
(2019) 10 RAJ CK 0003
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9688 Of 2019

Anant Vyas And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 01-10-2019

Acts Referred:

Rajasthan Sports (Registration, Recognition And Regulation Of Associations) Act, 2005
— Section 24

Citation : (2019) 10 RAJ CK 0003

Hon'ble Judges : Ashok Kumar Gaur, J

Bench : Single Bench

Advocate : S.S.Hora, Rajendra Prasad, Sandeep Pathak, J.R. Tantia, Ravi Bhojak

Final Decision : Dismissed

Judgement

1. The instant writ petition has been filed by the petitioners challenging the order dated 28.05.2019 whereby affiliation certificate dated 29.10.2018 given to the District Cricket Association, Tonk-petitioner No.2 by the District Sports Officer, has been cancelled and election certificate dated 11.02.2016 has been revived/re-validated till its completion for a period of four years from the date of election.

2. The present writ petition is a third round of litigation before this court. The petitioner No.1, claims himself to be the Secretary of the District Cricket Association, Tonk and the petitioner No.2, District Cricket Association, Tonk, had earlier filed S.B.Civil Writ Petition No.4859/2019 challenging the order dated 11.02.2019. The said order had set aside the affiliation certificate granted on 29.10.2018 in favour of the petitioners. It was intimated by the Head Office, Rajasthan Cricket Association to the petitioners that election of the District Cricket Association, Tonk held on 28.10.2018 was not in accordance with the provisions of the Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005 (hereinafter shall be referred to as "the Act of 2005") and Rules made thereunder.

3. This Court after recording statement of the District Sports Officer, Tonk decided to send the matter back to the authority concerned. This court vide order dated 13.03.2019 set aside the order dated 11.02.2019 and directed the authority concerned/ Secretary, Rajasthan State Sports Council to afford opportunity of hearing to the petitioners and private respondent who was arrayed as party and after affording proper opportunity, necessary steps were to be taken.

4. The petitioners were in receipt of notice dated 29.03.2019 for appearing before the Rajasthan Cricket Association, as per the direction given by this Court on 13.03.2019 and they sought necessary information, documents and material to represent their case.

5. Rajasthan cricket Association vide its letter dated 10.04.2019 furnished the documents to the petitioner No.1 Anant Vyas and following documents were supplied:-

(i) Copy of the letters received from Shri Vivek Vyas from Tonk District Association;

(ii) Copy of the letter from Shri C.L.Bunkar, Assistant Registrar (Rules);

(iii) Check list and documents received from the District Sports Officer-Observers;

(iv) Enquiry report in respect of election held on 28.10.2018; and

(v) Order of the High Court passed in S.B.Civil Writ Petition No.4859/2019 dated 13.03.2019.

6. The petitioners in response to letter dated 10.04.2019 filed their reply dated 22.04.2019 and they further asked to supply certain documents and also requested to constitute a fresh enquiry committee, comprising of the members who were not part of the earlier enquiry, and afford proper opportunity to the petitioners, after supplying material and documents.

7. The petitioners filed S.B.Civil Writ Petition No.7956/2019 challenging action of the respondents. This Court, on 16.05.2019, on the basis of the statement that earlier enquiry report dated 07.02.2019 may be ignored and fresh enquiry may be conducted, passed the following order:-

"Counsel for the petitioners so also counsel representing respondent No.3, are not in dispute on the proposition that the enquiry report (Annexure-10) dated 7th February, 2019, is not to be made basis for the fresh enquiry that is now being conducted by the respondent No.2.

In view of the above, no further order is required on the writ petition. The enquiry may be proceeded afresh ignoring enquiry report dated 7th February, 2019 (Annexure-10).

Accordingly, writ proceedings stands closed.

Needless to observe that respondent No. 2, is required to hold the enquiry

afresh."

8. The petitioners have pleaded that after High Court's order dated 16.05.2019, the next date was fixed on 24.05.2019 and the petitioners submitted an application for conducting fresh enquiry by the independent persons who were not part of earlier enquiry report dated 07.02.2019 and further to pass procedural order regarding conduct of the proceedings including filing documents, recording statement of witnesses and cross examination of witnesses, etc.

9. The petitioners have pleaded that they were telephonically informed on 27.05.2019 that enquiry will be held on 28.05.2019 and surprisingly on 28.05.2019, without conducting any enquiry and giving opportunity for making any submission or deciding the application, the impugned order cancelling the affiliation certificate dated 29.10.2018 of the petitioner No.2, has been passed.

10. The petitioners have pleaded in their petition that fairness of enquiry is an essential part and it is the requirement of principle of natural justice. The procedure for filing documents and giving opportunity of cross examination, were not afforded to them. The grievance further is in respect of conducting enquiry in a hot haste manner.

11. Learned counsel appearing for the petitioners Mr.S.S.Hora submitted that the impugned order is nonest in the eye of law and the enquiry conducted against the petitioners is an eyewash and the enquiry officer has not followed any principle of law and no opportunity whatsoever has been afforded to the petitioners to defend the elections, which were conducted by them on 28.10.2018.

12. Counsel further submitted that even the copy of complaints, where allegation of irregularities were alleged, were never supplied to them and in absence of such allegations levelled against the petitioners, the petitioners were not able to defend themselves. Counsel submitted that the respondents have proceeded in pre-determined manner and opportunity to place relevant documents, in evidence, should have been afforded by the enquiry officer and the procedure adopted is unfair, unjust and unreasonable.

13. The respondent Nos.1, 2, 4 and 5 have filed their joint reply and respondent No.3 has filed his separate reply to the writ petition. The respondents have submitted that the petitioners are indulging in unnecessary litigation by filing successive petitions before this court. The respondents have pleaded that elections of the District Cricket Association, Tonk were held on 11.02.2016 and in the said elections 10 members participated and the petitioner No.1 himself was elected as the President. The respondents have pleaded that on an enquiry being conducted, it was revealed that on 10.03.2012 a meeting was arranged under the Presidentship of the petitioner No.1 and it was decided to give affiliation to 14 new clubs and the Secretary of the society was not having any information with regard to holding of such meeting.

14. The respondents have pleaded that a bare perusal of the document (minutes) dated 10.03.2012 would go to show that it was a forged and created document and on 10.08.2018 one Shri Govardhan Hironi issued a notice for holding a meeting of the club on 01.09.2018. The said Shri Govardhan Hironi has shown himself to be the Secretary of Surya Cricket Club, which was allegedly granted affiliation on 10.03.2012 and information of the first meeting was given only to the newly added 14 clubs and not to the earlier 10 clubs which had participated in the elections of 11.02.2016.

15. The respondents have further pleaded that a meeting was convened on 01.09.2018 by Shri Govardhan Hironi which was deferred for 29.09.2018 with a decision to bring no confidence motion in the next meeting against the body of the District Cricket Association, Tonk. The respondents have pleaded that for the meeting of 29.09.2018, notice was published on 08.09.2018 and on 29.09.2018 meeting was held of certain clubs, which was headed by Shri Govardhan Hironi and in the second meeting they dissolved the elected body of the District Cricket Association, Tonk which was elected on 11.02.2016. It is alleged by the respondents that if ad-hoc committee was appointed by passing a motion of no confidence and in fact as per the provisions of Section 24 of the Act of 2005, it is the Registrar who has power to appoint ad-hoc committee. It is alleged that after dissolving the elected body, the so-called Secretary of the ad-hoc committee, published election notice dated 02.10.2018 for holding the elections on 28.10.2018. On 02.10.2018, the Election Officer was appointed by the so called ad-hoc committee, who declared election program and accordingly on 28.10.2018 elections were held. It has been pleaded that after holding of elections, the Election Officer issued election certificate and affiliation was granted by the Convener of ad-hoc committee of Rajasthan Cricket Association and the District Sports Officer. It is asserted that as per record of the Rajasthan Cricket Association, affiliation has been withdrawn by the District Sports Officer and after having withdrawn the affiliation certificate, the elections held on 28.10.2018, have no value and sanctity.

16. The respondents have pleaded that enquiry has been held by following the principles of natural justice and the required documents were given to the petitioners. The petitioners have appeared and represented before the committee and after considering the entire facts, the order dated 28.05.2019 has been passed.

17. The respondents have pleaded that the manner in which fabrication has been done by the petitioners of inserting new 14 primary clubs/members, is a fictitious manner and then further to appoint ad-hoc committee and bring no confidence motion, such things are not contemplated under the provisions of the Act of 2005. The respondents have asserted that all the documents were supplied and even the proceedings reveal that Mr. Anant Vyas- petitioner No.1 himself has produced document before the officer concerned during enquiry and as such it cannot be pleaded by the petitioners that they have been deprived to participate

in the enquiry in a fair manner. The respondents have also pleaded that the enquiry officer has himself recorded that the previous enquiry report is not being looked into and after affording opportunity to all the parties concerned, separate findings have been recorded by considering the entire material.

18. Mr.Hora, learned counsel for the petitioners has placed reliance on the judgments of the Apex Court in the case of Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra and Others reported in (2013) 4 SCC 465; Bhupinder Pal Singh Vs. Director General of Civil Aviation and Others reported in (2003) 3 SCC 633; State of Uttar Pradesh and Others Vs. Saroj Kumar Sinha reported in (2010) 2 SCC 772; and Lakshman Exports Limited Vs. Collector of Central Excise reported in (2005) 10 SCC 634.

19. Mr.Rajendra Prasad senior counsel placed reliance on a Division Bench judgment passed by this court in D.B.Special Appeal (Writ) No.666/2010 [Abdul Rehman Qureshi Vs. Rajesh Kumar Bhojnagarwala] dated 04.01.2011.

20. I have heard learned counsel for the parties and with their assistance perused the material available on record.

21. This court finds that the order dated 28.05.2019 has been passed, after taking into account the entire aspects of the matter in respect of the elections which were held by the District Cricket Association, Tonk on 28.10.2018. The respondent No.5 has followed the proper procedure, while conducting the enquiry. The copies of the documents, which were asked by the petitioners, were duly supplied to them and letter dated 10.04.2019 (Ann.8) is on record whereby the documents were supplied to the petitioners. This court finds that at internal page 3 of the order dated 28.05.2019 itself, the petitioner No.1 has himself admitted that the documents were made available to him and while filing reply also, the same fact was admitted by the petitioner No.1.

22. This court finds that procedure for holding the enquiry has duly been complied with as both the parties were given due opportunity to represent their cases and produce documents in their favour. This court further finds that the facts relating to holding of election on 11.02.2016, convening of meeting on 10.03.2012 and giving affiliation to 14 new members, have all been looked into minutely. This court finds that if the relevant record and compliance of provisions of the Act of 2005 have been looked into by the authority, this court cannot hold such report to be suffering from any illegality.

23. This court finds that early two writ petitions, filed by the petitioners, had resulted into giving an opportunity to the petitioners before the competent authority to represent their case. This court also directed to overlook the earlier enquiry report dated 07.02.2019 and the authority was to take independent view, after considering the entire material. The order dated 28.05.2019 is not based on earlier enquiry report dated 07.02.2019 and independent mind has been applied and as such no fault can be found with the impugned order dated 28.05.2019.

24. As regards submission of learned counsel for the petitioners that enquiry has not been conducted in a fair manner and the same is against the principles of natural justice, this court finds such submission is contrary to the facts, available on record and further affording of opportunity, in adequate manner, is proved in the instant case.

25. As regards submission of learned counsel for the petitioners that relevant material-complaint and allegations against the petitioners were not informed to them, this court finds that copy of the complaint for the alleged irregularity in conducting meeting and holding election in 2018, all such facts were available with the petitioners and they were well aware about the allegations levelled against them and as such it cannot be said that the petitioners were kept in dark about the charges levelled against them, for which they had to defend before the enquiry officer.

26. The reliance placed by learned counsel for the petitioners on various judgments of the Apex Court, which are in respect of holding of departmental enquiry where principles of natural justice are required to be followed, there is no dispute on the proposition of law that these proceedings have to be conducted in a fair manner by giving adequate opportunity to both the parties. The facts of the present case do not establish that the petitioners were not afforded adequate opportunity. The judgments, relied upon by counsel for the petitioners, are of no assistance to him.

27. This court finds substance in the submission of learned counsel for the respondents that the order dated 28.05.2019 has been passed after considering the entire material minutely and there was cogent evidence that the petitioners had conducted elections on 28.10.2018, in gross violation of the Act of 2005 and further duly elected body, having its full tenure to perform the job, could not have been superseded by holding elections in an unauthorised manner.

28. Accordingly, the present writ petition, having no force, stands dismissed.