

(2017) 01 SC CK 0153

In the Supreme Court Of India

Case No : Civil Appeal No.4235 of 2014

Board of Control for Cricket

APPELLANT

Vs

Cricket Association of Bihar

RESPONDENT

Date of Decision : 20-01-2017

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 Scale 630 : (2017) 3 SCC 696

Hon'ble Judges : Dipak Misra, J;A.M. Khanwilkar, J;Dr. D.Y. Chandrachud, J

Bench : Full Bench

Advocate : Vikas Mehta, Advocate, for the CA 1155 of 15; Mukul Rohatgi, AG, Tushar Mehta, ASG, Abhinav Mukerji, R. Balasubramanian, Santosh Kumar, Prabhas Bajaj, Akshay Amritanshu, Ravindra Bana, Mukesh Kumar Maroria, Senthil Jagadeesan, Kapil Sibal, Senior Advocate, P.R. Raman, Gautam Raman, Amol Chitale, Nirnimesh Dube, Santosh Krishnan, Gagan Gupta, A.S. Bhasme, E.C. Agrawala, K.K. Mohan, Shree Pal Singh, Shreekant N. Terdal, Ms. Manju Sharma, Praveen Swarup, Kapil Sibal, Senior Advocate, Ms. Neela Gokhale, Tanmay Mehta, Gaurav Kumar, Devanshu Sharma, Ms. Kamakshi S. Mehlwal, Ms. Sonia Mathur, Chirag M. Shroff, Balaji Srinivasan, Abhishek Bharti, Ms. Vaishnavi Subrahmanyam, Ms. Srishti Govil, Ms. Pratiksha Mishra, Mayank Kshisagar, Arunava Mukherjee, Raghavendra S. Srivatsa, Ms. Liz Mathew, Kapil Sibal, Senior Advocate, Siddharth Garg, Snehasish Mukherjee, Shyam Divan, Senior Advocate, P.R. Gautam Raman, Amol Chitale, Ms. Pragya Baghel, Vikash Singh, Senior Advocate, P.R. Raman, Gautam Raman, Amol Chitale, Pragya Baghel, Amit A. Pai, Venkita Subramonyam T.R., Rahat Bansal, Gaurav Sharma, V.K. Biju, Ms. Rashmi Singh, Anish R. Shah, Anshuman Ashok, Radha Rangaswamy, Hari Shankar K., Vipin Nair, Rahul Pratap, Mishra Saurabh, Deeptakirti Verma, M. Yogesh Kana, Ms. Nithya, Vikas Singh Jangra, Ms. Tamali Wad, Ms. Pooja Dhar, Sangram Patnaik, Ms. Sonal Bhalla, Sudanshu P., Ms. Diksha Rai, R. Bala, Advocates, for the Respondents; Gopal Subramaniam, Senior Advocate (A.C.), Santosh Krishnan, Ankur Kashyap, Pavan Bhushan, Anil B. Divan, Senior Advocate (A.C.), Radha Rangaswamy, Ms. Ranjeeta Rohatgi, Abhinav Mukerji, Advocates, for the Appellants; Gagan Gupta, Advocate, for the CA 4236 of 14; M.P. Vinod, Advocate, for the CP(C) 47 of 17; Dinesh Dwivedi, Senior Advocate, Ashish Mohan, K.K. Mohan, Advocate, for the CP(C) 46 of 17

Final Decision : Disposed Of

Judgement

1. Heard Mr. Mukul Rohatgi, learned Attorney General for India, Mr. Gopal Subramaniam and Mr. Anil B. Divan, learned Amicus Curiae, Mr. Kapil Sibal, Mr. Dinesh Dwivedi and Mr. Shyam Divan, learned senior counsel for the other contesting parties.

2. On 2nd January, 2017, this Court had issued several directions. The relevant directions which need to be reproduced are:-

"(vi) This Court shall by a separate order nominate the persons who shall form part of the Committee of administrators. In order to enable the Court to have the benefit of objective assistance in making the nominations, we request Mr Fali S Nariman, learned Senior Counsel and Mr Gopal Subramaniam, the learned Amicus Curiae to assist the Court by suggesting names of persons with integrity and experience in managing a similar enterprise. We request the learned Counsel appearing on behalf of the parties to also place their suggestions before the Court so as to facilitate a considered decision;

(vii) In addition to the function assigned in (v) above, the Committee of administrators shall also ensure that the directions contained in the judgment of this Court dated 18 July 2016 (which accepted the report of the Committee with modifications) are fulfilled and to adopt all necessary and consequential steps for that purpose;

(viii) In view of the directions contained in (ii) above, the senior most Vice-President of BCCI shall perform the duties of the President, BCCI and the Joint Secretary shall perform the duties of Secretary. Those of the office bearers of BCCI who are not disqualified in terms of clause (i) above (other than the President and Secretary) may continue subject to their filing an unconditional undertaking before this Court within four weeks of the date of this order to abide by and implement the directions contained in the judgment dated 18 July 2016. Upon the Committee of administrators as nominated by this Court assuming charge, the existing office bearers shall function subject to the supervision and control of the Committee of administrators. The Committee of administrators would have the power to issue all appropriate directions to facilitate due supervision and control; and

(ix) The remuneration payable to the members of the Committee of Administrators shall be fixed in consultation with the Committee consisting of Mr Justice R M Lodha, Mr Justice Ashok Bhan and Mr Justice R V Raveendran. The role of the Justice R M Lodha Committee shall hereafter be confined to overall policy and direction on such matters as may be referred by this Court.

(x) We would request the leaned Senior Counsel and the learned Amicus Curiae to endeavour to submit their suggestions to this Court within two weeks. The proceedings shall be listed before this Court on 19 January 2017 for pronouncement of directions in regard to the names of the administrators."

3. Be it noted, there was modification of the order as far as the direction No.(vi) is concerned, and that is instead of Mr. Fali S. Nariman, learned senior counsel, Mr. Anil B. Divan, learned senior counsel, was requested to suggest the names.

4. Mr. Gopal Subramaniam and Mr. Anil B. Divan, learned Amicus Curiae have suggested certain names for formation of the Committee of Administrators for the Board of Control for Cricket (BCCI). The said suggestions were filed in two sealed covers before the Court, one containing the names and the other the methodology adopted by it. It is submitted by Mr. Subramaniam that neither Mr. Divan nor he has any objection to circulate the names and give copies of the documents filed before this Court to all the learned counsel contesting or supporting the directions. While so submitting, he has left it to the discretion of this Court.

5. Having heard learned counsel for the parties, we think it appropriate that the documents in the sealed covers which have been opened in the Court should be sealed and, after due deliberation, certain number of members shall be chosen, who can administer the day-to-day affairs of the B.C.C.I. We have been apprised that presently the C.E.O. is functioning and looking after the working of the B.C.C.I. and he shall continue to do so till we nominate the Committee, under whose supervision he shall work.

6. At this juncture, Mr. Mukul Rohatgi, learned Attorney General for India has submitted that two of the directions passed on 2nd January, 2017, have seriously affected the Railways, Inter-Services team of the Armed Forces and Association of Indian Universities, for they are disqualified to become office bearers. He has drawn our attention to the disqualification enumerated in paragraphs 25(i)(a), (d) and (f), especially Clause 25(i)(f) that has been modified vide order 3rd January, 2017. Paragraphs 25(i) (d) and 25(i)(f) which find mention in the order dated 2nd January, 2017, read as under:-

"25(i)(d) Is a Minister or government servant;

(f) Has been an Office Bearer of the BCCI for a cumulative period of 9 years."

7. On 3rd January, 2017, clause (f) has been modified to the following extent:-

"25(i)(f) Has been an Office Bearer of the BCCI or a State Association for a cumulative period of 9 years."

8. The clarificatory order dated 3rd January, 2017, referring to office bearers of the B.C.C.I. or a State Association for a "cumulative period" of nine years is likely to create some ambiguity and, therefore, we clarify clause 25(i)(f) which should be read as follows:

"has been an office bearer of the B.C.C.I. for nine years or a State Association for the same period."

9. Mr. Subramaniam, learned Amicus Curiae has also submitted that the applications for review and the curative petitions have already been dismissed.

10. Needless to say, the contentions are recorded as advanced today.

11. We will be failing in our duty if we do not record the submissions advanced by Mr. Kapil Sibal, learned senior counsel appearing for some of the Associations. He has drawn our attention to direction No.(ix) which reads as follows:-

"(ix) The remuneration payable to the members of the Committee of Administrators shall be fixed in consultation with the Committee consisting of Mr. Justice R M Lodha, Mr Justice Ashok Bhan and Mr Justice R V Raveendran. The role of the Justice R M Lodha Committee shall hereafter be confined to overall policy and direction on such matters as may be referred by this Court."

12. It is urged by him that the Committee is still sending certain FAQs. Whether the FAQs would come under direction No.(ix) or not, shall be deliberated on the next date of hearing.

13. It is submitted by Mr. Rohatgi, that the Railways and the inter-services team of Armed Forces have only government servants and if a government servant is debarred, neither the Railways nor the Armed Forces can be represented by outsiders. The same principle, it is urged, will apply to the Association of Universities.

14. Mr. Gopal Subramaniam, learned Amicus Curiae submits that this aspect had been dealt with in the principal judgment and in consonance with the recommendations of the Justice Lodha Committee. The said issue shall be adverted to at a later stage.

15. Let the matter be listed at 2.00 p.m. on 24th January, 2017. The documents that have been filed by Mr. Gopal Subramaniam and Mr. Anil B. Divan, learned Amicus Curiae, be kept in a sealed cover.