



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 503 OF 2025

Kumar Ashutosh S/o. Sri Amresh Kumar Jha	...Petitioner
Versus	
Board of control for Cricket in India, through its Chairman/Secretary/ Authorized Representative and Ors.	...Respondents

Mr. Abhishek R. Singh a/w Mr. Mohit Jain, for the Petitioner.

Dr. Birendra Saraf, Senior Advocate a/w Mr. Ranjit Shetty, Mr. Tejas Gokhale,
Ms. Monika Vyas i/b. Argus Partner for Respondent No.2.

Mr. Mayur Khandeparkar a/w Shreni Shetty and Antara Kalambi i/b. ANB
Legal, for the Respondent No.3.

Mr. Ankit Lohia i/b. AHB Legal for Mr. Rakesh Kumar Tiwari – Intervenor.

**CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.**

DATE : 10 JANUARY 2025

P.C.:

1. This petition filed under Article 226 of the Constitution of India is filed praying for following reliefs:-

- “b. This Hon'ble Court by passing appropriate Writ, Order, Direction, be pleased to quash and set aside the Order/findings dated 02/01/2025 passed by Shri A. K. Joti, Electoral Officer, BCCI By-Election 2024 in re: Bihar Cricket Association - Mr. Rakesh Kumar Tiwary;
- c. This Hon'ble Court by passing appropriate Writ, Order, Direction, be pleased to declare the Nomination of the

petitioner with respect to Representative of Bihar Cricket Association in Final Electoral Roll for the BCCI By-Election' 2024 to be held on 12th January, 2025 as legal valid and same be included in the Final Electoral Roll;

- d. Pending the hearing and final disposal of the present Petition, this Hon'ble Court be pleased to stay BCCI By-Election' 2024 to be held on 12th January, 2025 for the Post of Secretary & Treasurer of the Apex Council of BCCI.”

2. At the outset, we may observe that although the relief is sought to challenge the nomination of Mr. Rakesh Kumar Tiwari, who has been nominated by Respondent No.3 – Bihar Cricket Association (“**BCA**” for short) to participate in the elections to be held of respondent no.1 – Board of Control for Cricket India (“**BCCI**” for short), he has not been impleaded as a party respondent to this petition. This more particularly when discretionary and equitable reliefs are sought by the petitioners.

3. The primary case of the petitioner is that by the impugned order dated 2 January 2025 passed by Respondent no.2 - A.K. Joti, Electoral Officer, BCCI, rejecting the objections of the petitioner to the nomination of Mr. Rakesh Kumar Tiwari, as the representative of the BCA, in participating in the By-elections, for the post of Treasurer and Secretary to be held on 12 January 2025 is without any justification, and in breach of the principles of natural justice, as no opportunity of being heard was

granted to the petitioner. It is contended that merely relying on the reply as filed on behalf of the BCA of Mr. Manish Raj, CEO of BCA the petitioners objections were rejected. Learned counsel for the petitioner would hence submit that not only on merits, but even when tested on the principles of natural justice, the order is required to be quashed and set aside.

4. The Writ Petition is opposed on behalf of the respondents. Respondent No.2 is represented by Dr Birendra Saraf, Advocate General. Mr. Khandeparkar, represents the BCA. Mr. Lohia has appeared for Mr. Rakesh Kumar Tiwari and has sought intervention in the present petition on the ground that although reliefs are prayed against his client who is the affected party, he has not been arrayed as respondent to the petition. Such objection is also raised on behalf of the other respondents.

5. We have heard learned counsel for the parties. With their assistance, we have also perused the record.

6. At the outset, we may observe that for the By-elections of the BCCI which are sought to be held on 12 January 2025, respondent no.2 had accepted the nomination as made by the BCA of Mr. Rakesh Kumar Tiwari, which was sought to be objected by the petitioner raising various objections. The objection being that Mr. Rakesh Kumar Tiwari has not been appropriately nominated by respondent no.3 and it is the petitioner's nomination which was required to be held to be valid. In supporting such

contention, the primary reliance of the petitioner is on the abstract of the Resolution of the Annual General Body Meeting of the Bihar Cricket Association held on 30 September 2024 wherein a decision is stated to be taken to nominate Mr. Amit Kumar, Honorary Secretary of the BCA or the petitioner to serve as official representatives of the BCA at the meeting whether it be Annual General Meeting (AGM) or Special General Meeting (SGM) or seminar of the Board of Control for Cricket in India (BCCI). Such document forms part of the record of this petition. The peculiarity of this document is that although the meeting to be held by respondent no.2 to conduct the elections is scheduled on 12 January 2025 which was notified on 21 December 2024, the Resolution is purported to have been signed by the petitioner in his capacity as “Representative of Bihar Cricket Association for BCCI (SGM)” referring to the date of the election on 12 January 2025. It is on this ground that Dr. Saraf has raised a serious concern on the authenticity/ genuineness of this document.

7. This apart on perusal of the record and more particularly, the orders dated 25 September 2024 passed by the Ombudsman Mr. Justice Shailesh Kumar Sinha, Former Judge of the Patna High Court, as also the orders passed by the learned Single Judge of the High Court of Judicature at Patna in Civil Writ Petition Case No.13405 of 2021 and orders passed by the Division Bench in Letters Patent Appeal No.840 of 2024 and Letters Patent Appeal No.906 of 2024 dated 7 October 2024, it is clear that there

are serious *inter se* disputes on such issues within the BCA. The aspect of *inter se* disputes within BCA members was raised, considered and commented in the orders passed by the learned Single Judge, the orders of the Division Bench which stayed the orders passed by the learned Single Judge. The observations as made by the learned Single Judge in the order dated 5 August 2024 are first required to be noted which read thus :-

“10. We are prima facie of the opinion that the inter of the members of the BCA was not a question to be se dispute agitated in the writ petition filed by the so called Secretary of another association, that too in his individual capacity. We have to observe that even the said association, CAB, has not been made a party to the writ petition; which association had already taken up the very same issue before the High Court of Bombay, which writ petition stood dismissed and is now pending before the Hon'ble Supreme Court in a Civil Appeal.

11. Under the guise of disaffiliation of BCA and affiliation to the CAB, the attempt of the petitioner was to interfere with the activities of the BCA, which is admittedly the affiliated association for the State of Bihar, under the BCCI. We also find that the earlier attempts to invoke the extraordinary power under Article 226 of the Constitution of India, to interfere in the internal disputes, were thwarted by a Division Bench in CWJC No. 2809 of 2022 (Kumar Arvind vs. The Bihar Cricket Association and Others) dated 29.04.2022 produced as Annexure-R3/A along with the counter affidavit of the BCCI. While dismissing the writ petition, liberty was also reserved to proceed before the Civil Court of competent jurisdiction or any other appropriate forum, as may be permissible in law. A civil suit is said to be pending insofar as the ousted Secretary is concerned.

12. Insofar as the BCCI asserting that the BCA is its affiliate; concerned with the cricketing affairs of the State of Bihar, we are of the opinion that the impugned judgment has to be stayed; finding it be in excess of the jurisdiction under Article 226 of the Constitution of India and beyond the scope of the writ petition itself. The CAB's claim for affiliation having been already rejected, the writ petition was not maintainable. This is especially so since the BCCI's affiliation of the BCA, has the approval of the COA and there cannot be more than one cricket association in a State. The inter se disputes of the BCA cannot also be agitated in a writ petition; when there is a suit pending on this aspect and already a co-ordinate Bench has refused interference under Article 226 of the Constitution of India.
13. On a *prima facie* consideration, we stay the operation of the judgment, however, we make it clear that our orders will not affect the BCCI from looking into the affairs of the BCA and taking appropriate action, for carrying out selections and otherwise promoting the cricketing activities of the State of Bihar in accordance with its bye-laws and rules and regulations.
14. Considering the prayer of the parties we post the matter for hearing on 02.12.2024.”

8. The aforesaid order passed by the learned Single Judge was stayed by the Division Bench. The relevant extract of the order passed by the Division Bench read thus:-

- “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.”

9. We may also observe, that there is no averment that Mr. Manish Raj, CEO, BCA was not competent to revert back to the BCCI in reply to

the objections as raised by the petitioners to the nomination of Mr. Rakesh Kumar Tiwari. The petitioner has also not made any averment that Mr. Manish Raj had no authority to represent the BCA *inter alia* in response to the said objections raised by the petitioner against the nomination by the BCA of Mr. Rakesh Kumar Tiwari. Mr. Manish Raj has submitted an exhaustive reply pointing out all the details including various proceedings *inter se* between the parties as also orders passed by the learned Single Judge which was stayed by the Division Bench as noted above. What is relevant is that even the learned Single Judge in the observations as made in paragraph 64 of the order has observed that Mr. Rakesh Kumar was working as President of the BCA, although his actions in such official capacity were being commented in the said proceedings, as assailed by the petitioner in the said proceedings namely Shri Aditya Prakash Verma.

10. Be that as it may, on a query made to the learned counsel for the petitioner in regard to the observations as made in the impugned order, as to how the petitioner was associated with the BCA either in the capacity of member or in a capacity on behalf of its members of the BCA, the learned counsel is not in a position to point out any material that the petitioner is a member of the BCA. When the impugned order has made serious observations on this issue questioning the locus of the petitioner, in our opinion, it was the first obligation of the petitioner, to set out his bonafides in repelling such observations made against him. On this count

as well the petitioner has miserably failed. The aforesaid discussion would impel us to conclude that the response to the objections made by the CEO, Manish Raj have been appropriately taken into consideration in rejecting the objections as made by the petitioner challenging the nomination of Mr. Rakesh Kumar Tiwari. This apart, even before us, Mr. Khandeparkar, learned counsel for the BCA has stated and maintained the position that the observations made in the impugned order are correct and that BCA as a body has supported candidature of Mr. Rakesh Kumar Tiwari, and not that of the petitioner. It is his submission that in fact the documents on which the petitioner has approached the respondent no.2, to claim his nomination by BCA, being questionable are not accepted by respondent no.2.

11. In the aforesaid circumstances, the BCA has not only represented its case through its CEO Mr. Manish Raj before respondent no.2, in supporting the nomination of Mr. Rakesh Kumar Tiwari, and not the petitioner. This is also a clear stand taken before us. We thus, do not find any illegality in the impugned order dated 2 January 2025 by which the nomination of the petitioner has been rejected by the Electoral Officer of the BCCI.

12. This apart, it also appears to us to be quite clear that this writ petition is not a bonafide writ petition. The petitioner was fully aware that there are serious *inter se* disputes in regard to which proceedings were

pending between the parties, who are within the BCA, including before the High Court of Judicature at Patna, as also as pointed out by the learned Advocate General, that there is a civil suit which has been filed by Mr. Amit Kumar, who claimed himself to be the Secretary of BCA and who has supported the nomination of the petitioner which is pending. It appears to us to be quite clear that in the elections of the BCA held for the post of Secretary, BCA and Chairperson of the Member/Governor Council and the member, as held on 15 September 2023, Mr. Ziaul Arefin has been nominated as Secretary, Mr. Sanjay Kumar Singh, Chairperson and Governing Council and Mr. Gyaneshwar Gautam, member/Convener Governing Council. The results of the elections were declared by Dr. M. Modassir (IAS Retd.) Electoral Officer of the BCA. It appears to us that once the elections were held on 15 September 2023 certainly whether the document dated 30 September 2024 as relied upon by the petitioner signed by the Secretary Mr. Amit Kumar supporting petitioner's nomination could at all be accepted and/or acted upon by the BCCI is another question.

13. The aforesaid discussion would make it clear that there are several disputed questions of facts on whether the petitioner could at all be accepted as the nominated candidate of the BCA on the documents relied by him. These are disputes either *inter se* between the office bearers of the BCA and/or with the BCA which are required to be adjudicated in an

independent proceedings, within the jurisdiction of the appropriate Courts in Bihar.

14. We find substance in the contention as urged by the learned counsel for the respondents that the petitioner in seeking discretionary and equitable reliefs so as to oust candidature of Mr. Rakesh Kumar Tiwari , has consciously failed to implead Mr. Rakesh Kumar Tiwari who was a necessary and proper party to this petition. The attempt of the petitioner is certainly to obtain orders behind the back of Mr. Rakesh Kumar Tiwari. Such petition hence cannot be said to be a bonafide petition.

15. For the aforesaid reasons, considering settled principles of law on grant of equitable but discretionary reliefs, no interference in the present proceedings is called for.

16. The petition is thoroughly misconceived. It is summarily rejected. We refrain imposing costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]