
(2020) 03 RAJ CK 0100

In the Rajasthan High Court

Case No : Special Appeal Writ No. 1680 Of 2019 In Civil Writ Petition No. 9688 Of 2019

Anant Vyas And Ors

APPELLANT

Vs

State of Rajasthan And Ors

RESPONDENT

Date of Decision : 02-03-2020

Acts Referred:

Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005
— Section 16, 21, 23

Citation : (2020) 03 RAJ CK 0100

Hon'ble Judges : Sangeet Lodha, J; Mahendar Kumar Goyal, J

Bench : Division Bench

Advocate : S.S. Hora, Rajendra Prasad

Final Decision : Dismissed

Judgement

Mahendar Kumar Goyal, J

1. This intra court appeal has been preferred challenging the judgement dated 1.10.2019 passed by the learned Single Judge whereby, the writ petition preferred by the appellants challenging the order dated 28.5.2019 passed by the respondent no.2 whereby, affiliation certificate dated 29.10.2018 given to the appellant no.2 was cancelled and the election certificate dated 11.2.2016 was revived, has been dismissed.

2. The appellant-petitioners filed a writ petition stating that in the last election of the appellant no.2, the District Cricket Association, Tonk, a district body of the Rajasthan Cricket Association, held on 28.10.2018 under the observance of observers from Rajasthan Cricket Association as well as District Sports Council, the appellant no.1 was elected as Secretary of the appellant no.2-association and a certificate of affiliation dated 29.10.2018 was given to the appellants by the District Sports Officer. It was submitted that without any prior notice, an order dated 11.02.2019 came to be passed by the respondent no.2, the Secretary, Rajasthan State Sports Council, cancelling the affiliation certificate dated

29.10.2018 alleging that the elections held on 28.10.2018 were not in conformity with the Rajasthan Sports Act, 2005 and Rajasthan Sports Rules, 2004. The appellants filed a writ petition no.4895/2019 challenging the order dated 11.2.2019 which was disposed of by the learned Single Judge vide its order dated 13.3.2019 whereby, the order dated 11.2.2019 was set aside and the respondent no.2 was directed to decide the matter afresh after affording the appellants herein a proper opportunity of hearing. Contending that the enquiry being conducted by the respondent no.2 in pursuance of the direction of the Court dated 13.3.2019, was not in conformity with the principles of natural justice, the appellants filed another writ petition no.7956/2019, which came to be decided by this Court vide order dated 16.5.2019 with the observation that the enquiry report dated 11.2.2016 till completion of its tenure. The legality and validity of the order dated 28.5.2019 was assailed by the appellants in the writ petition on the grounds that the appellants were not afforded opportunity of making their submission, were not supplied the copies of documents which were made basis by the respondent no.2 for passing the order impugned, it was passed without conducting a fresh enquiry in fair and impartial manner and in gross violation of principles of natural justice. The learned Single Judge vide judgement dated 1.10.2019 impugned herein, dismissed the writ petition.

3. Assailing the judgement dated 1.10.2019, Shri S.S. Hora submitted that under Section 21 of the Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005, it is the State Level Sports Association only which is authorised to de-affiliate any District Level Association and not the Secretary, Rajasthan State Sports Council, the respondent no.2. He further submitted that the power of enquiry under the Act of 2005, is vested with the Registrar vide Section 23, who after holding the enquiry, can appoint adhoc committee over the association whereas in the present case, the respondent no.2 has, without any authority, passed the order impugned dated 28.5.2019.

4. Shri Hora contended that Section 16 of the Act of 2005 lays down a mechanism for resolution of any dispute pertaining to election through conciliation and arbitration and therefore, the validity of the election held on 28.10.2018 could not have been subject matter of enquiry by the respondent no.2. He asserted that the learned Single Judge erred in recording a finding that the requisite documents were supplied to them. He submitted that the learned Single Judge failed to appreciate that no fresh enquiry was conducted and the appellants were not furnished any opportunity of making their submissions. He, therefore, prayed that the impugned judgement dated 1.10.2019 as well as the order dated 28.5.2019 be quashed and set aside.

5. Per contra, Shri Rajendra Prasad, learned senior counsel submitted that the election of the appellant no.2, the District Cricket Association, Tonk were held on 11.2.2016 wherein the appellant no.1 was elected as President and the respondent no.3 as Secretary of the Association. He submitted that at the time of registration of the Association, there were only 10 affiliated primary members,

who participated in the elections held on 11.2.2016. He contended that the tenure of an elected Executive Committee is four years as per the provisions of the Act of 2005 and in absence of any specific provision for dissolution of the elected executive body except by an order of the competent authority after holding an enquiry, the duly elected body could not have been dissolved. He stressed that the appellant no.1 in collusion with 14 clubs; non-members of the Association, hatched a conspiracy and was able to obtain a certificate of affiliation dated 29.10.2018 on the basis of a farce election allegedly held on 28.10.2018. He submitted that the entire exercise emanated on the basis of a false and fabricated document containing minutes of the alleged meeting of the general body of the District Cricket Association, Tonk dated 10.3.2012 wherein these 14 Cricket Clubs were said to have been extended affiliation. Thereafter, these 14 clubs conveyed a meeting on 1.9.2018 on the notice issued by one Shri Govardhan Hironi claiming himself to be Secretary of one such club; Surya Cricket Club wherein it was resolved that the last elections held on 11.2.2016 were conducted without issuing any notice to these 14 clubs and they are not being involved in the activities of the District Cricket Association, Tonk. In its next meeting convened on 29.9.2018, a no confidence motion was passed against the existing executive body of the association, the same was dissolved and new acting office bearers were appointed to conduct fresh elections which allegedly were held on 28.10.2018. The learned senior counsel contended that this entire endeavour was illegal and void ab initio. He submitted that after passing of the order dated 16.5.2019 by the Court in S.B. Civil Writ Petition No.7956/2019, a fresh enquiry was conducted by the respondent no.2 wherein the appellants were supplied all the documents requested by them, both the parties were afforded proper opportunity to present their case as well as of hearing and after complying with the principles of natural justice, the order dated 28.5.2019 came to be passed. He further submitted that the appellant no.1 was already elected President of the Association and only to get a new lease for two more years, he got himself elected as Secretary in a fictitious election which has rightly been set aside by the respondent no.2 reviving the election dated 11.2.2016.

6. Shri Rajendra Prasad, learned senior counsel submitted that provisions of Section 16 of the Act of 2002 are attracted only if election of an association is held in accordance with the provisions of the Act of 2005; whereas, in the present case, no such election has been held after the last elections held on 11.2.2016 in accordance with the provisions of the Act of 2005, hence Section 16 has no applicability in the present case. He, therefore, asserted that the learned Single Judge has, taking into consideration all the relevant aspects, rightly dismissed the writ petition and the order impugned does not warrant interference by this court in intra court appeal.

7. Shri Hora in rejoinder submitted that although there is no specific provision under the Act of 2005 for bringing no confidence motion against the obtaining executive body; but, the law recognises such inherent power in the elected body

to remove a holder of office elected by the same body in absence of any specific prohibition under the provisions. He relies upon the judgements of the Full Bench of Gujarat High Court in the case of Nandlal Bavanjibhai Posiya & Ors. vs. Director of Agriculture Marketing & Rural Finance, Gandhinagar-AIR 2002 Guj. 348, Bar Council of Delhi vs. Bar Council of India-ILR (1975) II Delhi 321 and judgement of this Court in Rajasthan Cricket Association & Ors. vs. State of Rajasthan & Ors. & two connected matters- (2015) 2 WLC 757 to buttress his submission.

8. Heard learned counsels and perused the record.

9. It is undisputed that elections of the District Cricket Association, Tonk were held on 11.2.2016 in terms of the provisions of the Act of 2005 in which electoral roll comprising of 10 clubs participated. Thereafter, 14 clubs claiming themselves having been affiliated by the District Cricket Association, Tonk way back on 10.3.2012, which were neither members of the electoral roll, nor have raised any dispute against the elections conducted without involving them for a period of about more than two and half years, straightaway vent their grievance in the meeting held on 1.9.2018 of these 14 clubs only. This inordinate delay in raising the grievance that too amongst themselves without involving either the office bearers of the Association or any of the 10 primary clubs, part of the electoral roll, invites serious doubt about veracity of the allegations levelled by them with regard to the election held on 11.2.2016. As a matter of fact the enquiry officer has in his enquiry, on the basis of material on record, found the document containing minutes of the meeting dated 10.3.2012 to be forged and fabricated nullifying all the subsequent proceedings conducted on behest of these 14 clubs rendering the election conducted on 28.10.2018 to be null and void. The learned Single Judge has recorded categorical findings that fresh enquiry was conducted by the respondent no.2 after the order dated 16.5.2019 was passed by this Court in S.B. Civil Writ Petition No.7956/2019, the appellants were supplied copies of the requisite documents, they were afforded proper opportunity to present their case as well as of hearing and there has been no violation of principles of natural justice. We find no illegality in the findings recorded by the learned Single Judge based on factual foundation. Insofar the contention of learned counsel for the appellants with regard to order dated 28.5.2019 having been passed by the respondent no.2 without jurisdiction, we have noticed that the appellants themselves have submitted to his jurisdiction inasmuch as in the earlier two writ petitions, they have categorically prayed that the enquiry to be conducted by the respondent no.2, should be in accordance with principles of natural justice. Moreover, they not only submitted to his jurisdiction; but, did not raise any objection as to his competence in the memo of writ petition or during the course of submission before the learned Single Judge. Even otherwise also, once the election conducted on 28.10.2018 has been held to be illegal and void ab initio, this Court would be loathe in restoring the void ab initio election dated 28.10.2018 which would be obvious consequence of setting aside the order dated 28.5.2019 for want of jurisdiction even assuming it to be so. Similarly, the

contention of Shri Hora with regard to applicability of the provisions of Section 16 of the Act of 2005, is without any factual foundation nor, can be entertained in this intra court appeal for the first time wherein it has already been held that the election dated 28.10.2018 was void ab initio.

10. In the above circumstances, we find no merit in the special appeal and the same is dismissed.