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

+ **W.P.(C) 4076/2024 & CM APPL. 16658/2024**

PERUMAL RAMASAMY

..... Petitioner

Through: **Mr. Rakesh Kaushik, Advocate**

versus

UNION OF INDIA AND OTHERS

..... Respondents

Through: **Mr. Anil Soni, CGSC with Mr. Devvrat Yadav, G.P. for R-1 & R-2
Mr. Hrishikesh Barnah, Mr. Parth Goswami and Mr. Akshay Kumar, Advocates for R-4
Ms. Vrinda Bhandari, Advocate for R-6**

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Date of Decision: 18th March, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ: (ORAL)

CM APPLs. 16659/2024, 16660/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present applications stand disposed of.

W.P.(C) 4076/2024 & CM APPL. 16658/2024

1. Present writ petition has been filed under Article 226 of the Constitution of India as a Public Interest Litigation ('PIL') seeking following directions.

"A. Admit this Writ Petition and issue RULE NISI calling upon respondent no.1 (AFI) and other concerned respondents as to why



they circumvented to take effective steps against the Respondent no.6 (Adille J. Sumariwalla) and his caucus who have fraudulently usurped the management of AFI with the use of false information and forged documents, without any fair democratic process and in complete defiance of the directions of the government and courts.

B. Issue a writ of Mandamus or any other writ, order, **direction to declare election of office bearers and executive council members of respondent no.4 (AFI) including election of Respondent no.6 (Adille J. Sumariwalla) held on 31.10.2020 as null and void on account of defective/ illegal voter list and list of contesting candidates used in the said elections.**

C. Issue a writ of mandamus or any other writ, order, **direction for initiating suitable legal recourse including criminal prosecution against the Respondent no.6 pursuant to the offences of cheating by false personation, forgery of valuable security and using forged documents as genuine one committed by him against the national interest of athletics and sports.**

D. Issue a writ of mandamus or any other writ, order, **direction for ensuring free and fair organizational elections of respondent no.4 (AFI) in accordance with the Sports Code, Governments Guidelines and Court Directions.**

E. Call for records of respondent no.4 (AFI) related to all the lists of office bearers and list of executive committee/ council members since 2008 till date.

F. **Appoint commission/ committee for scrutinizing bona fide members of Respondent no.4 (AFI) with voting rights in view of the Sports Code, Governments Guidelines and Court Directions.**

G. Pass such other orders and further orders as may be deemed necessary on the facts and in the circumstances of the case.”

2. In the writ petition, the Petitioner has asserted that he is a NIS approved Coach and the present PIL has been filed by him as the affected persons such as Athletes, Coaches and their admirers are numerous in number and they are not organized to the extent that they may collectively pursue their personal interest in the matters related to good governance of Athletics.

3. Learned counsel for the Respondent No. 4, who appears on advance notice states that he has a preliminary objection to the maintainability of the



present petition. He states that the petitioner fails to disclose the filing and pendency of W.P.(C) 14795/2022 titled 'Pune District Athletic Association v. Union of India & Others' for identical reliefs and on similar grounds. He states that the language of both petitions and the reliefs sought therein are identical. He states that the same advocate drafted and filed both the petitions. However, the pendency of the W.P.(C) 14795/2022 has not been disclosed. He states that the W.P.(C) 14795/2022 is listed before the learned Single Judge for hearing today. He has handed over an entire paper-book of W.P.(C) 14795/2022. He seeks the dismissal of the present petition and relies upon the judgment of Supreme Court of India in ***State of Jharkhand v. Shiv Shankar Sharma and Others***¹.

3.1. He states that the present writ petition is defective inasmuch as it has been drawn up on 14th March, 2024; enclosed Annexures which are dated 27th February, 2024 but is supported by an affidavit of the Petitioner affirmed on 19th January, 2024.

4. In response, learned counsel for the Petitioner fairly admits that W.P.(C) 14795/2022 has been filed by him as an advocate and contains overlapping reliefs. He states however, the Petitioner herein *per se* has no knowledge of W.P.(C) 14795/2022 and therefore there is nothing wrong in not mentioning W.P.(C) 14795/2022 in the present petition. He states that as an advocate his personal knowledge cannot be ascribed to the Petitioner herein.

5. We have considered the submission of the learned counsel for the parties and perused the present writ petition and W.P.(C) No. 14795/2022.

¹ (2022) SCC OnLine SC 1541



6. The prayers sought in the pending W.P.(C) No. 14795/2022 titled '**Pune District Athletic Association v. Union of India & Others**' are as under:

"A. Declare election of Respondent no. 5 (Adille J. Sumariwalla) as the President of Respondent no.3 (AFI) held on 31.10.2020 as null and void on account of his misrepresentation as the President and Authorized Representative of Respondent no.4 (MAAA) in the said elections.

B. Declare elections held on 31.10.2020 for electing Office Bearers and Executive Council Members of Respondent no.3 (AFI) as null and void on account of defective List of Contesting Candidates dated 23.10.2020 which contains the name of Respondent no.5 (Adille J. Sumariwalla) and eight other Executive Council Members who were not eligible to contest the said election as per the Memorandum and Rules & Regulations of AFI or the Sports Code or Government Guidelines.

C. Declare elections held on 31.10.2020 for electing Office Bearers and Executive Council Members of Respondent no.3 (AFI) as null and void on account of defective List of Electoral of College dated 17.10.2020 which contains the name of Respondent no.5 (Adille J. Sumariwalla) and others who were not eligible to vote or to participate in the said elections as per the Memorandum and Rules & Regulations of AFI or the Sports Code or Government Guidelines.

D. Issue directions for initiating suitable legal recourse including criminal against the all the concerned persons including Returning Officer/ Election. Officer who have tended to harm the national interest by preparing and allowing the defective List of Electoral of College dated 17.10.2020 and defective List of Contesting Candidates dated 23.10.2020 in the election process of Respondent no.3 (AFI).

E. Issue proper directions for conducting free and fair organizational elections of respondent no.3 (AFI) under the control of Returning Officer appointed by the Hon'ble High Court in accordance with the Sports Code and Governments Guidelines and in strict compliance of the directions of the Court.

F. Pass such other orders and further orders as may be deemed necessary on the facts and in the circumstances of the case."

(Emphasis supplied)

7. A comparison of the prayers sought in the present petition with W.P.(C) 14795/2022 would show that prayer clauses (B), (C) and (D) of the present writ petition correspond to prayer clauses (A), (C) (D) and (E) of



W.P.(C) 14795/2022. Respondent No. 4 also draws our attention to the synopsis filed with both the petitions, which are nearly identical.

8. In the affidavit, affirmed by the Petitioner in support of the present writ petition, the Petitioner at paragraph no. 5 and in the verification clause has stated that no material fact has been concealed in the present petition. The paragraph no. 5 reads as follows: - *‘That, I have done whatsoever inquiry/ investigation which was in my power to do, to collect all data/ material which was available and which was relevant for this court to entertain the present Writ Petition. I further confirm that I have not concealed in the present Writ Petition any data/ material/ information which may have enabled this court to form an opinion whether to entertain this petition or not and/ or whether to grant any relief or not.’* We are of the considered opinion that in the facts noted hereinabove, the advocate for the Petitioner would have necessarily apprised the Petitioner about the pendency of the W.P.(C) 14795/2022 and this fact should have been fairly disclosed in the present petition. We are therefore, not satisfied with the bald denial offered by the learned counsel for the Petitioner with respect to non-disclosure of W.P.(C) 14795/2022 in the present petition. The PIL jurisdiction is a benign jurisdiction and a party invoking this jurisdiction must exercise due caution and make full disclosure; however, the Petitioner herein has withheld this material fact.

9. Be that as it may, Rule 9(i)(d) of the Delhi High Court (Public Interest Litigation) Rules, 2010 requires the petitioner to disclose in the writ petition the class of persons for whose benefit the petition has been filed and how such persons are incapable of accessing the Courts. While making the said disclosure the Petitioner herein in this PIL ought to have disclosed the filing



and pendency of W.P.(C) 14795/2022 for identical reliefs. In light of the fact that an affected party has already approached the Court for identical reliefs on similar pleas, which are pending adjudication before the learned Single Judge of this Court, we find no ground for entertaining the present PIL at the behest of the Petitioner herein for similar reliefs.

10. At this stage, learned counsel for the Petitioner prays that the present petition be tagged and heard along with W.P.(C) 14795/2022, however, we are not inclined to accept the said prayer.

11. The present PIL along with application is accordingly dismissed on the ground of non-maintainability.

12. It is made clear that we have not examined or expressed any opinion on the merits of maintainability of W.P.(C) 14795/2022 in these proceedings.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MARCH 18, 2024/hp/MG