

(2011) 09 PAT CK 0040
In the Patna High Court
Case No : CWJC No. 986 of 2011

Bihar Cricket Association

APPELLANT

Vs

Bank of India and Others

RESPONDENT

Date of Decision : 20-09-2011

Acts Referred:

Citation : AIR 2012 Patna 21 : (2011) 4 PLJR 304

Hon'ble Judges : S.N. Hussain, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.N. Hussain, J.—This writ has been filed by the Bihar Cricket Association (hereinafter referred to as the "BCA" for the sake of brevity) which is a body affiliated to the Board of Control for Cricket in India (hereinafter referred to as the "BCCI" for the sake of brevity) through Sri Ajay Narayan Sharma claiming to be its honorary Secretary.

2. In the instant writ petition, originally only the Bank of India and its authorities were impleaded as respondents nos. 1 to 4, because the relief claimed by the petitioner was for a direction to the Chief Manager of the Bank of India to allow the petitioner to operate Account No. 442910110002030 of the BCA as the said authority was creating hindrances.

3. I.A. No. 784 of 2011 was filed by one Ram Kumar claiming to be a member of the Ad hoc Committee of BCA which, according to him, was the real BCA and not the Committee claimed by the petitioner. The said interlocutory application was allowed by this court vide order dated 14.2.2011 and he was directed to be added as respondent no. 5 to the writ petition.

4. When the case was taken up on 28.2.2011, learned counsel for the petitioner stated that since the petitioner-BCA was affiliated to the BCCI the latter was a necessary party for this writ petition and sought permission to implead the BCCI. Accordingly, this court allowed the said prayer and directed the BCCI to be added

as respondent no. 6 to the writ petition.

5. When the case was taken up on 21.4.2011, respondent no. 5 stated that there were six life members of the BCA and they were necessary to be impleaded as parties to this writ petition. On the other hand, the petitioner produced a list of 14 life members, out of whom six were the same as mentioned by respondent no. 5 and the remaining had no connection left with the BCA as either they had become life members of the Jharkhand Cricket Association or had become disinterested as claimed by respondent no. 5. Hence, the said six life members of BCA as claimed by respondent no. 5 were directed to be added as respondent nos. 7 to 12 to the writ petition vide order dated 21.4.2011.

6. I.A. No. 2570 of 2011 has been filed by 24 of the Districts Cricket Associations for various Districts Cricket Associations (hereinafter referred to as the "DCA" for the sake of brevity) under the BCA. I.A. No. 3436 of 2011 has been filed by six of the District Cricket Associations for various districts under BCA. Hence, 30 of the 38 DCAs have appeared praying for being added as parties respondents to the instant writ petition. No other DCA has appeared contesting the claims of the aforesaid 30 DCAs. The DCAs represent each of the districts and are constituents of BCA, as according to the Rules they elect the Management Committee of the BCA alongwith life members of BCA. In the said circumstances, the aforesaid 30 intervenors-applicants are necessary parties to this writ petition as the life members have already been impleaded as respondents nos. 7 to 12 at the instance of respondent no. 5. Accordingly, the aforesaid two interlocutory applications bearing I.A. No. 2570 of 2011 and I.A. No. 3436 of 2011 are allowed and all the 30 applicants-DCAs are directed to be impleaded as respondent nos. 13 to 42 to this writ petition.

7. I.A. No. 3026 of 2011 has been filed by the Association of Bihar Cricket through its Secretary, Sri Mithilesh Tiwari for being added as intervenor-respondent in the instant writ petition. Learned counsel for the intervenor had submitted that I.G., Registration, Govt. of Bihar had cancelled the registration of BCA vide order dated 12.12.2008, but the said order was set aside by the Member, Board of Revenue vide order dated 29.4.2009 passed in Appeal No. 57 of 2009 filed by the BCA. He also stated that against the appellate order CWJC No. 6650 of 2009 was filed which was referred to Division Bench where it is pending alongwith LPA No. 425 of 2010, CWJC No. 13668 of 2009, CWJC No. 6652 of 2009, CWJC No. 6650 of 2006, CWJC No. 7117 of 2009, CWJC No. 2012 of 2009 and CWJC No. 7491 of 2008 which were heard together on 13.5.2010 and are still pending. Hence, he claimed that unless the said cases are decided by the Division Bench, this writ petition cannot proceed. He also stated that Association of Cricket of Bihar is vitally associated with the welfare of the game and is also interested that the fund given by the BCCI is not frittered away by the office bearers of the B.C.A.

8. So far the aforesaid cases pending in this court are concerned, it was found by this court vide order dated 12.5.2011 that before deciding the said interlocutory

application of the Association of Bihar Cricket it was proper to look into the files of the aforesaid cases to ascertain as to whether the said cases or any of them had any effect on the present case. Records of the aforesaid cases were called for and from a perusal of the same this court found that the said cases were with respect to different matters altogether, not at all connected with the instant writ petition, which is, in fact, a dispute between the two factions claiming to be the real BCA which could operate the account of BCA in Bank of India.

9. With respect to the applicants of the abovementioned I.A. No. 3026 of 2011, learned counsel for the BCCI stated that it did not recognize Association of Bihar Cricket or any such Association, except BCA. He also stated that BCCI had granted recognition to the BCA of the erstwhile original State of Bihar before its reorganisation in the year 2000 and even after the bifurcation of Jharkhand from the State of Bihar, the BCCI granted recognition to BCA, Patna. Hence, learned counsel for the BCCI as well as learned counsel for the petitioner and learned counsel for respondent nos. 13 to 42 averred that the Association of Bihar Cricket has no manner of concern with the instant matter, which is an issue either between the two factions of BCA or between the BCA and the BCCI. In the said circumstances, this court finds that the Association of Bihar Cricket has no manner of concern with this matter and it is not even a proper party much less a necessary party for the instant writ petition. Accordingly, I.A. No. 3026 of 2011 is hereby rejected.

10. When this case was taken up on 27.6.2011, learned counsel for all the parties prayed that this case be placed for final hearing on 5.7.2011. Thereafter on 19.7.2011 also learned counsel for all the parties prayed that this case be heard and decided at that stage itself. Hence hearing of the writ petition started on 19.7.2011 and continued till 23.8.2011 when arguments of learned counsel for all the respondents and learned counsel for the interveners were concluded and learned counsel for the petitioner also placed his argument in reply.

11. On the merit of the writ petition, learned counsel for the petitioner claimed that before bifurcation of State of Jharkhand from the State of Bihar there was one BCA covering both the areas having its head office at Jamshedpur, which had 14 life members and a large number of DCAs covering all the districts of the erstwhile State of Bihar. However, after bifurcation of the States of Bihar and Jharkhand on 15.11.2000 under the Bihar Reorganization Act, 2000, a special general meeting of the erstwhile BCA was held at Jamshedpur on 7.1.2001 which decided that two separate committees should be formed for which the application must reach the BCCI before 31.3.2002. Thereafter another special general meeting was held on 18.3.2001 for preparation of two drafts of the two new Associations, namely Jharkhand Cricket Association and Bihar Cricket Association. Hence, two Cricket Associations, one for Jharkhand and the other for Bihar, namely Jharkhand Cricket Association and Bihar Cricket Association, were formed which were subsequently recognized by the BCCI.

12. Learned counsel for the petitioner submitted that on 9.4.2001, the Electoral

Officer issued notification for holding the election of office bearers of the new BCA having its head office at Patna on 19/20th May, 2001, whereafter the election was duly held on 20.5.2001 and the Committee of Management/office bearers for the BCA, Patna was formed, it was also stated by learned counsel for the petitioner that second election was duly held on 21.6.2005 and a fresh Committee of Management/office bearers was selected. The next election was due after three years, but instead of election, a consensus Managing Committee was formed in 2008 in which Sri Lalu Prasad was the President and Sri Ajay Narayan Sharma was its Honorary Secretary. Learned counsel for the petitioner also claimed that till March, 2010 there was no dispute between the parties to the writ petition, all of whom have clearly admitted the aforesaid facts as the dispute had arisen only thereafter.

13. Learned counsel for the petitioner averred that election of the BCA was due in the year 2010 and hence notice dated 18.3.2010 (Annexure-1) was issued by the President of the BCA (Sri Lalu Prasad) calling Annual General Meeting on 4.4.2010 for transaction of several businesses, Including election of office bearers/Committee of Management of BCA for the years 2010-12 and pursuant thereto the Honorary Secretary of the Association (Sri Ajay Narayan Sharma) issued notice of the same date dated 18.3.2010 (Annexure-2) for the said election. The agenda attached to the said notice was, inter alia, for electing the office bearers and other members of the Committee of Management. The Electoral Officer (Sri Rajendra Prasad) also issued election notice on the same date, i.e. 18.3.2010 (Annexure-3), whereas the Honorary Secretary of BCA Sri Ajay Narayan Sharma intimated the Presidents/ Honorary Secretaries of all the District Units as well as the members of the BCA about the said election vide letter dated 18.3.2010 (Annexure-4). It is also averred that subsequently on 3.4.2010 (Annexure-5) an office order was issued by the President of the BCA (Sri Lalu Prasad) postponing the schedule of election till fixing of a fresh schedule of election by the competent authority on the ground that some protests/ objections on election notice had been filed by some members of the BCA.

14. Learned counsel for the petitioner further stated that thereafter no fresh schedule of any election was issued by any of the parties and vide notice dated 30.6.2010 (Annexure-6), the President of the BCA (Sri Lalu Prasad) dissolved the existing Committee of Management and office bearers with immediate effect for improving efficiency and to have total transparency in the working of the office bearers and the Committee of Management and also appointed an Ad hoc Committee of Management for discharging the functions of the Committee of Management as per Clause 9 of the said Rules & Regulations of BCA and also to conduct fresh election of the office bearers and Committee of Management within six months under Clause 13 thereof. The said Ad hoc Committee included Sri Lalu Prasad as its Chairman and Sri Abdul Bari Siddiqui as its Convener and Sri Alok Raj, Sri Ajay Narayan Sharma, Sri Syed Saba Karim, Sri Ram Kumar, Sri Amikar Dayal, Sri R.S.P. Singh, Sri Dilip Singh, Sri P.N. Sinha, Sri Mritunjay Tiwari, Sri Praveen Kumar and Sri Rama Shankar Prasad as members, giving office address

of the Ad Hoc Committee as 151, Kautilya Nagar (M.L.A. Colony), P.O.-Bihar Veterinary College, Khajpura, Patna-800.014, which was a Government quarter given to Sri Abdul Bari Siddiqui.

15. It was also claimed by learned counsel for the petitioner that on 18/28.7.2010 (Annexure-7) various District Units submitted their memorandum to the President of the BCA unanimously rejecting the formation of the Ad hoc Committee as illegal and resolving that the earlier Managing Committee of the BCA was constitutionally valid and should be allowed to work until the next election is held for which the President of the BCA (Sri Lalu Prasad) had already issued notices dated 18.3.2010 and 3.4.2010 and requesting to immediately convene AGM of the original Managing Committee to conduct the elections of the members of the Committee of Management. Thereafter requisition dated 13.8.2010 (Annexure-8) was sent by the District Units and members of the Association to the Honorary Secretary of BCA" (Sri Ajay Narayan Sharma) for convening special general meeting of BCA for discussing different matters as well as AGM under clause 21(a)(III) of BCA Rules & Regulations. In view of the aforesaid memorandum and requisition of the District Units and members of the BCA, the Honorary Secretary of the BCA (Sri Ajay Narayan Sharma) issued notice dated 14.8.2010 (Annexure-9) for holding a Special General Meeting of BCA on 22.8.2010 for, inter alia, discussing and fixing the venue, date and time for holding Annual General Meeting/election of the office bearers and Committee of Management for BCA.

16. Learned counsel for the petitioner further averred that accordingly Special General Meeting of BCA was held on 22.8.2010 (Annexure-10) under the Chairmanship of the Vice-President of BCA (Sri Ram Chandra Prasad) in which it was resolved that Annual General Meeting of BCA would be held on 12.9.2010. It was also resolved to condemn the illegal formation of the so-called Ad hoc Committee and to reject all the actions taken by the Ad hoc Committee and also to continue the function of the existing Committee of Management of BCA till the next election, which was to be held under the supervision of three-member Committee, namely Sri Parmanand Sinha, Sri Neeraj Singh and Shri Dharma Veer Patvardhan. Accordingly, a notice was also issued to all affiliated members of BCA by its Honorary Secretary (Sri Ajay Narayan Sharma) on 23.8.2010 (Annexure-11) informing them that Annual General Meeting of the BCA will be held on 12.9.2010. Similarly, the Chairman of the Electoral Committee Sri Parmanand Sinha issued election notice dated 23.8.2010 (Annexure-12) with respect to various posts of BCA for which election was going to be held. Accordingly, Annual General Meeting for BCA was held on 12.9.2010 (Annexure-13) at Hotel Maurya, Patna in which representatives of 34 District Units and 16 members of BCA including, respondent nos. 9 and 11, participated and they elected Mr. Binod Kumar as President and Sri Ajay Narayan Sharma as Honorary Secretary and Sri Ravi Shankar Prasad Singh as Honorary Treasurer, apart from five Vice-Presidents and nine other members of the BCA.

17. Learned counsel for the petitioner stressed the point that the said election in the AGM of BCA dated 12.9.2010 has never been challenged by anybody till date and the Committee selected in the AGM is continuing having its office at Palika Market, Ashok Raj Path, Patna. He also claimed that the information of the new Committee of Management of BCA alongwith minutes of AGM and the list of office bearers were given to the Chief Manager of the Bank of India, Secretariat Branch, Patna (respondent no. 4) by the Honorary Secretary alongwith attested signatures of the Honorary Secretary and the Honorary Treasurer who were entitled to operate the account of BCA in the said Branch. Thereafter, a reminder dated 6.1.2011 (Annexure-15) was sent by the Honorary Secretary (Sri Ajay Narayan Sharma) to the said authority of the Bank for allowing the elected office bearers to operate the accounts. It is alleged that even after all these steps, the respondents-authority of the Bank did not allow the petitioner to operate its Account No. 442910110002030 in the said Bank, which was absolutely illegal and was clearly at the instance of the alleged President and Convener of the illegally formed Ad hoc Committee merely to continue the political clout of the erstwhile President who had also been the Chief Minister of the State earlier.

18. Learned counsel for respondent nos. 13 to 42, claiming to be the office bearers of 30 District Units of the BCA, supported the claim of the petitioner. He stated that he is representing 30 out of 38 District Cricket Associations and these District Units alongwith other District Units and members of the BCA had elected the new Committee of Management of BCA on 12.9.2010 in accordance with the procedure prescribed in the Rules and Regulations of the BCA which provides that such elected Committee of Management has to hold office until a new Committee is duly constituted by the general body in its AGM going to be held after three years.

19. Learned counsel for respondents nos. 13 to 42 submitted that up till 14.3.2010 there was no dispute between the President, Vice-President, Honorary Secretary and the members of the BCA and they issued a list of office bearers and addresses of the District Units affiliated to the BCA on 14.3.2010 (Annexure-1/1 of supplementary affidavit filed on behalf of the interveners), which was signed by the office bearers of the BCA, including Abdul Bari Siddiqui who was the Chairman of Consensus Committee, Sri Lalu Prasad who was the President, Sri Alok Raj who was the working President and Sri Ajay Narayan Sharma who was the Honorary Secretary of the Consensus Committee. The said list also contained the list of life members and the list of ordinary members. He averred that the said list included the names of the authorities of the District Units and the members of BCA who had participated in the Annual General Meeting held on 12.9.2010 in which the new Committee of Management was selected for the BCA and these interveners-respondents nos. 13 to 42 were 30 of the aforesaid District Units represented through their office bearers who were included in the said list, whereas respondent nos. 7-12 were members of BCA, who were also included in the list.

20. Learned counsel for respondents nos. 13 to 42 also claimed that for the purposes of election a special Sub-Committee was constituted by the Consensus Committee to decide the voter list and the said Sub-Committee, consisting of Sri Alok Raj as its Chairman and Sri Ajay Narayan Sharma as its convener and other four persons as its members, considered the matter in its meeting held on 24.4.2010 (Annexure-1/2) and unanimously approved the voter list of affiliated District Units as well as list of individual members of the BCA and directed them to clear all the dues prior to the AGM. The said District Units and its members cleared their dues and filed their affiliation forms within time (Annexure-1/3), including these interveners-respondents as they were fully entitled to vote and the objection of interested persons against it were fit to be rejected.

21. Learned counsel for respondents nos. 13 to 42 also averred that the President of BCA (Sri Lalu Prasad) had himself issued notice dated 18.3.2010 (Annexure 1) for calling AGM on 4.4.2010 for election of the office bearers of the BCA, but the said election of the office bearers of the BCA was not held on the fixed date and by the news publication dated 3.4.2010 the election was postponed under the signature of the President of the Consensus Committee (Sri Lalu Prasad). He also averred that instead of holding AGM, the President of the Committee (Sri Lalu Prasad) illegally dissolved the existing Managing Committee and constituted an Ad hoc Committee for six months on 30.6.2010 (Annexure-6). He argued that neither there was any occasion for dissolving the Managing Committee nor the constitution of Ad hoc Committee was legal and proper, rather the said action of the erstwhile President was absolutely against the Rules and Regulations of the BCA. He further stated that most of the members of the said Ad hoc Committee had no concern with it and it was meant to be a mere tool of Sri Lalu Prasad and Sri Abdul Bari Siddiqui, the self-proclaimed Chairman and Convener of the Ad hoc Committee, and a couple of its members including respondent no. 5 Sri Ram Kumar for misusing the BCA and its funds.

22. Learned counsel for respondent nos. 13 to 42 also submitted that in the aforesaid facts and circumstances, the District Units and the members of BCA rightly requisitioned a Special General Meeting which was held on 22.8.2010 (Annexure-10) which discarded the said Ad hoc Committee as illegal and resolved to convene a fresh AGM on 12.9.2010 for which an Electoral Committee was formed. Finally, the AGM was convened as per the specific procedures prescribed in the Rules on 12.9.2010 (Annexure-13) which was attended by most of the District Units and members of BCA, including respondent nos. 13 to 42 and respondent no. 9 and 11 and they elected a new Committee of Management for BCA which-is still functioning. He also averred that the said election has never been challenged by anybody and the Ad hoc Committee, which was allegedly formed for getting the election for BCA held within six months, had taken no steps in that regard, as is apparent from their own statements.

23. Learned counsel for respondent nos. 13 to 42 emphatically alleged that Sri

Abdul Bari Siddiqui, who was allegedly appointed as convener of the Ad hoc Committee is a close associate of Sri Lalu Prasad in his political party and had also been an important minister when his party was heading the Government in Bihar and hence he was given the charge of the said Ad hoc Committee only to extend the dominance of Sri Prasad over Bihar Cricket and the BCA and hence the Ad hoc Committee allegedly formed by him was nothing but a handmaid of Sri Lalu Prasad having no legal sanctity at all.

24. Learned counsel for respondent nos. 13 to 42 also claimed that the BCCI gives money to the State Bodies, namely BCA, and hence they have a duty to see whether the said bodies were functioning properly for the benefit of Cricket and money given by the BCCI is properly utilized by the BCA as per the requirement. He also claimed that BCCI sent Rs. 50 lakhs to BCA and out of it only Rs. 13 lakhs are left in the Bank, although nothing was given to the District Units, but in spite of that BCCI is not taking any step in that regard against the persons concerned, namely the self-proclaimed Chairman and the Convener of the Ad hoc Committee, who were earlier operating the said account although the BCCI had not recognized or approved the alleged Ad hoc Committee nor such ad hocism can legally be allowed.

25. Learned counsel for respondent nos. 13 to 42 emphatically alleged that the BCCI has formed a bias against the Bihar Cricket Association and had throughout been favouring the Jharkhand Cricket Association, may be because the Jharkhand Cricket Association was earlier supported by Tatas, whereas the earlier President of the BCA was Sri Lalu Prasad, due to which the players of Bihar under all the age groups had severely suffered and even under 19 players sent by the BCA were beaten up at Ranchi and had to immediately return. In the said circumstances, he averred that for the benefit of Bihar Cricket it is necessary that the politician should not be allowed to interfere into the affairs of BCA and it should be left for the sports persons themselves to manage it and try for the betterment of sports in Bihar and for that purpose the BCCI must come forward with positive steps.

26. On the other hand, learned counsel for respondent no. 5, who was added on 14.2.2011 when his LA. No. 784 of 2011 was allowed by this court, claimed that there were complains and counter claims against the existing Managing Committee (Consensus Committee) formed in 2008 and hence the Electoral Officer appointed by the BCA (Sri Rajendra Prasad) issued his order dated 26.3.2010 (Annexure-I/C of supplementary affidavit of respondent no. 5) postponing the election of BCA which was to be held on 4.4.2010 till fresh date was fixed by the competent authority. He also claimed that considering the seriousness, of the complains the President of BCA (Sri Lalu Prasad) rightly dissolved the Committee of Management and office bearers with immediate effect vide order dated 30.6.2010 (Annexure-6) under clause 13(a) of the Rules & Regulations of the BCA and appointed an Ad hoc Committee for management of BCA under clause 9 thereof for discharging all the functions of BCA and for

conducting fresh election of office bearers within six months and the said Ad hoc Committee included two famous names, namely Sri Syed Saba Karim and Sri Amikar Dayal.

27. Learned counsel for respondent no. 5 further stated that forms filed by District Units were defective and they could not be relied upon as they all were pocket Associations the District and hence Convener (Sri Abdul Bari Siddiqui) sent letter dated 23.12.2010 (Annexure-A to supplementary affidavit of Respondent No. 5) to all the affiliated District Units of BCA asking them to send details required in enclosed proforma, but they did not fulfill the criteria, except Patna Unit (respondent no. 13) which had its constitution. He claimed that allegations with regard to financial irregularities cannot be relied upon as Audit Report showing such irregularities is under challenge as would appear from the order of the Electoral Officer (Sri Rajendra Prasad) dated 26.3.2010 (Annexure-C) and hence, in the said circumstances, there was no occasion for any action to be taken either against the said President (Sri Lalu Prasad) or the abovenamed Convener (Sri Abdul Bari Siddiqui).

28. Learned counsel for respondent no. 5 also claimed that on the other hand, Sri Ajay Narayan Sharma cannot legally represent BCA and had no right to take steps for holding Special General Meeting or Annual General Meeting which is violative of Rule 4 of the Rules & Regulations of BCA and hence Convener (Sri Abdul Bari Siddiqui) issued notice dated 21.8.2010 (Annexure-A to LA. No. 784 of 2011) for filing a show cause as to why disciplinary action should not be taken against him and an FIR was also lodged against Sri Ajay Narayan Sharma by Arif Eqbal, one of the players who had applied for under 19 years team, whereafter letter dated 7.8.2010 was sent by the BCCI to the Convener of BCA Sri Abdul Bari Siddiqui to take appropriate corrective measures and report within fifteen days. He also stated that Chief Administrative Officer (Prof. R.S. Shetty) submitted a report against the activities of the Bihar Cricket Association finding that the cricket activities in the State were affected by internal politics although the BCCI had recognized the Bihar Cricket Association headed by Sri Lalu Prasad as the official body and the BCA will have to consider getting like minded people including former cricketers together if cricket was to prosper.

29. Learned counsel for respondent no. 5 averred that the recent directory of BCCI also shows Sri Lalu Prasad as President and Sri Abdul Bari Siddiqui as Convener of BCA and the main concern is constitution of a valid voter list, whereafter election can be held, especially when majority of life members have migrated for Jharkhand and only a few are left and hence fresh election is a must for the good health of BCA which can be done only by the Ad hoc Committee appointed by the President of BCA (Sri Lalu Prasad) on 30.6.2010 (Annexure-6) and this writ petition is fit to be dismissed.

30. Learned counsel for respondent nos. 7, 9, 10, 11 and 12, who are some of the members of BCA supported the claim of respondent no. 5 and stated that Ad hoc Committee was rightly constituted by the President of BCA (Sri Lalu Prasad)

on 30.6.2010 (Annexure-6) as the District Cricket Associations were to be reorganised and a proper voter list was to be prepared for electing a fresh and good BCA, especially when the District Units are main pillars of BCA. But the question here was as to who were the genuine office bearers of those District Units as correction in the system was to start from the bottom for which genuine members of the District Units were to be found and only thereafter the process could proceed upward.

31. Learned counsel for respondent nos. 7, 9, 10, 11 & 12 claimed that the lists of office bearers given by the petitioner were not correct and they were pocket district cricket associations of the petitioner and hence there was an urgent requirement for constitution of a Committee to verify the same and to submit its report within a time frame and hence when the Ad hoc Committee was constituted it issued notice to all the life members and ordinary members, numbering 14 and 23 respectively, out of whom six life members and nine ordinary members opted for BCA and paid their subscriptions. He also averred that there has to be an office for working of BCA and keeping its record so that every member could have access to it, but the petitioner has failed to prove that any office existed at the place given in the writ petition. Hence, he claimed that the writ petition is fit to be dismissed.

32. Learned counsel for the BCCI (respondent no. 6) very fairly stated that it did not want to be dragged into an intra factional dispute of BCA as the matter has to be settled as per the Rules and Regulations of the BCA. Hence, he submitted that BCCI has undertaken to accept any order passed by this court either in favour of one of the contesting factions of BCA or for holding fresh election and would comply the same in accordance with the Rules & Regulations and the procedure prescribed. He also claimed that after the bifurcation of the State of Bihar, Cricket Association of Jharkhand was formed which was later named as Jharkhand Cricket Association in 2004. He also stated that a member of one of the Associations can be a member of another Association as no bar is provided to the same. He further averred that if a fresh election is to be held, a retired Judge of this Court be appointed as observer for the confidence of parties and to sort out the real office bearers of DCA and, if required, a person from BCCI will also be present to supervise.

33. However, so far the claim of the petitioner and respondent no. 5, each claiming to be the genuine BCA, is concerned, learned counsel for respondent no. 6 submitted that till 7.8.2010, the BCCI recognized Sri Lalu Prasad as the Chairman and Sri Abdul Bari Siddiqui as the convener of BCA as would be apparent from its letter dated 7.8.2010 (Annexure-I/B to LA. No. 784 of 2011), but thereafter special general meeting of BCA is claimed by the petitioner to have been held on 22.8.2010 by the BCA discarding the formation of Ad hoc Committee, whereafter Annual General Meeting is claimed by the petitioner to have been held on 12.9.2010, electing fresh Committee of Management for the BCA. Hence, BCCI cannot be expected to decide this matter or to favour one

party or the other as the matter has to be decided by this Court which the BCCI is bound to abide.

34. Learned counsel for the Bank of India and its authorities (respondent nos. 1-4) stated that S.B. Account No. 442910110002030 of BCA had a deposit of Rs. 12,84,965.00 as on 11.8.2010, but the operation of the said account was suspended since 10.7.2010 by the Bank due to the dispute between the erstwhile Secretary of BCA (Sri Ajay Narayan Sharma) and the Convener of Ad hoc Committee (Sri Abdul Bari Siddiqui) who had sent letters dated 12.7.2010 and 27.7.2010 respectively. In these circumstances, respondent no. 4 asked the disputing parties to bring an order of court as to who is entitled to operate the account and only thereafter the Bank will permit the said account to be operated, as the Bank has nothing to do, except to wait for the decision of the court of law and to act according to the said decision.

35. From the arguments raised by learned counsel for the parties and also from the materials on record, it is quite apparent that the main issue in this writ petition is the entitlement to operate S.B. Account No. 442910110002030 of the Bank of India, Secretariat Branch, Patna and for that purpose there are two claimants, namely the petitioner claiming to be the newly constituted Committee of Management representing BCA and respondent no. 5 claiming to be representing the Ad hoc Committee of the BCA.

36. Hence for deciding the aforesaid main issue it is incumbent upon this Court to decide as to which of the abovenamed two committees is the genuine body representing BCA so that an order can be passed in its favour for operating the said account especially when the specific stand of the Bank of India and its authorities before this Court is that it cannot go into the said dispute, nor it can allow the said account to be operated by anyone until the said dispute is settled by this court which they are bound to abide.

37. So far the BCCI is concerned, it is the parent institution of all the State Cricket Associations in India and has recognized the BCA representing the State of Bihar, but under its by laws and Rules & Regulations, it has no authority to decide any intra-association fight between two factions of the same BCA. In these circumstances, BCCI, through its counsel, requested this court to consider this issue, so that the said dispute between the two committees, represented by petitioner and respondent no. 5, is finally decided, which would be abided by BCCI.

38. So far the functioning of BCA is concerned, it is not in dispute that before bifurcation of the State of Jharkhand from the State of Bihar there was one BCA covering both the areas having its head office at Jamshedpur, but after bifurcation of the State of Bihar and the State of Jharkhand under the Bihar Reorganisation Act, 2000, two Cricket Associations, one for the Jharkhand and the other for Bihar, namely Jharkhand Cricket Association and Bihar Cricket Association, were formed, which were subsequently recognized by the BCCI.

39. It is also not in dispute that on 21.6.2005 second election of the BCA was held and a fresh Committee of Management/office bearers was selected, whereafter the next election was due after three years, but instead of election, a Consensus Managing Committee was formed in 2008 in which Sri Lalu Prasad was the President and Sri Ajay Narayan Sharma was its Honorary Secretary and till March, 2010 there was no dispute between the parties with respect to the said Committee of Management for BCA and the parties to this writ petition have admitted that the dispute had arisen only thereafter.

40. So far BCA is concerned, it is governed by its own memorandum and Articles of Association as well as its Rules & Regulations which includes its composition, members and affiliation as well as Committee of Management. It also provides under Rule 9 that the affairs of BCA shall be conducted, managed and administered by a Committee of Management and its term of office would be for three years as per clause 10 thereof, whereafter a fresh Committee of Management had to be elected by its members and the district units (DCA) as per clauses 27 and 28 thereof. A list of affiliated district units including its authorities alongwith list of members of BCA had been prepared on 14.3.2010 (Annexure-1/1 to the supplementary affidavit filed on behalf of respondent no. 17) by the undisputed members of the BCA before the dispute had arisen between them which is duly signed by its members, including Mr. Abdui Bari Siddiqui and Mr. Ajay Narayan Sharma, who are now representing the two factions of the BCA.

41. So far DCAs are concerned, a list dated 14.3.2010 has been produced by respondent no. 17 as Annexure-1/1 to his supplementary affidavit which bears the signature of Sri Ajay Narayan Sharma, Sri Abdul Bari Siddiqui and other members of the Association. This list had been prepared prior to the dispute having arisen between the two factions and hence it cannot be denied by any of the parties. It is not the claim of the petitioner that his Committee had formed any fresh DCA nor respondent no. 5 has claimed that his Committee had formed any new DCA nor there is any material to suggest formation of any new DCA after the said list. In the said circumstances, the aforesaid list of DCAs produced by respondent no. 17 is clearly a genuine list.

42. However, respondent no. 5 had claimed that there was a requirement of fresh elections for constituting new DCAs for all the District. This process had to be initiated by the Committee of Management and even according to the claim of respondent no. 5 his Ad hoc Committee was constituted by the President of the BCA for six months on 30.6.2010 for the said purpose. But, more than a year has lapsed and there is nothing to show that they had taken any step in that regard. Hence, DCAs included in the list dated 14.3.2010 are still functioning and shall continue to function until fresh elections are held as per the Rules & Regulations. From a bare perusal of the said list dated 14.3.2010 it transpires that it includes respondent nos. 13 to 42.

43. So far the life members of BCA are concerned, it is not in dispute that

originally there were 14 life members, but most of them had either become life members of Jharkhand Cricket Association or had become disinterested with the BCA and only six life members, namely respondent nos. 7 to 12 remained as life members of BCA and nothing is shown to have been done-by the Ad hoc Committee of respondent no. 5 to enhance the same, although according to his case, the said Ad hoc Committee was specifically formed to take steps in that regard within six months. Hence it can be safely held that respondent nos. 7 to 12 are life members of BCA.

44. So far the genuineness and legality or otherwise of the Ad hoc Committee constituted on 30.6.2010 (Annexure-6) is concerned, it is the claim of respondent no. 5 that the said decision was taken solely by the then President of BCA Sri Lalu Prasad under the powers conferred upon the President by clause 13(a) of the Rules & Regulations of the BCA which provided that the President shall preside over all the meeting of Association and exercise general supervision over the activities of the Association and only in an emergency the President shall have the right to take all measures necessary to safeguard the interest of the Association and to carry on its activities.

45. There is no provision in the Rules & Regulations or in the memorandum and Articles of Association of the BCA with respect to formation of any Ad hoc Committee, nor the President had been empowered to form any Ad hoc Committee for the BCA, rather he has been only given a right to take necessary measures to safeguard the interest of the Association and to carry on its activities vide aforesaid clause 13(a) of the Rules & Regulations of the BCA, but even this cannot be presumed to include ad hocism which has always been deprecated by the courts of law.

46. From a bare perusal of the aforesaid provision of clause 13 as well as decision of the then President of the BCA dated 30.6.2010 it is quite apparent that no emergent situation was present when the said decision was taken by the then President of the BCA. The said decision is said to have been taken by the BCA only on the basis of some complaints and suggestion allegedly received from the District Units and members regarding improper working of the office bearers and Committee of Management, poor activities of the game of Cricket, non-transparency in the decision taken and non-preparation of a proper voter list.

47. The aforesaid grounds cannot be termed as emergent situation specially when fresh election for the Committee of Management/office bearers of BCA was due and for that purpose an annual general meeting had already been called on 4.4.2010 at the instance of the said President of BCA (Sri Lalu Prasad) himself. The said election would have naturally redressed all the alleged complains raised against the then Committee of Management/office bearers of BCA. Hence, there was no occasion for the then President of BCA to postpone the said election, dissolve the Committee of Management and form a new Ad hoc Committee for six months. Even the allegation of non-preparation of any proper voter list appears to be an absolutely frivolous and lame excuse as the voter list dated

14.3.2010 including the names of district units and members of BCA had already been prepared and circulated by all the members of the BCA, including Sri Abdul Bari Siddiqui, who was claimed to have been made convener of the Ad hoc Committee by the President of BCA later on 30.6.2010.

48. Furthermore, the said Ad hoc Committee included Sri Lalu Prasad as its Chairman, Sri Abdul Bari Siddiqui as its convener and 11 persons as its members and most of them were already the office bearers and members of the Committee of Management which was sought to be dissolved by the President of the then BCA vide notice dated 30.6.2010. Hence, the claim that the Ad hoc Committee was formed for proper functioning of BCA which was not being done by the earlier Committee of Management is absolutely false and frivolous. Thus from the entirety of situation, it transpires that the said decision of the then President of BCA dated 30.6.2010 is illegal, without jurisdiction and non est as it is also against the specific provisions made in the Rules & Regulations of BCA.

49. Apart from the above facts, it is quite apparent that the aforesaid alleged Ad hoc Committee with Sri Lalu Prasad as its President and Sri Abdul Bari Siddiqui as its convener and respondent no. 5 being its member did not at all function nor took any step to perform the function for which it was allegedly formed for more than a year, although it was allegedly appointed only for six months. Thus, it merely remained as a paper body created for the purpose of disturbing the legally formed Committee of Management which had been working since 2008 and continued to function even after the said notice dated 30.6.2010 till the new Committee of Management/office bearers of BCA were elected on 12.9.2010.

50. Interestingly enough learned counsel for respondent nos. 7, 9, 10, 11 and 12 had also asserted that the District Units should be first cleansed before changing the Committee of Management for BCA as correction in the system was to start from the bottom. I am afraid this court cannot agree to such frivolous proposition raised by the learned counsel because correction in the system has to start from the top, especially in the instant matter, because if the high command is of integrity and efficiency, it would be able to instill the same qualities in the lower cadre or would effect a healthy change in the system. Any high command lacking integrity and efficiency cannot be expected to be beneficial for the system or to be a guiding force for the lower cadre.

51. As per the relevant rules and provisions the BCCI has monopoly of status regarding regulation of sport of competitive cricket and its development for the entire country, whereas the BCA has monopoly of status regarding regulation of sport of competitive cricket and its development in the State of Bihar as per its memorandum and Articles of Association as well as the Rules & Regulations. Since the BCA is representing the entire State on the National fora, it is bound to follow the doctrine of fairness and good faith and has to act reasonably and not arbitrarily, whimsically or capriciously. Furthermore, its action must be judged and viewed by higher standards and its office bearers have to exercise their powers not only in accordance with the Rules but also in an honest and fair

manner keeping in view the public good and welfare of the sport of cricket. This is clearly absent from the action of the then President of the BCA while dissolving the existing Committee of Management, postponing fresh elections and appointing Ad hoc Committee and that too on frivolous grounds.

52. In the aforesaid confusion created by the then President of the BCA, various District Units were fully justified in submitting memorandum dated 28.7.2010 (Annexure-7 series) before the then President of BCA for convening an Annual General Meeting for electing a new Committee of Management which had fallen due and for which AGM was earlier also noticed to be held on 4.4.2010, but it was illegally ignored by the then President of BCA. Hence on 13.8.2010 (Annexure-8 series), the District Units and members of BCA sent their requisition to the Honorary Secretary under clause 21 (a)(iii) of the Rules & Regulations of BCA for convening Special General Meeting of BCA for, inter alia, discussing the next AGM and in response to the said requisition the Honorary Secretary of the BCA issued notice dated 14.8.2010 (Annexure-9) for holding a Special General Meeting of BCA on 22.8.2010 for the said purpose. The said step taken by the Honorary Secretary of the BCA was quite legal and proper as the formation of the Ad hoc Committee being absolutely illegal and against the provisions of law, the original Committee of Management which was admittedly working since 2008 with Sri Ajay Narayan Sharma as its Honorary Secretary had continued to function, irrespective of the "non est" order passed by the then President (Sri Lalu Prasad) dated 30.6.2010 and all the affiliates and constituents of BCA accepted the said Committee of Management governing BCA.

53. It is further claimed and proved that a special general meeting of BCA was held on 22.8.2010 (Annexure-10) under the chairmanship of its Vice-President Sri Ram Chandra Prasad in which it was resolved by majority of members and constituents that Annual General Meeting of BCA would be held on 12.9.2010 as the alleged order of Sri Prasad dated 30.6.2010 was discarded as Hon est. The said special general meeting has been fully proved by the materials on record and has been supported by the representatives of the District Units (Respondent Nos. 13 to 42) and was also in accordance with clause 21 of the Rules & Regulations of the BCA. It transpires that thereafter also extreme caution was exercised by the then Committee of Management and a three-member Election Committee was formed and after considering the voter list etc. notices were issued to all the members and constituents of BCA on 23.8.2010 (Annexure-11) and the Chairman of the Election Committee also issued election notice dated 23.8.2010 (Annexure-12) for election to various posts of BCA in the AGM which was fixed to be held on 12.9.2010. Hence, all the procedures which had to be followed in accordance with the Rules & Regulations had been followed by the authorities concerned.

54. Finally, Annual General Meeting of the BCA was held on 12.9.2010 (Annexure-13) at Hotel Maurya, Patna in which representatives of 34 district units and 16 members of BCA participated and elected Sri Binod Kumar as

President, Sri Ajay Narayan Sharma as Honorary Secretary, Sri Ravi Shankar Prasad as Honorary Treasurer as well as a working President, five Vice-Presidents and nine other members of BCA. The entire procedure was in accordance with the provisions of law, including clause 20 of the Rules & Regulations of the BCA. Hence the said newly formed Committee of Management, namely the petitioner, is the legal and proper committee of management for BCA and is rightly continuing since 12.9.2010 having a term of three years as per clause 10 of the Rules & Regulations of BCA and as such is entitled to represent BCA before any forum, authority or institution including banks.

55. Information of the said election had been sent to all the persons concerned, including the authorities of respondent no. 1 (the Bank of India) on 22.10.2010 (Annexure-14), whereafter a reminder was also sent to them on 6.1.2011 (Annexure-15). Thus, the objection of the alleged Ad hoc Committee represented by respondent no. 5 against the operation of the Account of BCA in the said Bank by the petitioner was absolutely frivolous, illegal and self-serving and the Bank should have rejected such objection, specially when the election of the petitioner Committee of Management for BCA in the AGM dated 12.9.2010 was in accordance with law and was never challenged by the alleged Ad hoc Committee or its members/office bearers, including Sri Prasad, Sri Siddiqui, respondent no. 5, who represents the Ad hoc Committee in this case, or by anyone else before any authority.

56. So far the objection raised by respondent nos. 7, 9, 10,11 and 12 are concerned, they are among the six admitted life members of BCA. Although they are not accepting the Committee of Management represented by the petitioner as elected in the AGM dated 12.9.2010 (Annexure-13), but the resolution of the said meeting clearly shows that at least two of them, namely respondent nos. 9 and 11 participated in the said AGM alongwith other members of the BCA and district units totally numbering 50, which elected the petitioner Committee of Management. Hence their stand in this writ petition against the petitioner cannot be deemed to be justified and to say the least, it was not expected from them as they had themselves been sportsmen of repute. However, in any view of the matter their objection is not substantiated by any valid material or any provision of law. Life members of BCA must raise themselves above petty politics and try to serve the game of cricket to which they have remained connected for long.

57. Considering the aforesaid claims of the parties, findings of this court, the facts and materials on record, this court finds that the Annual General Meeting of BCA held on 12.9.2010 was legal and proper and the Committee of Management elected in that meeting with Sri Binod Kumar as its President and Sri Ajay Narayan Sharma as its Secretary is a legal and proper Committee of BCA and hence the Chief Manager, Bank of India, Secretariat Branch, Patna is directed to allow the petitioner to operate the Account of BCA bearing A/C No. 442910110002030.

58. This does not end the matter especially in view of poor sporting environment

in the State of Bihar particularly with respect to Cricket as no promising name from Bihar has appeared on the international or even on the national cricketing scene for decades together, except, of course Sri Syed Saba Karim and Sri Amikar Dayal, but they also have left behind their youth much earlier. In these circumstances, it is incumbent upon the petitioner-Committee of Management and it is genuinely expected from them, especially when its Honorary Secretary himself had been a good Cricketer of his time, that it would take serious steps for developing the sport of cricket in the State of Bihar for all the age groups as it has to be inculcated and instilled in a person from very beginning and only thereafter such person can be expected to develop into a good cricketer of National or International level.

59. Petitioner's Committee of Management has also to look into the functioning and formation of the District Units and must try to have fresh elections held in all the District Units as soon as possible to bring fresh blood with a view to give impetus to cricket at all levels and in all the districts. Furthermore, the erstwhile Cricketer of repute must also be included as life members of the BCA for having benefit of their experience to fulfill the purpose for which the BCA is formed. The BCCI had also undertaken before this court that it would take every step for the betterment of cricket in the State of Bihar, which has enough raw talents having great potential requiring some institute and trainers to shape them into good or even great cricketers. Hence the petitioner must keep in touch with the BCCI and inform it about their genuine requirements and problems.

60. So far the allegation raised by respondent nos. 13 to 42 against the President of the Ad hoc Committee and its Convener (Sri Lalu Prasad and Sri Abdul Bari Siddiqui respectively) with respect to the funds of BCA is concerned, neither any material in that regard is before this court nor this is the proper forum before which such dispute can be raised. Hence, this court does not want to make any comment in that regard.

61. With the aforesaid observations/ directions, this writ petition is allowed.