India, Mumbai (hereinafter referred to as "BCCI") to derecognize and disaffiliate Bihar Cricket Association, Patna (hereinafter referred to as "BCA") as an affiliate member of BCCI;*
- (ii) *Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under BCCI to take steps towards conducting an enquiry into the charges of corruption, maladministration and mismanagement of BCA while regulating and managing the game of cricket in the State of Bihar and take necessary corrective measures against the wrongdoers;*



- (iii) *Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under BCCI to consider Cricket Association of Bihar for recognition and affiliation as an affiliate member of BCCI for the purposes of regulating, running and managing the game of cricket and other connected activities in the State of Bihar.*
- (iv) *Issuance of an ad interim direction upon BCCI to forthwith constitute an ad-hoc body/committee to take over the control of management of the game of cricket in the State of Bihar and direction upon BCA to refrain from acting in any manner with respect to the matter running/ managing the affairs of the game of cricket in the State Bihar during the pendency of the present writ application before this Hon'ble Court.”*

2. The petitioner is the secretary of Cricket Association of Bihar (for short “CAB”) registered under the Societies Registration Act, 1860. The main object of the CAB is to work towards the growth and development of the game of cricket in the State of Bihar and to encourage youngsters to participate in the game of cricket and discover talented players who could represent the State of Bihar as well as the country in the game of cricket.



3. The Board of Control for Cricket in India (for short “BCCI”) is a body registered under the Tamil Nadu Societies Registration Act, 1975 and in furtherance of the directions passed by the Hon’ble Supreme Court, the Memorandum of Association and Rules and Regulations of BCCI have been duly registered under the Societies Registration Act. As per the Memorandum of Association and Rules and Regulations of the BCCI, one of the objects and purposes of the B.C.C.I. is to encourage the formation of the State, regional or other cricket associations and the organization of inter-state and other tournaments. Its object is also to provide necessary measures for promotion and development of the game of cricket, welfare and interest of cricketers and elimination of unethical and unfair practices in the game of cricket.

4. According to the petitioner, there has been a complete failure on the part of the BCCI in ensuring and achieving its objects of elimination of unethical and unfair practices as well as elimination of corruption with respect to the game of cricket in the State of Bihar. Pursuant to the order dated 02.01.2017 passed by the Hon’ble Supreme Court in Civil Appeal No.4235 of 2014, a Committee of Administrators was appointed to supervise the administration of the BCCI through



its Chief Executive Officer. Subsequently, by order dated 23.08.2018 passed in the aforesaid Civil Appeal No.4235 of 2014, the Hon'ble Supreme Court entrusted the aforesaid Committee of Administrators with the responsibility to prepare a draft of Constitution in accordance with the judgment passed in the case of ***Board of Control for Cricket in India vs. Cricket Association of Bihar*** reported as ***(2015) 3 SCC 251*** and even the modalities were laid down by the Hon'ble Supreme Court to consider the concerns of stakeholders by ensuring that the draft Constitution was duly circulated amongst all concerned. In the order dated 09.08.2018 passed in Civil Appeal No.4235 of 2014, the Hon'ble Supreme Court while approving the draft Constitution submitted by the Committee of Administrators on 27.10.2017 directed that upon registration of the Constitution of the BCCI, each of the members were required to undertake registration of their respective Constitutions on similar lines within a period of 30 days and thereafter a compliance certificate was to be furnished to the Committee of Administrators, which, in turn, was to file a status report before the Hon'ble Supreme Court. In the said order dated 09.08.2018, it has also been observed that in the event any State Association does not undertake compliance with the directions issued in the



aforesaid order, the directions contained in the orders dated 07.10.2016 and 21.10.2016 shall revive.

5. It is the case of the petitioner that the Bihar Cricket Association (for short “BCA”) has failed in discharging its obligations and duty towards controlling and improving quality and standard of game of cricket within the State of Bihar and also to ensure its promotion and development, welfare and interest of cricketers and elimination of unethical and unfair practices in the game of cricket. As per the direction of the Hon’ble Supreme Court contained in order dated 09.08.2018, all the members of the BCCI were to undertake registration of their respective Constitutions on similar lines within a period of 30 days from the date of registration of the Constitution of the BCCI, but despite registration of the Memorandum of Association and Rules and Regulations of the BCCI on 21.08.2018 itself, there had been a complete failure on the part of the BCA to get its Constitution registered in furtherance of the aforesaid directions of the Hon’ble Supreme Court as till date registration of the Memorandum of Association and Rules and Regulations of the BCA have not been carried out.

6. Under the aforesaid circumstances, the petitioner filed a representation dated 15.07.2020 before the



Members of the Apex Council of the BCCI highlighting various illegalities and irregularities prevalent in the functioning of the BCA including the fact that directions issued by the Hon'ble Supreme Court in order dated 09.08.2018 have not been complied by the BCA. By the aforesaid representation, the petitioner also brought to the notice of the authorities concerned under the BCCI, the minutes of the meeting of the BCA held on 15.11.2019, which indicates that the registration of the Constitution of the BCA in terms of the directions of the Hon'ble Supreme Court had not been carried out till date.

7. Since no action was taken by the BCCI, the petitioner/BCA filed an interlocutory application before the Hon'ble Supreme Court in the ongoing Civil Appeal No.4235 of 2014 bringing the aforesaid illegalities prevalent in the functioning of the BCA to the notice of the Hon'ble Supreme Court. The Hon'ble Supreme Court disposed of the said interlocutory application by granting liberty to the petitioner to avail appropriate remedies in a suitable forum. Under the aforesaid circumstances, a detailed representation dated 16.12.2020 was filed on behalf of the petitioner before the concerned authorities under BCCI requesting that an independent ad-hoc arrangement be made or a steering



/supervisory committee be constituted to run and manage the game of cricket and other related activities in the State of Bihar but, no action has been taken by the BCCI till date which compelled the petitioner to approach this Court.

8. Learned counsel for the petitioner submits that although the writ application had initially been filed on the ground of non-compliance of the directions issued by the Hon'ble Supreme Court in Civil Appeal No.4235 of 2014 vide order dated 09.08.2018, but during the pendency of the present writ application, the concerned office bearers under the BCA have filed an interlocutory application before the Hon'ble Supreme Court for bringing about necessary changes in its Constitution and as such, the petitioner does not press the aforesaid prayer for the present. However, he submits that despite several instances of maladministration and corruption prevalent in the functioning of the BCA having been brought to the notice of the concerned authorities under the BCCI, no action in this regard has been taken by the BCCI till date. He further submits that on account of internal disputes between different office bearers of the BCA, the operation of the bank account of BCA had also been frozen and information in that respect has also been brought to the notice of the concerned



authorities under the BCCI but, no action has been taken and the malfunctioning, maladministration and corruption in the functioning of BCA continue unhindered.

9. Learned counsel for the petitioner further submits that several instances regarding different and disputed dates of birth of a number of players selected in the teams constituted by the BCA have been brought on record and despite information having been brought to the notice of the concerned authorities under the BCCI, no concrete steps were taken by the BCCI. He has drawn the attention of this Court to Annexure-R6/19 of the counter affidavit filed on behalf of of respondent nos. 6, 7 and 9 to show that the aforesaid illegalities have been brought to the notice of the concerned authorities under the BCCI.

10. Learned counsel for the petitioner further submits that several other instances with respect to disputed dates of birth of players have also been highlighted in the affidavits filed in the instant writ application and despite representations having been filed before the concerned authorities under BCCI, no action in this regard was ever taken either towards conducting a probe into the matter through an independent and impartial body or any action was taken with



respect to taking appropriate action against the wrongdoers and these facts clearly establish and demonstrate the connivance between the concerned office bearers under the BCCI and BCA.

11. It has also been argued by learned counsel for the petitioner that in the counter affidavit and supplementary counter affidavit of the respondent no.9 several instances have been brought on record to demonstrate as to how large-scale illegalities have been committed not only in the matter of selection of players to represent the State of Bihar in several cricket tournaments but also in the matter of selection of selectors, who, in turn have extended undue favour to the members of the Committee constituted by the BCA for selection of selectors for constitution of team to represent the State of Bihar in different tournaments.

12. It has also been argued that there are several instances cited in the present writ application as also different affidavits filed on behalf of different parties to demonstrate as to how the present President of the BCA has usurped the powers of the Secretary and other office bearers. Further, in order to maintain an absolute control and unhindered hegemony and monopoly on the functioning of the BCA, an FIR was also lodged against one Mr. Paras Nath Roy, retired District Judge,



who had been appointed as the Ombudsman of the BCA as would be manifest from a bare perusal of Annexure - E contained in the supplementary counter affidavit filed on behalf of of respondent no.9 and the aforesaid facts clearly demonstrate an absolute state of chaos and anarchy prevalent in the functioning of the BCA.

13. Learned counsel for the petitioner further submits that the action on the part of the present President of the BCA in usurping the powers of different office bearers despite categorical and specific directions having been passed by the Hon'ble Supreme Court only demonstrates that there is tacit connivance between him and the BCCI, and therefore it is imperative that an independent and impartial enquiry is conducted in the present case under the close watch and supervision of this Court so as to ensure justice and fair play.

14. Learned counsel for the petitioner has drawn the attention of this Court to the judgment and order dated 23.03.2021 passed in LPAOW No.14 of 2019 (LPA No.43 of 2019) by the Jammu and Kashmir High Court, which is annexed as Annexure-12 and has submitted that under similar circumstances the Jammu and Kashmir High Court constituted a Committee for streamlining the functioning of such cricket



associations.

15. It has been submitted by learned counsel for the petitioner that in a similar manner, taking note of dispute pertaining to appointment of Ombudsman and functioning of Hyderabad Cricket Association, the Hon'ble Supreme Court had directed for constitution of Supervisory Committee and thereafter, by an order dated 14.02.2023 passed in S.L.P. (C) No.6779 of 2021, directed a single Member Committee of Hon'ble Justice L. Nageshwar Rao, Former Judge, Supreme Court of India, to take necessary steps towards conducting an enquiry and ensuring free and fair elections.

16. By making the aforesaid submissions, learned counsel for the petitioner submits that this Court may direct for constitution of a Committee to conduct an independent and impartial enquiry into the functioning of the BCA and to submit a report before this Court in order to clear the mess and to ensure that the future prospects and career of meritorious and talented cricketers of the State of Bihar are not jeopardized.

17. Learned Senior Counsel for the respondent nos.3 to 5 (BCCI) submits that earlier the petitioner/CAB had filed a writ petition being W.P. No.2550 of 2009 before the Bombay High Court for granting full membership of the BCCI,



which has been dismissed vide judgment and order dated 13.12.2010. Against the aforesaid judgment and order, the petitioner/CAB filed S.L.P. (Civil) No.4700 of 2011 (Civil Appeal No.7645 of 2011) before the Hon'ble Supreme Court and the Hon'ble Supreme Court vide order dated 04.01.2018 directed that the incumbent Bihar Cricket Association shall be entitled to participate in Ranji Trophy and similar such competitions. In the said proceeding, the petitioner had appeared in person, which is apparent from the order dated 04.01.2018. Thereafter, the Committee of Administrators appointed by the Hon'ble Supreme Court was also of the view that the BCCI should presently continue dealing with the BCA for cricketing activities in the State of Bihar. This decision was communicated to the petitioner vide email dated 05.05.2018. Thereafter, the BCA was granted full membership of the BCCI.

18. Learned Senior Counsel for the BCCI further submits that the petitioner having the knowledge about the order dated 04.01.2018 has deliberately suppressed the same in the present case, and therefore this writ petition should be dismissed on this ground of suppression of material fact. In support of his submissions, he has placed reliance on a decision of the Hon'ble Supreme Court in the case of *K. Jayaram & Ors. vs. Bangalore*



Development Authority & Ors. reported as ***2022 (12) SCC 815.***

19. It has also been argued by learned Senior Counsel for the BCCI that the petitioner has indulged in forum shopping by approaching this Court when the matter is already pending before the Hon'ble Supreme Court and therefore the petitioner ought not be allowed to indulge in unethical practice of forum shopping. In support of his submissions, he has placed reliance on the decisions of the Hon'ble Supreme Court in the case of ***Vijay Kumar Ghai v. State of W.B.*** reported as ***(2022) 7 SCC 124*** and in the case of ***State of H.P. vs. Surinder Singh Banolta*** reported as ***(2006) 12 SCC 484.***

20. It has also been argued by learned Senior Counsel for the BCCI that the remedy for resolution of dispute pertaining to membership of the BCCI, being a registered society, on disputed questions of fact, will not be amenable to the writ jurisdiction under Article 226 of the Constitution of India. The petitioner has filed this writ petition in light of the order of the Hon'ble Supreme Court dated 09.12.2020 passed in Civil Appeal No.4235 of 2014. In the said order dated 09.12.2020 liberty was granted to the petitioner to avail appropriate remedy in a suitable forum i.e. competent Civil Court. The BCCI and the BCA are distinct legal entities. The



BCA exercises its independent control and supervision over its office bearers, members, players and officials. For internal disputes between the members, officer bearer, players and officials, the appropriate remedy will be the remedy before a Civil Court of competent jurisdiction. Moreover, Civil Suit No.75 of 2023 is pending in the Court of learned Sub-Judge, Patna for resolution of the internal disputes amongst the office-bearers of the CAB.

21. In support of the aforesaid submission, reliance has been placed on the judgment and order dated 29.04.2022 passed by a Division Bench of this Court in ***C.W.J.C. No.2809 of 2022 (Kumar Arvind vs. The Bihar Cricket Association and Ors)***.

22. It has also been argued that the the submission of the petitioner regarding highhandedness and illegal disposition on the part of BCCI is incorrect as in the year 2021, the BCA had organized an unapproved T-20 domestic league cricket tournament namely, Bihar Cricket League in violation of the conditions laid down under the advisory and guidelines issued by the BCCI. The BCCI had taken up the issue in its Apex Council meeting dated 16.04.2021 wherein the response of the BCA was considered and it was decided to



declare the tournament as unapproved and it was further decided in the said Apex Council meeting to issue strong warning to the BCA. Accordingly, vide email dated 01.05.2021, the BCA was reprimanded and cautioned not to hold any further tournament without the approval of the BCCI. Further, the concerned department of BCCI enquired into the declared age of Sachin Kumar Singh and upon verification allowed him to participate in senior tournaments only and not in any junior tournaments. The BCCI has also verified the age of Sakib Hussain as per the documents and he was allowed to participate in Senior and junior tournaments.

23. It has also been argued that the issue raised by the petitioner/CAB regarding the approval and registration of the Constitution of the BCA is under consideration before the Hon'ble Supreme Court in Civil Appeal No.4235 of 2014 [BCCI vs. CAB] and the Hon'ble Supreme Court vide order dated 08.01.2024 disposed of the Interlocutory Application No.221667 of 2023 filed by the BCA for granting approval of its draft Constitution by directing the BCA to submit the copy of the draft Constitution to the BCCI and the BCCI shall furnish its report to the learned *Amicus Curiae* for placing the same before the Hon'ble Supreme Court by 15.02.2024. The BCCI has



complied with the directions of the Hon'ble Supreme Court and has submitted its report on draft Constitution of the BCA to the learned *Amicus Curiae*.

24. It has been argued by learned Senior Counsel for the BCCI that the petitioner/CAB has filed Contempt Petition No.752 of 2023 before the Hon'ble Supreme Court against the BCCI and Cricket Association of Bihar alleging that the BCCI is required to take action against the BCA for not submitting certain documents to the BCCI, but the said contempt petition was withdrawn by the petitioner/CAB after not finding favourable view of the Hon'ble Supreme Court. It has also been argued that the BCA has submitted its audited statement of accounts and the balance sheets to the BCCI for the years 2016-17 to 2021-22. Furthermore, as per Justice Lodha Committee Reforms, nominee of the Accountant General of Bihar from among the serving senior functionaries of the A.G. office is a part of the Committee of Management of the BCA.

25. It has also been argued by learned Senior Counsel for the BCCI that the decision of the Jammu and Kashmir High Court dated 23.03.2021 passed in L.P.A. No. 43 of 2019, which has been relied upon by the petitioner, will not apply to the facts of the present case as the factual situation of



Jammu and Kashmir Cricket Association (JKCA) is different from Bihar Cricket Association (BCA) and the judgment of the High Court of Jammu and Kashmir was passed for formation of a Committee by the BCCI to run the management and control the administration of Jammu Kashmir Cricket Association till the elections are held since there was no elected body to run the management and to control the administration of the Jammu Kashmir Cricket Association. In the aforesaid judgment of the Jammu Kashmir High Court, it was held that after the elections are held the management, control and administration of the Jammu Kashmir Cricket Association shall be handed over to the newly elected office bearers of the Association. However, the situation of the BCA is completely different as there is a proper elected body to run the management of the BCA. Further, an independent dispute resolution mechanism in the form of learned Ombudsman is also functional in the State of Bihar to look into any complaint or grievance against the functions of the elected body.

26. It has also been argued that the Constitution of the BCCI does not have any provision of forming ad-hoc committees over State associations. Therefore, the prayer made in paragraph 1(iv) the writ petition for a direction to the BCCI to



constitute ad-hoc body or committee to take over the control of management of the game of cricket in the State of Bihar, is wholly misconceived and not tenable.

27. By making the aforesaid submissions, learned Senior Counsel for the BCCI submits that this Court may dismiss this writ petition.

28. Learned counsel for the Bihar Cricket Association (BCA) submits that the petitioner has filed an Interlocutory Application No.223712 of 2023 in Civil Appeal No. 4235 of 2014 for the same relief which has been claimed in paragraph nos. 1(i) (ii) and (iv) of this writ petition. Therefore, the action of the petitioner amounts to unethical practice of forum shopping, which has repeatedly been condemned by the Hon'ble Supreme Court. In support of his submission, he has placed reliance on a decision of the Hon'ble Supreme Court in the case of *Vijay Kumar Ghai vs. State of W.B.* (supra).

29. Learned counsel for the B.C.A. further submits that as far as relief of paragraph no.1(iii) is concerned, the petitioner/CAB had earlier filed writ petition bearing W.P No. 2550 of 2009 before the Hon'ble Bombay High Court for for granting full membership of the BCCI, which was dismissed on 13.12.2010 and the petitioner/CAB has filed SLP (Civil)



No.4700 of 2011 (Civil Appeal No. 7645 of 2011) before the Hon'ble Supreme Court, which is still pending, but the petitioner has suppressed this fact in the present proceeding and on this ground alone, this writ petition should be dismissed. In support of his submission, he has placed reliance on a decision of the Hon'ble Supreme Court in the case of *Prestige Lights Limited vs. State Bank of India* reported in **2007 (8) SCC 449**.

30. Learned counsel for the BCA further submits that the CAB is not a recognized body. It is not recognized either by the Hon'ble Supreme Court or by the BCCI. In fact, the Committee of Administrators appointed by the Hon'ble Supreme Court is of the view that the BCCI should continue dealing with the BCA for cricketing activities in the State of Bihar. The Committee of Administrators has submitted its final status report on 14.10.2019 before the Hon'ble Supreme Court recognizing the BCA as full member of the BCCI. As per the Memorandum of Association and Rules and Regulations of the BCCI, each State shall be represented by one State Cricket Association only with the exceptions as directed by the Hon'ble Supreme Court in its order dated 09.08.2018 passed in Civil Appeal No. 4235 of 2014.

31. Learned counsel for the BCA also submits



that one of the submissions of the petitioner is that the Constitution of the BCA has not been amended in line with the Constitution of the BCCI, which is violation of the order of the Hon'ble Supreme Court, in this regard, it is stated that the BCA took every effort to get its Constitution amended in line with the Constitution of the BCCI as per the order of the Hon'ble Supreme Court. The BCA has submitted the Constitution for amendment before the Department of Prohibition Excise and Registration, Government of Bihar, Patna. The aforesaid Department, and after hearing the parties, vide order dated 20.07.2022 directed for registration of the Constitution and thereafter on 07.09.2022, the BCA through Interlocutory Application No.132771 of 2022 filed the amended Constitution before the Hon'ble Supreme Court in Civil Appeal No.4235 of 2014 with a prayer to allow the application and to approve the amendment carried out in the Constitution of the BCA. While the aforesaid application was pending before the Hon'ble Supreme Court, the Hon'ble Supreme Court vide Judgment dated 14.09.2022 accepted certain amendments made by the BCCI to their Constitution and reiterated paragraphs 45.2 and 45.3 of the earlier judgment passed by this Hon'ble Court on 09.08.2018 reported in **2018 (9) SCC 624**.



32. Learned counsel for the BCA further submits that since amendment was carried out in the BCCI Constitution, the amendments was also to be carried out in the Constitution of the BCA in line with the BCCI Constitution and accordingly an application was filed by the BCA in Civil Appeal No. 4235 of 2014 to withdraw the aforesaid I.A. through which the amended Constitution was submitted and to file a fresh Constitution after making the amendments. After making necessary amendments in the Constitution by the BCA in line with the Constitution of the BCCI, Interlocutory Application No.221667 of 2023 was filed before the Hon'ble Supreme Court seeking approval of its draft Constitution. The said Interlocutory Application was disposed of vide order dated 08.01.2024. The operative portion of the aforesaid order is as follows:-

"IA 221667 of 2023

- 11. The application has been moved by the Bihar Cricket Association seeking approval of its draft Constitution to bring it in conformity with the Constitution of the BCCI, as approval by this Court.*
- 12. A copy of the IA, together with the draft Constitution, shall be submitted to the BCCI unless it has already been submitted.*
- 13. The BCCI shall furnish its report on whether the draft constitution is in compliance and shall forward its report to the amicus curiae for*



placing before this Court. This exercise shall be completed on or before 15 February 2024.

14. I.A is accordingly disposed of.

15. IA No. 221669 of 2023 seeking exemption from filing official translation is disposed".

33. Therefore, it is clear that the issue of amendment of the Constitution of the BCA is pending before the Hon'ble Supreme Court.

34. It has also been submitted by learned counsel for the BCA that the Bank account of the BCA was illegally frozen by the Bank of India only on the ground that two writ petitions bearing C.W.J.C. No. 7791 of 2020 and C.W.J.C. No. 4868 of 2020 were pending before this Court but the BCA has already filed a writ petition bearing C.W.J.C. No. 6063 of 2021 before this Court for quashing the letter of the Bank of India, by which the bank account of the BCA was frozen, and for a direction to the Bank to immediately allow the account to be operated, which is still pending.

35. It has also been submitted that the funds granted by the BCCI are being properly used by the BCA and are subject to audit reports. All the funds have been properly used under the control and supervision of the BCCI. Further, Cricket in Bihar is being run by the BCA and the selections are being done purely on merits by the duly appointed Selection



Committee. The players of Bihar are playing all the tournaments organized by the BCCI. Recently, there was Ranji Trophy Match at Patna in between the team of Bihar selected by the Selection Committee of the BCA, Mumbai and Andhra Pradesh.

36. It has also been argued by learned counsel for the BCA that through the supplementary affidavit, the petitioner has made allegation with regard to illegality in the registration of players and also selection of teams for participating in different tournament to be organized under the BCCI. Allegation has also been made that one Sakib Hussain and Sachin Kumar Singh have manipulated their dates of birth for participating in a cricket tournament, but these allegations are not correct as the records with regard to the dates of birth of Sakib Hussain and Sachine Kumar were forwarded to the BCCI and only after approval given by the BCCI, the players are allowed to participate in the matches.

37. It has also been argued that in terms of the Rules and Regulations of the BCA, a Selection Committee was constituted by the BCA for senior, junior and women Cricket. In this regard, a letter dated 16.09.2023 was also issued by the Chief Executive Officer of the BCA. The said Selection Committee, on the basis of Selection camp and trial matches,



have selected the players for the first two matches of Vijay Hajare Trophy which was to be held at Ahmadabad. The Selection Committee has been constituted as per the Constitution of the BCA and at present the Senior Selection Committee comprises Sri Anant Prakash, who is ex Ranji Player and played five Ranji Matches. The second person is Madhusudhan Tantu Bai, who is also an ex Ranji player and has played six Ranji matches and five one-day tournaments. Sri Sidharth Raj Sinha, is also an ex Ranji player and has played seven Ranji matches along with five one-day matches and two T-20 matches. The Junior Selection Committee comprises Sri Rajeev Ranjan, who is also an ex Ranji player. He has played one Ranji match and two one-day tournaments. Sri Prabhat Kumar, has played one Ranji match and two one-day tournaments. Sri. Kundan Kumar has played four Ranji matches and one one-day tournament. The selectors of women Team are also former players.

38. It has also been submitted that the that the through the supplementary affidavit, the petitioner has tried to submit that the affairs of the cricketing activities by the B.C.A. is not being managed properly and there is internal dispute between different office bearers of the BCA, but such facts have



been brought on record malafidely by the petitioner. Moreover, adjudication of internal dispute is not maintainable under Article 226 of the Constitution of India in view of the Judgment rendered in the case of *Kumar Arvind* (supra). Moreover, different departments of Government of Bihar has set up Enquiry Committees after receiving complaints mainly by the petitioner and Amit Kumar (ex Secretary) but no negative report against the functioning of the BCA has been surfaced.

39. It has also been argued that the Annual General Meeting of the BCA was held on 28.08.2022 and in Agenda-F, it was decided that the erstwhile Ombudsman Sri Raghvendra Prasad Singh would continue for one more year till new Ombudsman is appointed and the responsibility of appointing new Ombudsman was given to the President of the BCA. Thereafter, Sri Nawal Kishore Singh, retired District Judge, was appointed as Ombudsman for one year. In the meeting of the Management Committee of the BCA dated 30.12.2022, it was unanimously decided to restrain the erstwhile Secretary Sri Amit Kumar from functioning as Secretary on account of his involvement in illegal cricketing activities but Sri Amit Kumar was continuing with the illegal act without any power and jurisdiction.



40. It has also been argued that the Joint Secretary of the BCA filed a petition on 19.01.2023 before the Ombudsman for removal of Sri Amit Kumar from the post of Secretary and initially, Sri Amit Kumar appeared through his lawyer and filed his reply, but subsequently he absented himself to represent his case. The Ombudsman, after appreciating the entire facts and circumstances and also the reply of Sri Amit Kumar, vide order dated 30.05.2023 affirmed the decision of the Committee of Management dated 30.12.2022 terminating Sri Amit Kumar from the post of Secretary of the BCA and also directed the BCA to conduct a fresh election for appointment of regular Secretary.

41. It has also been argued that the petitioner in paragraph no.20 of the supplementary affidavit has made allegation that the BCA is responsible for the dilapidated condition of Moinul Haque Stadium, but the real fact is that at the relevant point of time, the said Stadium was under absolute control of the State Government and on rent payment basis the ground and some part of stadium was given to the BCA to hold matches.

42. It has also been argued that the issue of constitution of two teams is concerned, the Selection Committee



duly appointed by the BCA has selected the original team but Amit Kumar (ex-Secretary) with a view to create disturbance in the ongoing match in between Bihar and Mumbai has signed on a paper which contained the list of some players and the persons whose names figures in the said list have assaulted the OSD and other officers of the BCA, for which an FIR was lodged being Bahadurpur P.S. Case No.13 of 2024 on 05.01.2024. Moreover, as per constitution of the BCA, a show cause notice was issue to players whose names were reflecting in the list created by Amit Kumar. Most of the players denied that they ever attended any trial matches conducted by Mr. Amit Kumar.

43. It has further been argued by learned counsel for the BCA that Aditya Verma is in habit of indulging in illegal acts. In 2020, his son namely, Lakhan Raja was part of the Bihar Team and when his son was given out by the BCCI umpire in a match then Aditya Verma had misbehaved with the referee and match officials and in this regard, an email was sent to the General Manager, Anti Corruption Department of the BCA. Further, at the time preparation of final electoral roll for the BCCI General Election, 2023 which was held on 25.09.2023, BCA nominated its President Mr. Rakesh Kumar Tiwari as the representative of the BCA but, the ex Secretary Mr. Amit Kumar



vide email dated 14.09.2023 had objected to the nomination of Mr. Rakesh Kumar Tiwari as the representative of BCA. After hearing the parties, the Electoral Officer of the BCCI, who is retired Chief Election Commissioner of India, vide order dated 16.09.2023 has held that the allegation of Mr. Amit Kumar against Mr. Rakesh Kumar Tiwari are false as not even a single genuine document proves the suspension or termination of Mr. Rakesh Kumar Tiwari from the post of the President of the BCA.

44. It has also been argued that that the allegation leveled by the intervenor respondent no.10 in his Intervention Application that about eight players from outside Bihar are playing matches for the State of Bihar is incorrect as the details of all the eight players were collected and inquired and only when it was found that the birth of all these eight players are of Bihar itself, they were registered and thereafter, their digital date of birth certificate, original Pan Card, original address proof, cancelled cheque were sent to the BCCI online for approval and also for allowing them to play for Bihar and only after the approval granted by the BCCI, these eight players are allowed to play for Bihar.

45. It is also submitted that at present the Office



bearer of BCA are (i) Sri. Rakesh Kumar Tiwari, President (ii) Sri. Dilip Singh, Vice President (iii) Ziaul Arefin, Secretary (iv) Smt. Priya Kumari, Joint Secretary and (v) Sri. Ashutosh Nandan Singh, Treasurer and in terms of the guidelines of the BCCI the Selection Committee is appointed. In the season of 2023-24, no ward of any office bearer are playing in the cricket team of the BCA.

46. By making the aforesaid submissions, it has been argued by learned counsel for the BCA that the cricketing activities in the State of Bihar is being conducted properly by the BCA and there is no maladministration and financial irregularities in the BCA. Therefore, this writ petition is devoid of merit and is fit to be dismissed.

47. Learned counsel for the respondent no.9, who claims to be duly elected Secretary of the BCA, has submitted that in the present case, the petitioner has sought an independent inquiry into the specific charges of corruption, maladministration and mismanagement in running the affairs of the BCA. This prayer particularly has nothing to do with the inter-se dispute between the office bearers of the BCA and thus, it would never fall within the realm of the private law as in the case of *BCCI vs. CAB and others* reported in *2015 (3) SCC*



251, the Hon'ble Supreme Court has held that though BCCI may not fall within the expression 'State' under Article 12 of the Constitution of India but it is still amenable to writ as it discharges important public function relating to the game of cricket in India. The BCA also regulates and controls all aspects of game of cricket in the State of Bihar and as such, it holds complete monopoly over the game of cricket in the State of Bihar and therefore, the BCA is also amenable to writ jurisdiction. The aforesaid view has also been reiterated by the Division Bench of the High Court of Jammu and Kashmir at Srinagar in L.P.A. No. 43 of 2019 decided on 23.03.2021.

48. Learned counsel for the respondent no.9 has also submitted that while questioning the maintainability of the writ petition reliance has been placed by the BCA on the judgment delivered by a Division Bench of this Hon'ble Court in ***CWJC No. 2809 of 2022 (Kumar Arvind v. CAB and others)***, but the aforesaid decision is not applicable in the present case as the aforesaid writ petition i.e. C.W.J.C. No.2809 of 2022 was filed against the decision of the Committee of Management, by which petitioner was alleged to have indulged in professional misconduct and was thus restrained from discharging his function as Secretary of the BCA and the controversy was



primarily an outcome of internal dispute amongst the office bearers of the BCA. The case, at hand, is completely different inasmuch as, it insists on an impartial probe on the issue of maladministration, mismanagement and corruption in the affairs of the BCA, which is substantially funded by the BCCI. These issues are apparently of public importance, which may have grave bearing on the future of cricket in the State of Bihar and thus, the writ application herein is maintainable in law.

49. Learned counsel for the respondent no.9 has further submitted that the President of the BCA from the very beginning started usurping powers of other office bearers especially the Secretary and the exercise of unfettered power by the so-called President of the BCA is the root cause of maladministration, mismanagement and corruption in administering the affairs of the BCA. The conduct of the President all along has been completely inconsistent with Rule 18(1)(iv) of the Memorandum of Association & Rules and Regulations of the Bihar Cricket Association (for short “Rules and Regulations of the BCA) which mandates that there must be distribution and balance of authority in the management of the BCA to ensure that no single individual has unfettered powers.

50. It has been submitted by learned counsel for



the respondent no.9 that on 29.09.2019 the office bearers were elected and within few months of election of office bearers i.e. on 31.01.2020, the Secretary was removed in the Annual General Meeting without prior agenda and his charge was given to the Joint Secretary on the same day and on 16.08.2021, an Emergent Meeting of COM was convened by the President with barely an hour notice and in the said meeting, the Joint Secretary was also removed and the President himself assumed the charge of the Secretary as well as Joint Secretary. When the matter was brought to the notice of the Ethics Officer of the BCA, a retired District & Sessions Judge, who vide order dated 20.09.2022, held that by assuming the power of the Secretary, the President has been exercising unfettered power. It was further held that by virtue of Rule 10(1)(d) of the Rules and Regulations of the BCA, the President himself cannot assume the additional power and accordingly, directed the President to immediately relinquish the power of Secretary and delegate the same to some other office bearer of the BCA, but the President never mend his ways.

51. Learned counsel for the respondent no.9 has further submitted that the election of the BCA was next convened on 25.09.2022. In the said election again Sri Rakesh



Kumar Tiwari was elected as President and respondent no.9 was elected as Secretary, but the respondent no.9 was not given the charge of the Secretary. Thereafter, the BCA through the respondent no.9 filed Title Suit No.75 of 2023 seeking direction against the President to hand over the charge of the Secretary to the respondent no.9, which is still pending.

52. It has also been argued by learned counsel for the respondent no.9 that Rule 45(1)(b) of the Rules and Regulations of the BCA clearly prescribes that in case of any act of indiscipline or misconduct or any other act detrimental to the interest of the Association etc., the Committee of Management on receipt of complaint, shall issue show cause notice calling for explanation and on receipt of show cause if explanation is found unsatisfactory, the matter shall be referred to the Ombudsman. The Ombudsman, after providing opportunity of hearing to the parties concerned, shall pass appropriate order. Thus, it is clear that neither the Committee of Management nor AGM is competent to pass any punitive disciplinary order against an office bearer of the Association. However, in the present case, the so-called decision of removal of the Secretary was taken by COM/AGM on both the occasions and subsequent thereto, the cases were forwarded to the Ombudsman. Thus, the whole



exercise becomes futile and tainted and contrary to the express mandate of the approved constitution of the BCA.

53. It has further been argued by learned counsel for the respondent no.9 that because of this continued ongoing mischief and maladministration, the cause of cricket has suffered immensely and the result being an abysmally poor performance of the players representing Bihar in domestic cricket. Further, in the meeting of the Committee of Management dated 17.06.2022, a Three Men Committee comprising of Vice President Dilip Singh (Chairman), Joint Secretary S.D Chaudhary (Convenor) and one PC Verma (Member) was constituted for selection and appointment of selectors. In the said process, two former national players namely, Rajesh Chauhan and Doda Ganesh were also interviewed, but they were not selected and precedence was given to former Ranji players with very average track record and this is how, one Shivam Singh (son of Vice President) and G.D. Chaudhary (son of Joint Secretary) were selected, which shows the maladministration in the BCA.

54. The next submission of learned counsel for the respondent no.9 is that after adoption of amended Constitution in tune with the recommendation of the Lodha



Committee on 04.11.2018, the first Annual General Meeting of the BCA was convened on 25.05.2019. Rule 11(1) of the Rules and Regulations of the BCA says that the meeting of the Annual General Meeting shall be convened once in a financial year. Thus, no Annual General Meeting could have been called / convened on 31.01.2020 as this would amount to second Annual General Meeting in the same financial year but a purported meeting of the Annual General Meeting was convened on 31.01.2020 to give effect to the pre-determined agenda of Shri Rakesh Kumar Tiwari to unlawfully and without authority remove the then Secretary who was duly elected on 29.09.2019 in the election which was convened under the direct supervision of Committee of Administrators. Thus, it is clear that the entire exercise done on 31.01.2020 is completely tainted. Further, while examining the authority of Committee of Management to appoint Ombudsman, this Court by an order dated 06.03.2020 passed in CWJC No.4868 of 2020 has also recorded finding regarding the Minutes of Meetings being apparently forged and fabricated.

55. It is the submission of learned counsel for the respondent no.9 that the respondent no.9 was unlawfully removed without authority in the meeting of Committee of



Management dated 25.09.2022 and from plain reading of the minutes of the meeting of the COM dated 25.09.2022, it would manifest that the same is absolutely forged, fabricated and ante-dated. Though the election was convened on 25.09.2022, the result was submitted in sealed cover before the Hon'ble Supreme Court and under the direction of the Hon'ble Supreme Court, the same was published only on 03.10.2022. The minutes of meeting dated 25.09.2022 also indicates the name of the respondent no.9 as Secretary. Since the result itself was published on 03.10.2022, the inevitable conclusion is that the Minutes of Meeting dated 25.09.2022 is apparently ante-dated and thus, completely forged and fabricated. Since this forged Minutes of Meeting was belatedly uploaded, a complaint in this regard was also sent by the respondent no.9 on 20.11.2022.

56. It is the contention of the respondent no.9 that Rule 44(1) provides that the BCA shall appoint an Ombudsman at the Annual General Meeting for the purpose of independent dispute resolution mechanism. Despite express mandate of Rule 44(1), Hon'ble Smt. Justice Nilu Agrawal (Rtd.) was appointed as Ombudsman in the meeting of Committee of Management dated 15.11.2019. As a result, the same was stayed by this Court by a detailed order dated



06.03.2020 passed in C.W.J.C. No. 4868 of 2020. Thereafter, one Sri. N. K. Singh, retired District & Sessions Judge was again appointed as Ombudsman vide Agenda No.5 passed in meeting of Committee of Management dated 02.01.2023 with the sole intent to misuse the office of the Ombudsman to ratify illegal activities. Since his appointment was patently illegal, the decision of his appointment was withdrawn in the meeting dated 04.02.2023 and in the same meeting, Sri. Rakesh Kumar Tiwari was restrained from discharging his function and a Three-Man Committee was also constituted to enquire into his illegal activities.

57. It is the submission of the respondent no.9 that Rule 9(1) of the Rules and Regulations of the BCA prescribes that office bearers including the President shall be elected by the full members and former international player members from amongst their representatives at an Annual General Body Meeting. Admittedly, there is no former international player members in the BCA and the name of Sri Rakesh Kumar Tiwari does not even figure in the voter list of representatives of full members of the BCA. Thus, he had no locus to even contest election. This issue also came for consideration before the Ombudsman. Considering the mandate



of the Rule, he along with Vice President and Treasurer were restrained from discharging their functions vide order dated 09.06.2023. They were finally removed from their post vide final order passed by Ombudsman on 25.08.2023 and the decisions dated 09.06.2023 or 25.08.2023 have never been challenged by anyone before any fora.

58. By making the aforesaid submission, learned counsel for the respondent no.9 has submitted that the continued inaction of the BCA is essentially the reason why a thorough probe in the subject matter by a competent person of unshakable integrity is important to protect the cause of cricket in the State of Bihar. Further, the respondent no.9 has joined this proceeding not to vent his cause or his personal issues with the incumbent President but his only prayer is to ensure a thorough impartial probe of the affairs of the BCA in the preceding six years as this exercise alone would help in identifying the problems.

59. I have considered the submissions of learned counsel appearing for the respective parties and perused the materials on record.

60. So far as the contention of the respondent-BCCI that this writ petition is not maintainable is concerned, this Court is of the view that this writ petition is maintainable in



view of the decision of the Hon'ble Supreme Court rendered in the case of *BCCI vs. CAB* reported as *2015 (3) SCC 251* as the present case is not a case between two private persons or office bearers or the associations but in this case the question of maladministration and mismanagement in the BCA and the BCCI has been raised. Accordingly, it is held that this writ petition is maintainable.

61. The learned counsel for the petitioner, learned counsel for the respondent no.9 and learned counsel for the intervenor - respondent no.10 have pointed out various facts which show the mismanagement in the affairs of the Bihar Cricket Association which is under the control of the BCCI.

62. The following complaints have been made by the petitioner, respondent no.9 and the intervenor - respondent no.10 :-

62(i). Ever since Rakesh Kumar Tiwari was elected as the President of the BCA on 29.09.2019, the entire power of the BCA has virtually been centralized in the office of the President. It is a matter of record that on 29.09.2019, the election of office bearers of the BCA was held in which Rakesh Kumar Tiwari was elected as the President and one Sanjay Kumar



was elected as Secretary, but barely after three months, the elected Secretary was suddenly removed in the Annual General Meeting dated 31.01.2020, which was convened with some other agenda. Though the Joint Secretary was vested with the power of the Secretary but the Joint Secretary was also removed in the emergent meeting of the Committee of the Management dated 16.08.2021 and on the same day, all the powers of the Secretary and Joint Secretary was illegally vested with the President. The usurpation of power of Secretary and other office bearers by the President is against Rule 18(1)(iv) of the Rules and Regulations of the BCA, which provides that there must be distribution and balance of authority in the management of the BCA so that no single individual has unfettered powers.

62(ii). Moreover, the removal of successive Secretary of the BCA also offends Rule 45(1)(b) of the Rules and Regulations of the BCA, which reads as under:-

**“45(1)(b) Deteriment caused by
Member or Administrator**

*If any Member or any
Administrator of the BCA commits any*



act of indiscipline or misconduct or acts in any manner which may or likely to be detrimental to the interest of the BCA or the game of cricket or endanger the harmony or affect the reputation or interest of the BCA or refuses or neglects to comply with any of the provisions of the Memorandum an/or the Rules & Regulations of the BCA and/or the Rules of conduct framed by the BCA, the Committee of Management, on receipt of any complaint shall issue a Show Cause Notice calling for explanation and on receipt of the same and/or in case of no cause or insufficient cause being shown, refer the same to the Ombudsman.

Procedure:- The Ombudsman shall, after providing opportunity of hearing to the parties concerned, pass an appropriate order.”

As per the aforesaid Rule, the power to take disciplinary action against office bearers of the Association can only be exercised by the Ombudsman. In the aforesaid Rule, it is clearly stated that on receipt of any complaint against any



office bearer or member of the Association, show cause notice shall be issued by the Committee of Management calling for explanation and in case, no sufficient cause is shown, his/her case would be forwarded to the Ombudsman and the Ombudsman after providing an opportunity of hearing to the parties concerned, shall pass appropriate order. Admittedly, in the present case, the aforesaid Rule has not been followed and the successive Secretary was removed in the Annual General Meeting of the BCA without any jurisdiction.

62(iii). The conduct of the President also offends Rule 10(1)(d) of the Rules and Regulations of the BCA, which stipulates that “*The President shall, in the event of a vacancy or indisposition of an office bearer, delegate the functions to another Office Bearer until the vacancy is duly filled up, or the indisposition ceases*”.

Thus, as per the aforesaid Rule, the President can only delegate the functions of any vacant office bearer to another office bearer. The aforesaid Rule does not permit the President to assume the



functions of any vacant office bearer. While examining the import of Rule 10(1)(d) and 18(1) (iv), Sri Raghvendra Singh (Retired District Judge), Ethics Officer of the BCA in his order dated 20.09.2022 also disapproved this action of the President and directed him to immediately relinquish the charge of the vacant office of the Secretary and hand over the charge of the same to any other office bearer. However, irrespective of the above order of the Ethics Officer, the respondent no.9, who was duly elected as Secretary on 25.09.2022, was also removed in the meeting of the Committee of Management dated 30.12.2022 and 12.02.2023 and the President again assumed the functions of the Secretary.

62(iv). In the present case, the mandate of Rule 17(9)(a) of the Rules and Regulations of the BCA was also flouted as the aforesaid Rule clearly states that in case there is any vacancy in Committee of Management, the same shall be filled within 45 days. However, the office of the Secretary was deliberately kept vacant all through so that the



President may continue to discharge the crucial functions of the Secretary as well.

62(v). The President also flouted Rules 10(5)(c), 25(2) and 47 of the Rules and Regulations of the BCA, which provide that the bank account of the BCA shall only be operated under the joint signatures of the Secretary and the Treasurer, but disregarding the above Rules, the signatory in the Bank account was changed in the meeting of the Committee of Management dated 16.08.2021 and it was resolved that henceforth the account of the BCA shall be operated under the joint signatures of the President and the Treasurer. This decision was again reiterated in the Special Annual General Meeting dated 12.02.2023. Thus, the action of the President and the BCA is violative of the order of the Hon'ble Supreme Court.

62(vi). In the emergent meeting of the Committee of Management dated 02.01.2023, an Ombudsman was appointed but, Rule 44(1) clearly states that *“the BCA shall appoint an Ombudsman at the Annual General Meeting for the purposes of*



providing an independent dispute resolution mechanism". Hence, as per the aforesaid Rule, it needs no clarification that an Ombudsman can never be appointed in a meeting of the Committee of Management and on this consideration alone, an earlier appointed Ombudsman was restrained from discharging her function vide order dated 06.03.2020 passed in C.W.J.C. No.4868 of 2020.

62(vii). Though the decision of appointment of Ombudsman dated 02.01.2023 was later withdrawn in the Special General Meeting dated 04.02.2023 requisitioned in accordance with law by 17 full members of the BCA, but the President still continue treating him as Ombudsman with oblique motive. Further, he abused his official power and ensured registration of the F.I.R. against Sri Paras Nath Roy, who was later appointed as Ombudsman on 04.06.2023 as he was not yielding to the desire of the President and was passing orders against him.

62(viii). It appears that the election of Rakesh Kumar Tiwari as President of the BCA is itself tainted as he has never been the representative of any full



member of the Association. This clearly transpires from the pleadings of the writ petition as also from the orders dated 09.06.2023 and 25.08.2023 passed by the Ombudsman. The above orders derive its strength from Rule 9(1) of the Rules and Regulations of the BCA, which stipulates that the office bearers of the BCA shall be elected by the full members and former international player members of the BCA from amongst their representatives at an Annual General Body Meeting but he still managed to continue on his post.

62(ix). A Three Men Committee was constituted in the meeting of the Committee of Management dated 17.06.2022 for appointment of selectors when it is expressly provided under Rule 29(2)(ii) that the power to appoint selectors is vested exclusively in the Annual General Meeting. The Vice President and the Joint Secretary of the BCA were designated as Chairman and Convenor of the said Three Men Committee and the said Three Men Committee rejected the candidature of at least two former national players namely, Rajesh Chouhan and Doda



Ganesh and appointed their own favourites as Selectors, who then returned obligation by selecting one Shivam Singh (son of the Vice President) and G.D. Choudhary (son of Joint Secretary) in the Men's Cricket Team. There cannot be a more brazen example of conflict of interest and travesty of justice.

62(x). The entire affairs of the BCA has essentially been reduced to a one man show and this has miserably affected the cause of cricket in the State of Bihar. Players from outside Bihar were allowed to be inducted in the Men's Team on the basis of forged and fabricated certificates and this was rather done on routine basis. It is unfortunate that all these issues were repeatedly brought to the notice of the BCCI, which rather dealt with the issue in a very casual and perfunctory manner.

63. In the opinion of this Court, the BCA is there for advancement of cricket in the State of Bihar but due to maladministration in the BCA the cricket in Bihar has been suffering since long and thereby sub-standard selectors selecting sub-standard players has resulted in giving bad name to the State



particularly in the field of cricket. It appears that BCA is functioning as autocratic body with the support of the BCCI and any person or office bearer who is not supporting the President is being removed without following the bye-laws and the Rules. The power of the BCA cannot remain centralized with the President and the BCA should not be a one man show.

64. The complaints regarding the centralization of power with the President Rakesh Kumar Tiwari are very serious and it is expected that henceforth the President of the BCA will act in accordance with Rules and Regulations of the BCA and will not act in a manner prejudicial to the interest of the BCA. He cannot usurp the powers of the office bearers of the BCA by removing them. The office bearers can be removed only in accordance with Rules and Regulations of the BCA. Further, the distribution and balance of authority in the management of the BCA should be as per Rules and Regulations of the BCA. Moreover, it is for the Ombudsman to take disciplinary action against any office bearer as per Rule 45(1)(b) of the Rules and Regulations of the BCA and the Committee of Management can only issue show-cause notice calling for explanation and after receipt of the show-cause, it can forward the same to the Ombudsman, who after hearing the parties, shall



pass appropriate order. Further, the President in case of removal of any office bearer cannot assume his powers but has to delegate the powers and functions to another office bearer until the vacancy is filled up.

65. From the materials available on record and the discussions made above, it appears that an important post of elected Secretary was kept vacant by the BCA for a long period though the same should have been filled up within 45 days as per the mandate of Rule 17(9)(a) of the Rules and Regulations of the BCA. Further, the complaint regarding the operation of the bank account and management of finance is also a serious matter. Though the bank account was to be operated under the joint signature of the Secretary and the Treasurer but disregarding the Rules and Regulations, it was decided and resolved in the meeting of the Committee of Management dated 16.08.2021 that the bank account of the BCA should be operated under the joint signature of the President and the Treasurer, which has been reiterated in the Special Annual General Meeting dated 12.02.2023. I find that this action and the resolution of the BCA is illegal and it is directed that the bank account of the BCA can only be operated as per Rules and Regulations of the BCA and the Secretary and the Treasurer can



only operate the bank account and not the President and the Treasurer.

66. So far as the objection of the petitioner and the respondent nos.9 and 10 with regard to the ineligibility of the President of the BCA for contesting the election is concerned, this question is not being decided by this Court, but the same is left open. The petitioner, the respondent nos.9 and 10 are granted liberty to challenge the same in an appropriate Forum/Court in accordance with Rules and Regulations and the bye-laws of the BCA.

67. The Three Men Committee constituted for appointment of selectors done by the Committee of Management is also held to be illegal as under Rule 29(2)(ii) the power to appoint selector is exclusively vested in the Annual General Meeting. It also appears that the selectors appointed by the BCA have selected the players who are the sons of the Vice President and Joint Secretary of the BCA. This is a clear case of *quid pro quo* and abuse of powers and this should not be allowed. A fresh Selection Committee should be appointed in the Annual General Meeting of the BCA and the said Selection Committee will select the deserving players who will represent the State of Bihar.



68. This Court also find that the BCCI has been supporting the illegal acts of the BCA and has been turning a blind eye on the complaints received against the BCA. The BCCI is not supposed to support the illegal actions of the office bearers of the BCA, but it has to remain independent and has to act whenever any illegality is committed by the office bearers of the BCA. Hence, it is directed that the BCCI in near future shall act promptly on the complaints made against the office bearers of the BCA.

69. The objection with regard to the pendency of the I.A. application before the Hon'ble Supreme Court is now no more available to the respondents particularly the BCCI and the BCA as the petitioner has filed an application before the Hon'ble Supreme Court for withdrawal of the said Interlocutory Application.

70. It appears that one Nawal Kishore Singh, retired District Judge, was appointed as Ombudsman in the meeting of Committee of Management dated 02.01.2023. He was then removed in the Special General Meeting dated 04.02.2023. Later, the appointment of one Paras Nath Roy, retired District Judge, as Ombudsman was approved in the Annual General Meeting dated 04.06.2023. However, both of



them continued to discharge the function of Ombudsman. One was passing order(s) in favour of the President while the other was passing order(s) against him. As Sri Paras Nath Roy was not passing order(s) in favour of the President of the BCA, he was even dragged as an accused in an F.I.R. instituted by the BCA.

71. For the foregoing reasons especially the peculiar circumstances indicated in the preceding paragraph, it became expedient for this Court to invoke its extraordinary power under Article 226 of the Constitution of India to appoint an Ombudsman for better administration of the BCA. It goes without saying that the presently functioning Ombudsmen were illegally appointed in the meeting of the Committee of Management in brazen violation of the approved Rules and Regulations of the BCA and they are thus restrained from functioning as Ombudsmen.

72. In these circumstances, this Court appoints Hon'ble Shailesh Kumar Sinha, J. (Retired) as Ombudsman, who will decide all the complaints made against the office bearers of the BCA in accordance with bye-laws of the BCA after hearing the concerned parties. The Ombudsman will also examine the complaints, as indicated above, and will decide the same in accordance with the Rules and Regulations of the BCA.



The Ombudsman will get an honorarium of Rs. 2.5 lakhs per month.

73. With the aforesaid observations and directions, this writ petition stands disposed of.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	02.05.2024
Uploading Date	06.08.2024
Transmission Date	

