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

Date of decision: 30th MAY, 2023

IN THE MATTER OF:

+ **LPA 369/2023**

EQUESTRIAN FEDERATION OF INDIA

..... Appellant

Through: Mr. Jayant Mehta, Senior Advocate
with Mr. Prateek Dhanda, Ms.
Manmeet Kaur, Mr. Taha Yasin, Mr.
Waize Ali Noor, Ms. Vidhi Jain, Ms.
Madhu Bajaj and Ms. Shreya Mehta,
Advocates.

versus

RAJASTHAN EQUESTRIAN ASSOCIATION & ORS.

..... Respondents

Through: Mr. Rajiv Dutta, Senior Advocate
with Mr. Ashish Kothari, Mr. Devang
Gautam and Ms. Pratha Pant,
Advocates for R-1.
Mr. Ajay Digpaul, CGSC with Mr.
Kamal Digpaul and Ms. Swati
Kwatra, Advocates for R-2/UoI.
Mr. Pradhuman Gohil, Mr. Alapati
Saithya Krishna, Ms. Nidhi Mittal and
Ms. Ranu Purohit, Advocates for
R-10.
Mr. R. A. Iyer, Advocate for Ld.
Court Observer

+ **LPA 370/2023**

EQUESTRIAN FEDERATION OF INDIA

..... Appellant

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with Mr. Prateek Dhanda, Ms.



Manmeet Kaur, Mr. Taha Yasin, Mr. Waize Ali Noor, Ms. Vidhi Jain, Ms. Madhu Bajaj and Ms. Shreya Mehta, Advocates.

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Mr. Pradhuman Gohil, Mr. Alapati Saithya Krishna, Ms. Nidhi Mittal and Ms. Ranu Purohit, Advocates for R-10.
Mr. R. A. Iyer, Advocate for Ld. Court Observer

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

CM APPLs. 19961-62/2023 (Exemption) in LPA 369/2023
CM APPLs. 19964/2023 (Exemption) in LPA 370/2023

Allowed, subject to all just exceptions.

LPA 369/2023 & CAV 199/2023, CM APPLs. 19960/2023, 23773/2023
LPA 370/2023 & CM APPLs. 19963/2023, 23818/2023

1. LPA 369/2023 arises out of Order dated 11.04.2023, passed by this Court in W.P.(C) 10342/2019 & LPA 370/2023 arises out of Order dated



11.04.2023, passed by this Court in W.P.(C) 5989/2022.

2. W.P.(C) 10342/2019 was filed with the following prayers:

“a) Issue a writ of Mandamus or any other writ, order or direction directing the Respondent No. 2 to implement its decision taken vide letter ref. no. 9-12/2017-SP-I dated 01-02-2019 and withdraw the recognition granted to Respondent No. 1 as the National Sport Federation for equestrian sports in India with immediate effect.

b) Issue a writ of Mandamus or any other writ, order or direction directing the Respondent No. 2 to expunge the present executive committee and general assembly of the Respondent No. 1 with immediate effect and appoint an independent ad-hoc committee along with Respondent No. 4, to take over the management and functioning of Respondent no. 1 with the aim to ensure compliance of the National Sports Development Code, 2011 by the Respondent no. 1.

c) Issue a writ of Certiorari or any other writ, order or direction to suspend/set aside the notice for annual general meeting issued by the Respondent No. 1, whereby the Respondent No. 1 is seeking to conduct elections of its executive committee illegally, arbitrarily and in violation of the National Sports Development Code, 2011 and in blatant disregard of the directions issued by the Respondent No. 2 vide its letter Ref. No. 9- 12/2017-SP-I dated 01-02-2019 and by Respondent No. 4 vide its letter Ref. No. IOA/Equestrian-8/2019/3168 dated 16-09-2019.

d) Pass any other order or direction that this Hon’ble Court deems fit in the facts and circumstances of the case.”

3. W.P.(C) 5989/2022 was filed with the following prayers:

“a) Issue a Writ of Certiorari or any other writ, order



or direction to quash and set aside the decision taken by the Respondent No. 1 vide letter having Ref. No.27-4/2013-SP-III (vol-II) dated 09.11.2021 (Annexure-A) whereby, the Respondent No. 1 has arbitrarily, illegally and without any application of mind, granted relaxation/exemption to the EFI from complying with certain key provisions of the Sports Code;

b) Issue a Writ of Certiorari or any other writ, order or direction to quash and set aside the Notification/communication No.12-2/2021- SP-III dated 01.02.2021 (Annexure-) issued by the Respondent No. 1 whereby the Respondent No. 1 has illegally and without following the due process of law amended the Sports Code to incorporate a "Relaxation Clause" in the Sports Code.

c) Pass any other order or direction that this Hon'ble Court deems fit in the facts and circumstances of the case."

4. It is stated that pending the said Writ Petitions, applications were filed by the Appellants herein seeking to hold elections to the Executive Committee (hereinafter referred to as 'the EC') of the Appellant Federation because only the EC can make the selection Committee for appropriate selection of the games. The reliefs sought by the Appellant herein in the said applications, though have been reproduced in the judgment impugned herein, are once again being reproduced in the present matters for ready reference and the same reads as under:

"Prayer in CM. APPL. - 33330-2022 in W.P.(C) - 10342-2019 (i) Pass appropriate Order/direction permitting the Applicant/Respondent No. 1 to hold its elections for the Executive and Selection Committees;



Prayer in CM. APPL. - 54682-2022 in W.P.(C) - 10342-2019 Pass appropriate Orders for disposal of CM No. 33330 of 2022 in terms of the prayer made therein and direct the conduct of elections to the Executive and Selection Committee of the Applicant/Respondent No. 1 without prejudice to the rights and contentions of the parties;

Prayer in CM. APPL. - 54683-2022 in W.P.(C) - 5989-2022 (i) Direct the conduct of elections to the Executive and Selection Committee of the Applicant/Respondent No. 2 without prejudice to the rights and contentions of the parties;”

5. At this juncture, it is pertinent to mention that the Union of India by a notification dated 01.02.2021 has inserted a clause in the National Sports Development Code of India, 2011 (*hereinafter referred to as ‘the Sports Code’*) giving the power to relax any provision of the Sports Code in respect of any National Sports Federation to the Union of India. By letter dated 09.11.2021, exemptions were granted to the Appellant Federation by the Ministry of Youth Affairs and Sports, Department of Sports, Government of India. Relevant portions of the said letter reads as under:

“4. Accordingly, it has been decided to grant exemption to EFI from the requirement under the Code, as a special dispensation to EFI and by taking into consideration the peculiar nature of the sport and the requirement of availability of the requisite sports infrastructure and horses, by relaxing the following provisions of the Code:

(i.) Para 3.4 of Annexure-II of the Code requiring the Federation! Association to have affiliated units in at least 2/3rd of total States/UT's of India.

(ii.) Para 3.9 of Annexure-II of the Code requiring the



Federation to confine the membership to corresponding State/UT and other special units affiliated like (Sports Control Boards etc.) and where Federation grant membership to individual clubs or individual persons, such membership does not confer on such members the right to vote in any of the Federation's meetings.

(iii) Para 4 (I) of the annexure XXXVII of the Code requiring that each permanent Member State/ Union Territory duly affiliated by the Federation as its Permanent member shall have two votes at the elections of the officer bearers and Managing Committee bearers.

(iv) Para (2) of the Annexure XXXVII of the Code requiring that for the purposes of sub-clause (I) each Permanent member State /Union Territory shall be represented by two members authorized by the president of Secretary General/Secretary of the affiliated permanent member state/ Union territory: however, in case.president/ Secretary General/Secretary nominates different person (s) the persons (s) authorized by the president shall be deemed to be the authorized person (s) irrespective of the date:

(v) Para 4 (4) of the Annexure XXXVII of the code requiring that each permanent member state/. Union Territory and each permanent member Board/ Institution shall intimate the name (s) of their representative (s) mentioned in sub clauses (2) and (3) latest by ... : and such intimation shall be addressed to the president/ Secretary General/ Secretary of ./ ... on their letter head duly signed by president / Secretary General/ Secretary of that member unit, so as to reach him on or before the aforesaid date: any change in the name of any authorized representative after .. or any other intimation received thereafter shall be permitted with the approval of the president of



5. The exemption will be available to EFI only till such time requisite number of State/ UT Association in 2/3rd of States and UTs with 50% District units come into existence, as required under para 3.4 of annexure II and para 3.10 of Annexures II of code. EFI is impressed upon to take steps for development of requisite sports infrastructure so that State/UT Associations come into existence in at least 2/3rd of State/ UTs with 50% District units.”

6. The Ministry has permitted exemption to the Appellant Federation from the rigours of the provisions of para 3.4 and 3.9 of Annexure II and para 4(1), 4(2) and 4(4) of Annexure XXXVII of the Sports Code. Extracts of para 3.4 and 3.9 of Annexure II and para 4(1), 4(2) and 4(4) of Annexure XXXVII of the Sports Code 2011 are as under:

***“ANNEXURE – II
GUIDELINES FOR RECOGNITION OF
NATIONAL SPORTS FEDERATIONS***

3.4 At the time of applying for recognition, the Federation/Association should have affiliated Units in atleast 2/3rd of total States/UTs of India.

3.9 The membership of the Federation should be confined to the corresponding State/UT and other special units affiliated (like Sports Control Boards etc.) and where Federation grant membership to individual clubs or individual persons, such membership does not confer on such members the right to vote in any of the Federation's meetings.

***ANNEXURE - XXXVII
MODEL ELECTION GUIDELIENS TO
BEFOLLOWED BY ALL NATIONAL SPORTS
FEDERATIONS***



4. Electoral College:

(1) Each Permanent Member State/Union Territory duly affiliated by (abbreviation of Federation) as its Permanent Member shall have two votes at the elections of the Office Bearers and Managing Committee Members.

(2) For the purposes of sub-clause (1), each Permanent Member State/Union Territory shall be represented by two members authorised by the President or Secretary General/Secretary of the affiliated Permanent Member State/Union Territory; however, in case President/Secretary General / Secretary nominates different person(s), the person(s) authorised by the President shall be deemed to be the duly authorised person(s). Irrespective of the date.

*(4) Each Permanent Member State/Union Territory and each Permanent Member Board/Institution shall intimate the names) of their representative(S) mentioned in sub-clauses (2) and (3), latest by _____ (Day - 1 - e.g. 13th December, ***); and such intimation shall be addressed to the President / Secretary General of _____ on their letter head duly signed by President / Secretary General / Secretary of that member unit, so as to reach him on or before the aforesaid, date; any change in the name of any authorized representative after _____ (Day - 1 e.g. 13th December, 2010) or any intimation received thereafter shall be permitted only with the approval of the President of _____”*

7. The learned Single Judge by the Order impugned herein has held that



neither the Central Government nor the Appellant Federation can dilute or tinker with the provisions of the Sports Code and the exemptions cannot be granted to such absurd levels which will directly affect the mandate of the Sports Code and such exemptions would be impermissible. The learned Single Judge disposed of the applications and passed the following directions as a one-time measure:

“79. As a one-time measure, keeping in view the emergent and dire situation of elected body of EFI, and considering the impending 19th Asian Games to be held between 23.09.2023 to 08.10.2023 in Hangzhou, China, this Court deems it fit, to direct as under:-

a. The EFI would permit all the State /Union Territories Associations to cast their votes (two) after fulfilling all the requisite criteria and in any case not unduly prevent them from casting votes, subject to their eligibility to be decided by the Election Officer/Returning Officer;

b. The parties are at liberty to submit their own list of electoral college to the Election Officer/Returning Officer who may consider such list in accordance with the present directions as also the table as brought out in para 78 above.

c. The EFI to permit 25% of the vote share of the electoral college to the Eminent Sports Persons to cast their votes in accordance with the Sports Code;

d. No Institutions/Individuals would have any right to cast votes;

e. So far as the Clubs/Units are concerned, to following methodology would be worked out:



(I) Wherever and in whichever State/UT the State Association or UT Association is available, no Club/Unit would be permitted to cast votes;

(II) Wherever and in whichever State/UT, the State or UT Association is not available, all eligible Clubs/Units will cast one vote each which would be proportionately divided in Two Votes in all, by granting proportionate share to each Club/Unit and the greater percentage amongst those who vote, would be the deciding factor for the respective candidates. This measure is undertaken to ensure equal participation of the concerned stakeholders belonging to a State/UT, where, the State Associations are not available or are found to be ineligible by the Election/Returning Officer.

f. That the EFI is directed to produce and handover all and any records sought for by the Election Officer/Returning Officer, without any undue delay.

80. To carry out the aforesaid exercise and determine the Electoral College as directed above, this Court deems fit to request Hon'ble Mr. Justice Ajit Bharihoke (Retd.) to:

a. Assume the responsibilities of Election Officer/ Returning Officer, at the earliest, so as to ensure election process could be initiated without any further loss of time;

b. Take over the charge as an Election Officer and receive all the necessary assistance from EFI as also the Ministry;

c. Determine the Electoral College in terms of



para 78 and 79 above;

d. Draw up a suitable Election Notice and Schedule, for Elections of EFI as soon as the Electoral College is determined;

e. Conduct the elections for Executive Committee and Selection Committee of EFI;

f. Take assistance of any person, including Mr. S Y Quaraishi, the learned Observer, who is requested to render all or any assistance sought;

g. Determine his fee as also of the persons assisting in the aforesaid exercise, which would be payable by the EFI immediately;

h. Declare the results of such Elections, which would be binding upon the parties.”

8. Mr. Jayant Mehta, learned Senior Counsel appearing for the Appellant Federation, contends that the directions contained in paragraph No.79 of the impugned Judgment are unworkable. He draws the attention of this Court to paragraph No.79 and submits that the entire electoral college has to be reconstituted which directs that the Appellant Federation has to permit 25% of the vote share of the electoral college to the Eminent Sports Persons to cast their votes in accordance with the Sports Code. He also states that the direction not to permit institutions to vote who have been voting for a long time, as mentioned in paragraph No.79 (d) of the impugned Judgment also needs a second look. Mr. Mehta has placed reliance on the Order dated 03.08.2022, passed by the Apex Court in Special Leave Petition (Civil) Nos. 30748-30749 of 2017, titled as All India Football Federation v. Rahul Mehra and Others, to submit that in that case also the Apex Court has held that it is

Neutral Citation Number is 2023:DHC:4535



not necessary that election should be held strictly in accordance with the Sports Code.

9. *Per contra*, Mr. Rajiv Dutta, learned Senior Counsel appearing for Rajasthan Equestrian Association, contends that judgment impugned in the present appeal is a well considered judgment and that the Division Bench of this Court in Rahul Mehra v. Union of India, **2022 SCC OnLine Del 2438**, has emphasized the all the Sports Federations have to fall in line with the Sports Code.

10. Heard the Counsels and perused the material on record.

11. A perusal of the prayers of the Writ Petitions show that the letter dated 09.11.2021, which grants exemption to the Appellant Federation from the rigours of the Sports Code, is under challenge in W.P.(C) 5989/2022. The said relaxation will have a bearing on the composition of the EC of the Appellant Federation.

12. Similarly, the notification dated 01.02.2021, by which the Government of India has amended the Sports Code by inserting the relaxation clause in the Sports Code, is under challenge in W.P.(C) 10342/2019.

13. Unless the issues which arise in the writ petition are decided, the learned Single Judge ought not to have directed the Appellant Federation to conduct elections by passing an interim order. In case the learned Single Judge decides to uphold the validity of the letter dated 09.11.2021 and the notification dated 01.02.2021 then the entire composition of the electoral collage would be transformed and, therefore, there could not have been a piecemeal decision by permitting the Federation to conduct the elections.

14. It is pertinent to mention that the said Order was passed because All

Neutral Citation Number is 2023:DHC:4535



India Football Federation received a communication dated 14.08.2022 informing that the Bureau of FIFA Council had taken a decision to suspend AIFF from the membership of FIFA. In that context, the Apex Court had given directions for elections. In the present case, there is no such emergent situation.

15. The election to the EC can be held only after a final decision is taken regarding the correctness or otherwise of the letter dated 09.11.2021 and the notification dated 01.02.2021. This Court is, therefore, of the opinion that the operation of the judgment impugned herein should be stayed and the learned Single Judge is requested to hear the matter as expeditiously as possible so that the elections can be held for electing the members of the EC of the Appellant Federation.

16. It is made clear that this Court has not made any observations on the merits of the case.

17. List on 15.09.2023.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

MAY 30, 2023

Rahul