

(2023) 03 DEL CK 0035

In the Delhi High Court

Case No : Review Petition No. 54 Of 2023 In Civil Writ Petition No. 16490 Of 2022, Civil Writ Petition No. 1070, 1199 Of 2023

Chirag Khandal

APPELLANT

Vs

Equestrian Federation Of India & Ors

RESPONDENT

Date of Decision : 07-03-2023

Acts Referred:

Citation : (2023) 03 DEL CK 0035

Hon'ble Judges : Gaurang Kanth, J

Bench : Single Bench

Advocate : Nikhil Singhvi, Shikhar Kishore, Bilal Ikram, Milind Dixit, Parth Aggarwal, Kirtiman Singh, Prateek Dhanda, Waize Ali Noor, Manmeet Kaur Sareen, Vidhi Jain, Madhav Bajaj, Kunjala Bhardwaj, Yash Upadhayay, Vinayak Bhandari, Bhav Ninder Singh

Final Decision : Allowed

Judgement

Gaurang Kanth, J

1. Vide this common judgement, this Court intends to adjudicate and dispose of following batch of Petitions that are based on common facts and deals with common questions of law: -

(a) Review Petition No. 54/2023- Vide this petition, the applicant is seeking Review/Recall of the order dated 12.01.2023 ('Order in Review') passed by this Hon'ble Court in W.P. (C) 16490/2022, titled as "Chirag Khandal Vs Equestrian Federation of India & Ors.", wherein the Petitioner ('Mr. Chirag') had sought issuance of an appropriate Writ for quashing the Impugned Notice dated 10.08.2022 with selection criteria (V-4) and 17.08.2022 with selection criteria (V-5) published by Equestrian Federation of India ('EFI').

(b) W.P.(C) 1070/2023, titled as 'Shashank Singh Kataria Vs Equestrian Federation of India & Anr.'- The Petitioner ('Mr. Shashank') is seeking issuance of an appropriate Writ inter alia, directing the EFI to allow the Petitioner to

participate in the upcoming CCI2* Long Events in Europe from March to April, 2023 and to consider the same as trials for the upcoming 19th Asian Games scheduled in China.

(c) W.P.(C) No. 1199/2023 titled as 'Yash Nensee Vs Equestrian Federation of India & Anr.'- vide this Petition, the Petitioner ('Mr. Yash') is seeking issuance of an appropriate Writ inter alia, directing the EFI to allow the Petitioner to participate in the upcoming Show Jumping Events in the United Kingdom from February to April 2023 and to consider the same as trials for the upcoming 19th Asian Games scheduled in China.

2. In order to have a better understanding of the case at hand, at the outset, it is important to examine the nature of Equestrian Sports.

3. The Equestrian sports consist of horses being used as a part of the game and the skill of the rider to control his horse is integral to the result amongst other things. Hence, the horse-rider combination is fundamental to all the disciplines of Equestrian Sports.

4. The Equestrian Sports popularly consist of 4 disciplines namely Dressage, Cross Country, Show Jumping and Eventing, which entail the following:

(i) Dressage is a discipline wherein riders are required to perform fixed sequence of moves and are judged for balance, rhythm and control of the horse.

(ii) Cross Country is a discipline wherein riders are required to jump over 30-40 obstacles in a fixed period of time and suffer penalties for exceeding the time limit or if the horse refuses to jump over obstacles.

(iii) Show Jumping is a discipline wherein riders have to jump over multiple fences of different heights which have objects over them which can be knocked down and riders are evaluated on the basis of their technical jumping skills and penalized for exceeding the time limit specified or the number of objects knocked down by them.

(iv) Eventing is the fourth discipline and is a combination of other three disciplines and has a "short" format wherein the rider has to showcase the three events during a period of a single day and a "long" format which is conducted over a period of 3 days wherein dressage is conducted on the first two days followed by cross country and show jumping on the third day.

5. It may also be mentioned that different disciplines have different star ratings such as one star, two star etc. which are essentially pari materia to different levels wherein one star would be beginner's level, two stars would be intermediate level, three stars would be expert level and so on and so forth.

6. In India, as a practice, there are three disciplines in which the sportspersons can participate which include Dressage, Show Jumping and Eventing.

FACTS RELEVANT FOR THE ADJUDICATION OF PRESENT MATTER

7. In pursuance of the 19th Asian Games, which were scheduled to be held in Hangzhou, China from 10th to 15th September, 2022, the EFI released an invitation notice for applications in the selection trials to be conducted within 3 disciplines of Dressage, Show Jumping and Eventing in the category of Equestrian Sports. The said notice was released along with selection criteria (V-3) for the riders and horses of Indian Equestrian Team. The first selection trials in terms of the aforesaid notice were supposed to be conducted between 01.09.2021 and 15.05.2022 on the basis of which candidates were to be selected to represent India in the 19th Asian Games. The result of the above-stated trials for the sport persons based in India was published on 12.04.2022 on the website of EFI. Later, the results of the trials to the sport persons who participated from abroad was published on 13.05.2022.

8. However, due to Covid-19 global pandemic, the Olympic Council of Asia (hereinafter referred to as "OCA") vide Letter dated 08.05.2022 announced that the 19th Asian Games have been deferred. Vide the Letter dated 19.07.2022, OCA announced the new dates for the 19th Asian Games as 23.09.2023 to 08.10.2023.

9. The EFI published the selection criteria notice dated 10.08.2022 (V-4) laying down the selection criteria for riders and horses for selection in Indian Equestrian Team for 19th Asian Games. Vide the said notice, the trials already conducted were done away with and thereby announcing that the trials would be conducted afresh between 15.08.2022 and 15.02.2023 in terms of the new selection criteria V-4. The EFI again vide Notice dated 17.08.2022 rectified the selection criteria V-4 and thereby, released selection criteria V-5.

10. In this regard, it is not out of place to mention here that there is no difference in the technical standards as far as selection criteria qua V-3 and V-4/V-5 are concerned. The principal difference between selection criteria V3 vis-à-vis selection criteria V4/ V5 is with respect to dates and formats as well as the eligibility requirements for Horses and Riders. As per selection criteria V4/V5, the horse-rider combination needs to participate in 4 competitions whereas in selection criteria V-3, they were required to participate in 5 competitions. However, the condition of best of three attempts for the preparation of Minimum Eligibility Requirement ('MER') remains the same in selection criteria V-3 as well as selection criteria V-4/V-5. Another major change was regarding the Minimum Age requirement for the horse and rider. As per V-3, the Minimum Age requirement for a rider for Dressage was that his 16th birthday should be in the year 2022, and for Show Jumping and Eventing, he should reach 18th birthday in the year 2022. As far as horse is concerned, for Eventing, the horse should be born in or before 2015 and for Dressage and Show Jumping, the horse should be born in or before 2014. As per V-4, the Minimum Age requirement for a rider for Dressage was that his 16th birthday should be in the year 2023, and for Show Jumping and Eventing, he should reach 18th birthday in the year 2023. As far as the horse is concerned, for Eventing, the horse should be born in or before 2016

and for Dressage and Show Jumping, the horse should be born in or before 2015.

11. Aggrieved by the Notice dated 10.08.2022 and 17.08.2022, Mr. Chirag preferred W.P. (C) 16490/2022. This court vide Order dated 12.01.2023, on the basis of the consensus of parties allowed the request of the Petitioner to participate in the trials during month of March and April, 2023. If in case he is able to meet the required MER in these trials, then he may be allowed to participate in coaching camps from the month of May onwards.

12. Subsequent to the passing of the Order dated 12.01.2023, 6 more Writ Petitions came to be filed before this Court seeking permission of this Court to participate in the upcoming 'Concours de Dressage International' (CDI) trials in the United Kingdom from March, 2023 to April, 2023 and consider the said events as trials for the purposes of the potential selection of the Petitioners therein for the 19th Asian Games. Detail of such petitions are as follow:

a. W.P. (C) 1804/2023 titled as 'Ms Sudipti Hajela Vs. Equestrian Federation of India through its Secretary General & Anr.'

b. W.P. (C) 1211/2023 titled as 'Ms. Viveka Rathore Vs. Equestrian Federation of India through its Secretary General & Anr.'

c. W.P. (C) 1199/2023 titled as 'Yash Nensee Vs. Equestrian Federation of India through its Secretary General & Anr.'

d. W.P. (C) 1139/2023 titled as 'Divyakriti Singh Vs. Equestrian Federation of India through its Secretary General & Anr.'

e. W.P. (C) 1077/2023 titled as 'Anush Agarwalla Vs. Equestrian Federation of India through its Secretary General & Anr.'

f. W.P. (C) 1070/2023 titled as 'Shashank Singh Kataria Vs. Equestrian Federation of India through its Secretary General & Anr.'

Out of these 6 writ petitions, 3 writ petitions as mentioned above at Serial Nos. (b), (d) and (e) were withdrawn.

13. The EFI for the purpose of seeking review/ recall of the Order dated 12.01.2023, filed a Review Petition based on certain subsequent events. EFI enumerated the said subsequent events in the said Review Petition, which reads, as follows:

"However, on account of the circumstances as set out below, the Coaching Camp for the national selections are now to start latest by the second week of March 2023 and cannot be postponed to May, 2023. The Applicant in this regard respectfully submits as under:

A. The Applicant respectfully submits that as is well known participation in equestrian events takes place through horse-rider combinations i.e. riders compete in these events on the basis of a horse-rider combination and not as individual standalone athletes. Therefore, it is extremely crucial that a rider and

a horse have sufficient familiarity with each other for achieving success in the sport.

B. With regard to the 19th Asian Games being held in China, the Organizing Committee i.e. the Hangzhou Asian Games Organizing Committee ['HAGOC'] had on 28.03.2022 informed all participating countries that all competing horses could be transported for participation to China only from the following five specific countries, after being quarantined for at least 7 days i.e. Germany, Japan, Republic of Korea, UAE or New Zealand. True Copy of the communication dated 28.03.2022 issued by the Hangzhou Asian Games Organizing Committee is annexed herewith as ANNEXURE – 2.

C. Pursuant thereto, the Answering Respondent No. 1 vide email dated 15.10.2022 to the Directorate General for Health and Food Safety, European Union had asked whether they would be able to export horses to Europe after necessary quarantine protocols to be conducted in Equine Free Disease Zone at Remount and Veterinary Corps, Meerut, Uttar Pradesh which was hitherto accepted by the European Union;

D. The Directorate General for Health and Food Safety, European Union vide email dated 17.10.2022 responded to the request of the Answering Respondent and stated that at the present point of time, entry of equine animals to the European Union from India was not authorized. True Copies of the email dated 15.10.2022 by the Respondent No. 1 to the Directorate General for Health and Food Safety, European Union and reply dated 17.10.2022 of the Directorate General for Health and Food Safety, European Union are annexed herewith and marked as ANNEXURE – 3 [COLLY].

E. Due to the aforementioned position as regards direct export of horses from India to Europe, the Respondent No. 1 had intended to send the equines to Europe from the United Arab Emirates and had been in contact with the relevant authorities in the said jurisdiction for the said purpose and had reason to believe that they would be able to transport the horses through UAE.

F. However, as it turns out, the United Arab Emirates has refused to accept horses from India. This has been confirmed by the Defence Attaché, Embassy of India, United Arab Emirates vide email dated 02.02.2023. True Copy of the email dated 02.02.2023 issued by the Defence Attaché, Embassy of India, United Arab Emirates annexed herewith and marked as ANNEXURE 4.

G. The Respondent No. 1 also vide email dated 14.02.2023 requested the Asian Equestrian Federation to confirm whether there was a change in the stance of the HAGOC's earlier stand as regards transport of horses to China from only 5 countries and whether horses could be exported from India directly to China.

H. The Asian Equestrian Federation vide email dated 15.02.2023 in response to the Respondent No. 1's email dated 14.02.2023 confirmed that HAGOC will only accept horses from the countries mentioned in their earlier communication dated

20.03.2022. True Copies of the email dated 15.02.2023 issued by the Asian Equestrian Federation and email dated 14.02.2023 issued by the Respondent No. 1 are annexed herewith and marked as ANNEXURE 5 [COLLY];

I. As submitted above, the horse-rider combination has particular emphasis in Equestrian Sport inasmuch as both the horse as well as the rider are specific and separate Athletes in Equestrian Sport, the horse-rider combination performs and is scored as a Unit.

J. However, in view of the stand taken by various international authorities, equines in the horse rider combination (s) cannot now be transported from India to Europe directly or via the United Arab Emirates and the same has led to a situation where only riders would have to be sent to Europe and horses will have to be leased in Europe to complete the horse-rider combination.

K. As such, in the given scenario, the horse-rider combination will have to be made afresh after leasing necessary horses in Europe. Needless to say, riders and their horses will need sufficient time to practice with each other and together with rest of the team in order to be in a position to effectively compete the 19th Asian Games in this scenario.

L. The Applicant respectfully submits that given this development, the Coaching Camp will have to be started earlier, and in any case not later than the 2nd week of March, 2023 so as to enable sufficient time for acclimatization, familiarization between the rider and the horse and development of the requisite understanding between them, as well as the training and participation in the various FEI Events for the Coaching Camps that would ultimately lead to the selection of the National Team. This is also fundamental since the combination of a horse and a rider is a delicate one and both the athletes take time to understand and get used to each other.

M. It is respectfully reiterated that participation in coaching camps and FEI Events is extremely necessary inasmuch as the criterion for final selection also includes performance during coaching camps and merit which would be considered at the time of final selection by the Selection Committee. The position is also consistent with the provisions of the Clause 1 (iii), 1 (x) and 3 of ANNEXURE XXI of the National Sports Development Code of India, 2011.

7. It is, therefore, respectfully submitted that on account of circumstances mentioned above the Coaching Camp would now need to be preponed to 2nd week of March, 2023 as opposed to May, 2023. The Applicants are, therefore, constrained to approach this Hon'ble Court by way of the present Review Petition since in the Order in Review, this Hon'ble Court had recorded that the Petitioner herein can participate in the FEI Events from March to April, 2023 and join the Coaching Camp starting in May, 2023 subject to the Petitioner meeting the requisite MER. However, as a consequence to the circumstances mentioned hereinabove the Coaching Camp would now need to be started from 2nd week of March, 2023, therefore, the Petitioner herein would not be able to complete his

selection trials in order to achieve the requisite MERs for consideration as selection of a probable. The Order in Review dated 12.01.2023, therefore, deserves to be recalled/reviewed.”

14. The most crucial part of the new development is that the horse-rider combination, which is considered as the basis for any equestrian sports was the basis for the selection process conducted by the EFI till date, is no longer available.

15. As per both the Selection Criteria V-3 & V-5, horse-rider combination as a unit was considered for the selection process. The same horse-rider combination which participated in the preliminary selection process is to attend the coaching camps and also to participate in the further selection process till the final selection. Once they have been selected, the same horse-rider combination is required to participate in the Asian games based on the points achieved by them as a team. A rider is not permitted to change his horse. However, in the present case, due to the new developments, no horse can be now transported from India. Hence the same horse-rider combination which participated in the preliminary trials is not available for the further selection process. All the selected Probables will be required to take a new horse from Europe on lease. Hence, now the scenario is that only the riders are selected. The selected riders have to form a new combination of horse-rider and that new unit has to participate in the further selection process.

16. In addition, the horse-rider combinations which achieved the MER were less than the requisite number of core Probables required for the further selection. For Eventing, only 4 combinations achieved the required MER and for Dressage/ Show Jumping, none of the combinations achieved the required MER.

17. The Committee of Experts of EFI, vide Minutes of Meeting dated 20.02.2023, amended the Selection Criteria V-5 keeping in mind the two factors i.e., (i) absence of the horse-rider combination of the core Probables who participated in the preliminary selection process; and (ii) reduction in the MER for the selection of core Probables.

18. Keeping in view the fact that the upcoming Asian Games are round the corner, and any adverse decision regarding the selection process will lead to a situation where the country will have no participation in the upcoming Asian Games, this Court sought suggestions from the EFI to resolve the issue. However, there was no positive suggestion from EFI and instead they justified their action and argued vehemently for the dismissal of the Writ Petitions.

19. In view of the same, this Court is left with no option but to decide the present Writ Petitions on its own merits.

SUBMISSIONS MADE ON BEHALF OF THE PETITIONERS

A. Submissions made on behalf of Mr. Chirag Khandal

20. Mr. Nikhil Singhvi, learned counsel appearing for Mr. Chirag, has submitted that the Petitioner is a 19 years old equestrian aspiring to represent the country in the 19th Asian Games in the equestrian event 'Eventing'. He participated in the selection process V-3 conducted by the EFI and secured first position in Eventing having a total score of 108.3 out of the three best trials, implying that he had the minimum number of penalties in the three best trials and his aggregate score was the highest out of the participants.

21. However, he was not able to participate in the selection process V-5. It is his case that his horse was stabled at France. EFI declared the new selection criteria V-4 only on 10.08.2022 and V-5 on 17.08.2022. As per the criteria, he has to participate in 4 selection trials either in India or abroad between 15.08.2022 to 15.02.2023. In Europe, due to winter season, no events were conducted from November, 2022 to January, 2023. It was impossible for him to transport his horse to India in this short span of time to attend the selection trials conducted in India. In view of the same, it was not possible for him to participate in the required 4 selection trials before the cutoff date 15.02.2023.

22. Learned counsel has further submitted that certain issues arose in the functioning of EFI, wherein the Secretary General of EFI removed the entire Executive Committee except Vice President (Finance) and one Member Executive. Therefore, the control of EFI was retained by these 3 individuals. Further, it is submitted that Secretary General (Respondent No. 2) & Vice President (Respondent No. 3) maliciously and in blatant violation of the National Sports Development Code of India, 2011 ('NSDCI') removed the entire Selection Committee of EFI. As per Articles 15 & 16 of the EFI Statutes, the selection criteria is to be decided by the Selection Committee and it is to be approved by the Executive Committee. In the absence of the Selection Committee and Executive Committee, no fresh selection process can be held.

23. It is submitted that the amendment to the Selection Criteria V-5 was done by a purported "Committee of Experts" appointed by the Secretary General and the Vice President (Finance) of EFI, when neither the NSDCI nor the Federation Statute provide for constitution of such a committee. Moreover, the Minutes of Meeting dated 20.02.2023 was attended by Secretary General and Vice President (finance) of EFI who, in terms of the Federation Statute possess no such powers and voting rights for making such a decision. It is also alleged that the Committee of Experts does not consist of any Arjuna Awardees despite the availability of multiple such persons. Apart from this, the preponement of coaching camps as suggested by the EFI is still without appointment of any national coach, who is required to be appointed by the Selection Committee in accordance with the guidelines.

24. It is submitted that the EFI was well aware of the fact that horses from India would not be allowed to be taken for 19th Asian games in China since 05.04.2022. However, despite prior knowledge of this, the Federation failed to clearly put forward this fact before this Hon'ble Court. Further, the entire

contention of the EFI has been that Mr.Chirag should have participated in India on a horse in India from November, 2022 in order to get selected completely gets vitiated in light of the fact that participation with such a horse would negate the horse-rider combination, which is the fundamental premise of equestrian sports.

25. Learned counsel has put forward the fact that since the horse 'Veni Vidi Vici' owned by Mr. Chirag is already stabled in France, it would be easier for him to transport the same to China, thereby increasing his chance of being successful in the event. Mr. Chirag obtained better MERs than the candidates who will be participating under new Horse-rider combination, hence makes him more eligible and deserving as compared to other candidates.

26. Learned counsel has further highlighted that vide Minutes of Meeting dated 20.02.2023 (Annexure 8 Colly of Review Petition No. 54 of 2023), the requirement of considering the 'Horse-Rider combination' as a whole for selection in the Asian Games has been dispensed with. Such combination was of paramount importance in terms of Para 8 of the Impugned Selection Criteria V-5. The relevant paragraph of Criteria V-5 has been reproduced below:

"8. Horse and Rider Combination. For the purpose of selection for 19th Asian Games, the horse and rider as a combination will be considered. Each horse-rider combination will be allowed to participate in four trials. A rider may participate in these trials in any discipline on more than one horse without any upper limit on the number of horses."

Now the Clause 6(ai) of Minutes of Meeting dated 20.02.2023 allows the selected candidates to participate on leased horses which they would train within Europe. Such decision in essence nullifies the previously conducted trials since not only the MERs are rendered futile now but also the combination since the selected candidates will be participating with completely new equine.

27. It is submitted by Mr. Singhvi that the EFI, by relaxing the criterion for selection as Probable, has acted in an arbitrary and unjustified manner. The relaxation of MER is done not only for those riders who attempted all 4 trials, but also for those who participated in not more than 2 selection trials. Candidates namely Mr. Zehan Setalvad and Mr.Anush Agarwalla participated only in 2 trials at the time when the requirement of criterion V-5 of obtaining 3 MERs out of 4 trials was in force. This is indicative of the fact that the EFI along with Secretary General and Vice President had already decided to relax the criterion in advance to the Meeting of the purported Committee of Experts ('CoE') in February, 2023. In a similar fashion, Federation relaxed the 30 days intimation rule regarding events to participate in as envisaged in Para 23(b) of Criterion V-5 in favour of one candidate namely Mr.Ashish Limaye. Learned counsel has submitted that such actions of the EFI along with its officials are a clear case of favouritism by which Federation cherry picked riders without any objective basis.

28. Another allegation made by the counsel pertains to the conflict of interest in the case of Vice President (Finance) with respect to the selection of candidates.

It is alleged that Vice President's son, Mr. Vinayak Khokhar is engaged in leasing horses that will be used by participating candidates. Such conflict of interest is against the Internal Regulations of the Federation under Clause B (4) and (5). Moreover, it is submitted that the Vice President (Finance) has personal malice against Mr. Chirag while relying upon the call recording involving Vice President.

29. For supporting the arguments, reliance has been placed upon the judgment delivered in *Rahul Mehra v. Union of India*, reported as 2022 SCC OnLine Del 2438; *Amit Kumar Dhankhar v. Union of India*, reported as 2014 SCC OnLine Del 3451;

B. Submissions made on behalf of Mr. Shashank and Mr. Yash

30. Mr. Gautam Narayan, learned counsel appearing for Mr. Shashank and Mr. Yash, initiated the arguments by throwing light upon the responsibilities of the EFI as a National Sports Federation. It must aim at fostering the sports by identifying and harnessing the talented sportsmen. It is expected out of the EFI to act in a non-partisan manner by exercising its authority in a transparent manner.

31. Submitting on behalf of Mr. Shashank, learned counsel stated that the Petitioner is an 18 years old equestrian aspiring to represent the country in the 19th Asian Games in the event 'Eventing'. It is the case of the Petitioner that he had been granted a Visa from 22.07.2022 to 19.10.2022, however, the same was insufficient for the Petitioner to cover the requisite 4 (four) International CCI2* long events, on account of which the Petitioner could only participate in 1(one) CCI2*L (long-format game) held at Borova, Czech Republic on 08.09.2022 where he finished at 5th place. Since the Petitioner was unable to participate in other international trials across Europe, he was compelled to withdraw his entries from the rest of three trials due to the above-mentioned Visa restrictions and came back to India for undertaking trials with another horse. He participated in the selection trials in India as per the selection criteria V-5, however, he could not achieve the requisite MER. It is clarified by the counsel that the averment made by the EFI that the Petitioner, Mr. Shashank, cannot now be given any further opportunity to participate in the coaching camp since he failed to qualify under Selection criteria V-4 and V-5 and was unable to obtain a single MER is factually incorrect. It is submitted that the Petitioner has participated in just 1st trial where he was not able to qualify. However, he was not allowed to stay back in Europe for the 4th trial due to his Visa duration. Since at the time of trial, the requirement of 3 MER out of 4 trials was in vogue, the Petitioner would not have been able to meet the requirement even if he would have qualified 2nd and 3rd trial. It is only now that is at a belated stage that the Federation has relaxed the requirement of MER to just 1 MER for qualifying as a Probable. As now, the Petitioner is still left with 3 trials to participate, therefore he has high probability of meeting this requirement. Hence, he has prayed for an opportunity from Federation to participate in upcoming CCI2* Long event in Europe and to consider it as trial for the Asian Games.

32. Learned counsel has further contended for Mr. Shashank that his horse 'Icaro LB', which is a 4-star rated horse is presently stabled in Germany. In view of the same, the Petitioner seeks a direction from this Court to grant him permission to participate in the FEI-grade CCI2* long Equestrian events scheduled to take place across Europe in the months of March, 2023 and April, 2023.

33. Learned counsel averred that no prejudice whatsoever would be caused to any other person/athlete by allowing the request of the Petitioner, especially since the Petitioner's participation in the upcoming Europe trials alone would not guarantee him a spot in the Indian Equestrian Team. The same would, at best, allow the Petitioner to secure a spot of a "Probable" in the prospective team, that too subject to fulfilling the requisite MER conditions.

34. Arguing for Mr. Yash, the counsel has submitted that the Petitioner is a 22 years old Equestrian athlete aspiring to represent the country in the stream of 'Show Jumping'. He had all intentions to participate in the Selection Criteria V-5. Out of the 4 (four) trials that the Federation permits the athletes to undertake, the 1st trial that the Petitioner had planned to undertake was on 13th December, 2022 at Parwood Equestrian Centre which got cancelled due to bad weather conditions. Subsequently, the Petitioner could not attend his other trial on 14th January, 2023 at Pyecombe Horse Show, on account of a major visa processing delay. In view of the same, the Petitioner preferred the present Writ Petition seeking a prayer for permission to participate in the 4 selection Trials during February, 2023 to April, 2023.

35. During the pendency of the present Writ Petition, Mr. Yash participated in an event held in Felbridge, United Kingdom dated 12.02.2023 and had achieved the requisite MER. In view of the same, the Petitioner had qualified as Probable in the discipline 'Show Jumping' as per the amended criteria evolved vide Minutes of the Meeting dated 20.02.2023 by the Expert Committee. Another submission made pertains to the issue raised by the EFI that the course designer of the Felbridge competition is not a Federation Equestre Internationale ('FEI') course designer. It is contended by the counsel that clause 19(d) of Selection Criteria V-5 provides that all selection trials in India and abroad will be held under an FEI empanelled course designer. However, the fact has not been mentioned anywhere in criteria that an obstacle course itself ought to be designed by an FEI empanelled designer, therefore such an objection raised by the Federation is baseless and hyper-technical. For buttressing this argument, the counsel has relied on the letter dated 28.02.2023 issued by Mr. Ben Townley, Course designer (FEI Level 3), wherein he certifies that course was designed by him and Mr. John Bedford who is a level 4 British Show Jumping course designer.

36. Similar as that of Mr. Shashank, the horse of Mr. Yash is already present in United Kingdom and therefore there would be no need for leasing a horse in his case.

37. Countering the arguments made by EFI that Mr. Yash failed to give 30 days

prior intimation to Federation indicating his 6 choices of trial, counsel has submitted that due to bad weather in the UK, trials kept on getting cancelled at the last moment which left Petitioner without any sufficient notice. Due to this uncertainty, the Petitioner did not have enough notice at hand to intimate the Federation. Even otherwise, it is submitted that the EFI had previously relaxed 30 days intimation requirement for certain selected athletes.

SUBMISSIONS MADE ON BEHALF OF RESPONDENTS

38. Mr. Kirtiman Singh, learned counsel appearing for the EFI and Secretary General and Vice President (Finance) of EFI in W.P.(C) 16490/2022, has submitted that the preponement of the Coaching Camp is essential as the criteria for final selection of the Indian Equestrian Team also includes the performance of the players in the Coaching Camps after getting acquainted with the new horses. He has further stated that this position is also in consonance with the provisions of Clause 1 (iii), 1(x) and 3 of Annexure XXI of the National Sports and Development Code, 2011.

39. Counsel has vehemently opposed the contention of Mr. Chirag that under the changed circumstances he may be selected as a Probable on the basis of his MERs achieved during trials in V-3. In response, Mr. Singh has stated that the MER is valid only for a period of 1 year prior to the last date of filing nominated entries as per Clause 518 of the Eventing Rules dated 01.01.2022, which have been issued by the FEI. He states that in the present case, Mr. Chirag's last MERs were published on 06.05.2022 on website of FEI, and the final list of players in Indian Equestrian Team will be send to the Organising Committee of Asian Games between July and August, 2023. Therefore, as per the rules of FEI, he cannot be allowed to be in Probables.

40. Another argument advanced by Mr. Singh in response to the aforesaid contention of Mr. Chirag is that he cannot be selected as a Probable in terms of MERs gained in trials under V-3 as the selection process under V-3 was never completed by the EFI. Therefore, the MERs of the Petitioner earned by him under trials in V-3 cannot be considered by the EFI especially when he had the opportunity to participate in various events thereafter, but he rather chose not to.

41. Mr. Singh has further submitted that if Mr. Chirag is directed to be selected as a Probable by this Court and is directed to be sent in Coaching Camps from March, 2023, then it would be unfair to the other 26 participants who participated in various trials thereafter under Selection Criteria V-5, but were not able to achieve requisite MERs.

42. It has been argued that the EFI has a right to lower the MER benchmark to select the best available team. In support of his contention, counsel has placed reliance upon the decision of this Court in Balaji Vijay Shankar & Ors. Vs Ministry of Youth Affairs & Sports & Ors., reported as 2018 SCC OnLine Del 9765.

43. Reliance is placed upon the decision of this Court in Mylan Laboratories

Limited Vs Union of India & Ors. reported as 2019 SCC Online Del 9070 in support of his contention that since there were no elected Selection Committee after the issuance of Selection Criteria V-3, so the Secretary General and Vice President (Finance) of the EFI made the necessary amendments in criteria V-3 and consequently, issued Selection Criteria V-4 and V-5.

44. Mr. Singh in response to the Writ Petition filed by Mr. Shashank has argued that he has been unable to even earn single MER in the discipline of Eventing both under V-3 and V-5. Therefore, after going through the selection criteria, Mr. Shashank cannot seek from this Hon'ble Court another opportunity of participating in the events in Europe during March to April, 2023 and be considered for selection in pool of Probables on the basis of result of those events especially now when the Coaching Camp is going to commence from the second week of March, 2023 due to the newly developed circumstances.

45. Mr. Singh has further submitted that Mr. Shashank is estopped from pleading that he will have a higher probability of achieving required MER with his 4 star horse ICARO based in Germany since he himself chose to participate in selection trials in India under Selection Criteria V-5 with his 2 horses namely, A LA BONHEUR and RIENROE ADARE ACROBAT, but was not able to procure any MER.

46. It has been stated in W.P.(C) 1199/2023 that the prayer of the Petitioner, Mr. Yash for being selected as a Probable on the basis of his performance in an event held on 12.02.2023 at Felbridge, United Kingdom ('said Event'), cannot be allowed. He states that Mr. Yash had not given the mandatory 30 days prior notice to the EFI about the said Event as provided in Clause 17 (a) of Selection Criteria V-5. The said provision has been incorporated so as to ascertain whether the event is up to the technical requirements and standards laid down in Selection Criteria V-5. He states that Mr. Yash informed the EFI about his participation in the said Event only on 03.02.2023.

47. It has been stated that the said Event was anyhow not as per the standards required under Selection Criteria V-5. He states that the said Event was in contradiction to Clause 18(a) of Selection Criteria V-5 wherein conditions for attaining MER have been provided. Further, the jury of the said Event was also not in alliance with Clause 19(a) of Selection Criteria V-5 wherein jury requirements for selection trials have been set. Mr. Singh submits that under these circumstances, Mr. Yash cannot be allowed to be selected as a Probable on the basis of the said Event which was not in conformity with the standards set under Selection Criteria V-5. In support of his contention, Mr. Singh submits that the decision of this Hon'ble Court in Balaji Vijay Shankar (supra) squarely covers these facts.

48. Then Mr. Singh has submitted that if Mr. Yash is directed to be sent as Probable by this Court then it will cause prejudice and it would be unfair to the other 8 participants in the discipline of Show Jumping who had participated in 4 selection trials held between 11.11.2022 to 14.01.2023 under Selection Criteria

V-5, but unfortunately failed.

LEGAL ANALYSIS

49. This Court has heard the arguments advanced by the learned counsels representing the parties and has also examined the documents placed on record and the Judgments relied upon with the assistance of the respective counsels.

50. Upon a conjoint reading of the present Petitions, it is imperative to adjudicate upon the following issues as they demand this Court's judicial consideration:

- a. Whether the Selection Criteria namely V-4 and V-5 ('Impugned Criteria') were introduced in accordance with the statute of the Federation and other relevant regulations;
- b. Whether the EFI acted fairly and in a transparent manner while carrying out selection process for selecting deserving candidates for the 19th Asian Games.
- c. Whether the Order dated 12.01.2023 passed by this Hon'ble Court demands any modification in terms of the recent development, as stated by the EFI.

Issue (a)- Legality and validity of Selection Criteria V-4 and V-5 as introduced by EFI

51. It has been a constant submission of the EFI and its officials that the issuance of the Selection Criteria V-4 and V-5 were made in light of the compelling circumstances i.e. postponement of the 19th Asian Games, which were earlier to be conducted from 10.09.2022 to 25.09.2022, but now are scheduled to be held from 23.09.2023 to 08.10.2023. The Federation has also highlighted during the course of arguments that various other National Sport Federations such as Archery Association of India, National Rifle Association of India, etc. are holding fresh trials due to the postponement of 19th Asian Games. Per contra, Mr. Singhvi appearing for Mr. Chirag has pointed towards the illegality in the issuance of the Impugned Selection Criteria V-4 and V-5. It has been averred that the Impugned Selection Criteria were not issued by a duly constituted Selection Committee in accordance with the Article 15 of the EFI Statute, unlike Criterion V-3. These 2 Impugned Criteria were rather promulgated by the Secretary General and the Vice President (Finance), who did not possess requisite rights as per the Statute.

52. At this juncture, it is imperative to refer to the Statute adopted by the EFI to enlighten oneself regarding the selection process of the candidates in Indian Equestrian Team. The relevant provision dealing with the Selection Committee has been reproduced below:

"Article 015- SELECTION COMMITTEE ELECTION, TENURE AND PROCEDURES

1. The Selection Committee shall consists of:

(a) President of the National Federation as the Chairman.

(b) National Coach if appointed.

(c) 05 members elected by the General Assembly.

Members who have won medals in National Equestrian Championship/ eminent sports person / Arjuna awardees are only eligible to be elected as Selection Committee members. Their tenure must be co-terminus with the Asian Games and will be for a period of four years. The term will terminate at the AGM succeeding the Asian Games. The Secretary General will attend meetings without voting rights. All proceedings of the Selection Committee related to selection of Individual/Team to represent India for any of the discipline of EFI will be minuted and signed by Selection Committee members and further sent to EC members. for their ratification.

2. If a Selection Committee member does not attend two consecutive meetings without any valid reason for absence, he will cease to be a member and the President can nominate another suitable EFI member to meet immediate requirement. A suitable member will however, be elected in the ensuing General Assembly to fill up the vacancy. The criteria for members seeking re election to the Selection Committee will be the same as stipulated in the statutes for Selection Committee members.

3. The Selection Committee composed as stipulated in these statutes will assemble as and when necessary for following responsibilities:

3.1 Selection of Indian teams and Chef d'equipe/ Coaches/Managers for all disciplines to represent India in International Events held in India and abroad. This will include Asian / Olympics / International / Regional / Friendly Games. Performance and merit will be the only criteria.

3.2 Selection Criteria will be prepared and forwarded to Executive Committee for approval. Thereafter it will be promulgated to all members of EFI, upload on its website and will be strictly adhered to. For any reason (s) in case the same is required to be amended, can be done by this Committee based on the suggestion of Executive Committee and such changes will be recorded. The decision taken by Executive Committee is final and binding.

3.3 The Selection Committee will also decide the nominations for Arjuna, Dronacharya Raj iv Gandhi Khel Ratna and similar awards and their recommendations will be put up to the Executive Committee for final approval. The final decision will thereafter be conveyed to the Government and to the General Assembly by the Secretary General.

3.4 The President may reconvene Selection Committee meeting should in his opinion there is need to do so, based on complaints/ representations received by him. However, the reconvening of the meeting can be done only once."

53. It is also relevant to examine Clause 3 of Annexure XXI of the National Sports Development Code of India, 2011, which pertains to selection of athletes

by the Federation. The relevant provision has been reproduced hereinbelow:

"3. SELECTION OF ATHLETES

(i) The selection of sportspersons for participation in major international events shall be the responsibility of National Sports Federations (NSF) concerned, and Government and the Sports Authority of India, will not have direct involvement in the selection process, except to ensure that it is fair and transparent.

(ii) The selection criteria/norms shall be clearly communicated by the NSFs to all concerned viz., players, coaches, Government Observers etc. well in advance and be put up on the website of the NSF concerned and also be forwarded to SAI and the Ministry to be put up on their respective websites.

(iii) In case of measurable event, the minimum qualifying norms may be fixed and announced along with the notice for Selection Trials and be put up on the website of the NSF concerned and also be forwarded to SAI and the Ministry to be put up on their respective websites.

(iv) The holding of the selection trials should be announced at least one month in advance of dates of the trials.

(v) In team events the Selection Trials should be held two months in advance and in the case of contact games, the selection trials should be held at least one month in advance of the competition event.

(vi) The selection shall be done by a Selection Committee, consisting of the President of the NSF as the chairman, the National coach and eminent ex-sportspersons, preferably Arjuna awardees. There shall be no Government Observer/SAI nominee, as member, in the Selection Committee.

(vii) The NSFs shall send invitation to the Government Observer, for attending the selection trials, and the selection committee meetings, as an Observer, atleast 15 days in advance, which shall further be followed up on personal basis. The Government Observer must send his/her report, directly to SAI and the Ministry, without delay.

(viii) The national coach shall evaluate the progress and performance of each player on regular basis, and submit the report to the Selection Committee and Sports Authority of India

(ix) The athletes who were not in the coaching camp organized prior to the Selection may be allowed to participate in the selection trials, only in exceptional cases with due justification.

(x) The proceedings of the Selection should spell out in detail, the selection criteria, the past performance of the players, and their performance in the selection trials.

(xi) The team once finalized for a particular event shall not be changed under any circumstances, unless warranted by unavoidable situations with due

justification and the changes shall be informed to all concerned.

(xii) NSFs shall keep the performance of each athlete on its website. This should be updated at least once a month along with rankings, if applicable.

(xiii) The athlete once selected for a team, shall be treated with utmost dignity. In case of any doubt arising, the athlete has to be taken into confidence. Proper appeal mechanism shall be put in place, to ensure proper and timely redressal of their grievances."

54. In light of the aforesaid provisions, this Court has perused the relevant Annexures in the present Petitions. This Court is of the view that the EFI has failed to produce any documentary evidence to demonstrate that the Impugned Selection Criteria V-4 and V-5 were issued by a duly constituted Selection Committee in accordance with Article 15 of the Statute. Further, it has come to sight of this Court that the date of commencement of selection trials is furnished as between 15th August, 2022 and 15th February, 2023, whereas the Selection Criterion V-5 was notified on 17.08.2022. It is conspicuous from the aforesaid fact that the Federation failed to announce the Impugned Selection Criteria V-4 and V-5 one month in advance from the date of commencement of trials as required by Clause 3(iv) of Annexure XXI of NSDCI.

55. Since it is as clear as daylight that the Impugned Selection Criteria was introduced in the blatant violation of the relevant Statute and the Sports Code, it is relevant to refer to the judgment delivered by this Hon'ble Court in Rahul Mehra (Supra), wherein it was observed as follows:

"89. Various judgments have held that conformity to the Sports Code is a sine qua non for grant of recognition to a NSF and the corollary access to benefits which flow from such status. The court is informed that Government expense, in this regard, extends to hundreds of crores of rupees annually. Without government support, the NSFs and IOA would not be able to discharge their duties. Forty-seven years have gone by, but non-conformity with the Sports Code and court directions continues unabated. In fact, non-conformity has almost attained permanence. This should end now.

102. As has been discussed hereinabove, the legal regime apropos sports administration in India has to be implemented fully and effectively. Compliance with the Sports Code is non-negotiable. If a sports federation does not comply with the law of the land, it will receive no recognition from the Government. All benefits and facilities to it will stop promptly. It is better that a legitimate body represents the cause of sportspersons than one simply masquerading as the real champion of Indian sports. Fairness and legitimacy needs to imbue all public affairs. Recalcitrant entities which defy adherence to rules of the game, while continuing to unjustly enjoy government's largesse and patronage, must be called-out."

56. It is also pertinent to note here that the rules laid down in the Selection Criteria V-3 were arbitrarily amended in Selection Criteria V-4 and V-5. Thereafter, the rules laid down in Selection Criteria V-5 were also further amended by Minutes of Meeting dated 22.02.2023. These amendments in the rules and regulations amidst the process of selection trials are against the principles of natural justice.

57. As per Clause 3.1 & 3.2, it is the responsibility of the Selection Committee to prepare the Selection Criteria and forward the same to Executive Committee for approval.

58. The EFI, therefore, changed the basic eligibility criteria after the commencement of the selection process. It is a well settled principle of law that norms of selection cannot be altered after commencement of selection process.

59. In view of the aforesaid discussion, this Court is of the opinion that the Impugned Selection Criteria which was introduced without presence of requisite quorum in Selection Committee and observance of the process of law stands void ab initio in the eyes of law. Hence, the issue (a) has been answered accordingly in terms of the above held discussion.

Issue (b)- Transparency and unbiasedness in selection process carried out by EFI

60. Mr. Singhvi and Mr. Narayan brought to the knowledge of this Court the arbitrariness in the conduct of the EFI during the whole process of selection. If this Court is not commenting on the conduct of the EFI, this Court is failing in its constitutional duty. This Court would like to point out the glaring irregularities in the functioning of the EFI and the laxity shown by them in the selection of the Indian Team to represent 19th Asian Games in time.

61. Firstly, EFI selected the core Probables by June, 2022 by adopting Selection Criteria V-3. The Asian Games were postponed to September, 2023 due to the delays related to Covid-19 Pandemic issues. Instead of starting the coaching camps for the selected core Probables, EFI announced fresh Selection Criteria V-4 on 10.08.2022 and V-5 on 17.08.2022. There were no material changes in both the selection processes except the format and the dates. There were no changes regarding the technical aspects. However, within 2 months of the conclusion of earlier Selection Criteria V-3, EFI in its wisdom, decided to have a fresh Selection Criteria V-4 and V-5. EFI was well aware of the fact that due to the winter season, there were no events conducted in Europe and UK from November, 2022 to January, 2023. Further, regarding the equestrians placed abroad, their horses are also stabled abroad and it is not possible for them to transport their horses to India in such a short span of time. By the new Selection Criteria published on 10.08.2022, the equestrians were informed to participate in the selection trials to be held between 15.08.2022 to 15.02.2023. The time provided to them to arrange the resources for participating in the selection trial was too short. One cannot lose sight of the fact that the costs involved in participating in these selection trials have to be arranged by the equestrians out

of their own finances.

62. Secondly, it has been brought to the knowledge of this Court that the selection trials were held in absence of a duly appointed national coach under whose aegis the coaching camp is to be held in Europe. Such appointment of a national coach is a mandate under Article 15 of the Federation Statute which pertains to formation of a Selection Committee and Clause 2 of Annexure XXI of NSDCI.

63. Thirdly, the amendment to the selection criteria V-5 vide Minutes of Meetings dated 20.02.2023 was made by members of 'Committee of Experts' comprising of Mr. Harish Khokhar, Vice President (Finance); Col. Jaiveer Singh, Secretary General; Lt. Gen AJ Singh, Member of CoE; Maj Gen Sameer Lamba, Member of CoE; Mr. Imtiaz Anees, Member of CoE; and Ms. Vanita Malhotra, Chairperson, Athletes Commission. However, such Committee of Experts neither find any mention in Statute of Federation nor in NSDCI. In view of that, such Committee of Experts lacks any authority to amend the Selection Criteria and therefore, such a modification is an eye wash to substitute a validly constituted Selection Committee under Article 15 of Statute.

64. Another major amendment made by the CoE of EFI was that they reduced the MER. As per the Selection Criteria V-5, the Horse-Rider combinations have to participate in 4 trials and the best 3 performances will be considered for the preparation of MER. By way of amendment, the candidate who achieved 1 MER is also eligible to be considered. Hence, if a candidate participates in one event and he gets 1 MER, he will be treated as an eligible candidate. If this condition was known to equestrians, they would have managed to participate in at least one selection trial held in India. Since participating in the 4 selection trials was a mandatory condition, many equestrians must have withdrawn from the selection process due to non availability of the number of selection trials. If the said fact would have been within their knowledge, they may have participated in the selection trials. Hence, this is also a fundamental change in the selection process which goes to the root of the matter.

65. Another major objection raised by EFI, regarding the Petitioner in W.P(C) No.16490/2022, is that even if the selections for the probables for the Asian Games were to take place on the basis of rider points, the Technical Guidelines [Article 130 read with 132] issued by the EFI for Eventing stipulate that the rider points are valid for only one year. EFI themselves flouted all the rules and regulations while conducting the present selection processes. There is not even a valid Selection Committee, as discussed above, to conduct the selection process. Hence, this Court is of the opinion that EFI is raising frivolous objections.

66. In the present case, the EFI changed the qualification/eligibility during the selection process. It is well settled principle of law that the rule of the game qua the qualification/eligibility cannot be changed during the middle of the selection process.

67. This selection of the core probables is the first step for the selection of Indian Team for the 19th Asian Games. The selected core probables have to undergo training under the aegis of EFI coaches at the coaching camps. They also need to participate in the FEI (Federation Equestre Internationale) events in Europe. Thereafter based on their merits and performance at the coaching camps and also based on their performance at the FEI events in Europe, the selection committee will select the final team for representing the country in the upcoming 19th Asian Games scheduled to be held in Hangzhou, China from 23.09.2023 to 08.10.2023.

68. As discussed in detail herein above, EFI changed the rule of the qualifications while the selection process is ongoing and hence denied equal opportunity to all the aspirants of 19th Asian games. Even according to EFI, without lowering the MER, sufficient number of candidates was not available for the remaining selection process. One cannot lose sight of the fact that this is Equestrian Sport and horse-rider combination is the most important factor considering the nature of the sport. As per the new developments, all the riders have to take new horses on lease from Europe. Whereas the equestrians placed abroad, including the Petitioners before this Court are already placed abroad and their horses are also placed abroad. In any case, this is the preliminary selection process. All the core probables have to participate in the further selection process to finally reach the Indian team representing the 19th Asian Games. Hence, if more core probables are available before the final Selection Committee, it will give a broad base to the final Selection Committee to select the best candidates to represent 19th Asian Games who can bring glory to the country.

69. Another issue that has piqued this Court's curiosity is the allegation of the presence of vested interests in the selection trials for the Vice President (Finance) of the EFI. It has been averred that there exists a conflict of interest in the case of the Vice President as his son is engaged in leasing equines that are to be utilized in the upcoming Asian Games. In such a circumstance, there is high chance of selection being biased and tweaked for bagging benefits out of it. This Court has examined the FEI's Internal Regulations Appendix 3 titled as 'Code of Ethics and Conflict of interest policy with Disclosure statement' ("Code of Ethics") that provides for integrity of National Federation representative and directs that no representative shall conceal any benefit connected with the organisation of Federation events. Relevant extract is produced herein below:

"B. INTEGRITY

1. FEI representatives shall not, directly or indirectly, solicit, accept or offer any form of personal remuneration or commission, nor any concealed benefit or service of any nature, connected with the organisation of FEI Events that is not part of the official negotiation process or set forth in the contract with the Organiser or Organising Committee.

2. Only gifts of nominal value, in accordance with prevailing local customs, may

be given or accepted by FEI Board members, FEI volunteers, or FEI staff by or to any member of an Organising Committee bidding for an FEI Event, as a mark of respect or friendship. Any other gift must be passed on to the organisation of which the beneficiary is a member.

3. The hospitality shown by any Organising Committee bidding for an FEI Event to the volunteers and members of FEI staff as well as persons accompanying them, shall not exceed the standards prevailing in the host country.

4. Conflicts of interest, whether real or perceived, are to be avoided;

5. Even the appearance of misconduct or impropriety should be recognized as damaging to the FEI's reputation, and should therefore be avoided.

6. FEI constituents must not be involved with organisations, firms or persons whose activity or reputation is inconsistent with the principles set out in the present Code."

70. Further, the Code of Ethics prescribes that representative must disclose any conflict by submitting the appropriate form to the EFI Secretary General. Furthermore, Article 13 clause 6.1 of the Statute of EFI prohibits appointment of any such person in Executive Committee who has conflict of interest.

"6.1 Conflict of Interest: A person with conflict of interest will not be elected as member of Executive Committee neither he will be any office bearer of the federation. The definition of conflict of interest is to be followed as per FEI's Internal Regulations."

71. The above discussed provisions aim to eliminate any likelihood of malice and subjectivity in the selection process. Despite presence of such precautionary provisions, element of biasness and conflict of interest remains a major challenge in running of National Federation in Indian sports as can be seen in the present matter. The Vice President (Finance) of EFI, despite having a major vested interest in the selection process failed to disclose this fact before the Federation or before this Hon'ble Court for that matter. He does not only continue to be a prominent part of the body, but has been proactively involved in formulating the selection criteria and moulding course of trials and selection of modus operandi.

72. After examining the conduct of the EFI throughout the present proceedings, this Court is of the prima facie opinion that EFI succeeded in their vicious approach to eliminate the best candidates by acting in a completely capricious and arbitrary manner while discharging its responsibilities.

Issue (c)- Review/modification of Order dated 12.01.2023 in light of the recent developments

73. At the very first, it would be pertinent to reproduce the relevant portion of the Order dated 12.01.2023 hereinbelow:

"During the course of hearing, the petitioner has shown inclination to participate

in the trials to be held in Europe between the period March to April, 2023.

It is being pointed out by the learned counsel for the respondent Nos. 1 to 3 that the coaching camps were scheduled to start between March to 1st May, 2023. This would not cause prejudice to the petitioner since he would be able to participate in four trials, which were required for his eligibility to participate in the Asian Games. The learned counsel for the respondents further states that they will be starting the coaching camps from the month of May onwards.

In view of the submissions made by the learned counsel for the respondents, it is clear that the petitioner would be able to participate in the trials during the months of March and April, 2023. Further, if the petitioner is able to meet with the required MER, he will be eligible to participate in the coaching camps from the month of May onwards.

The petitioner, on instructions, submits that the petitioner is ready and willing to put a quietus to the present litigation. The petitioner is withdrawing the present writ petition and reserves his right to file any proceeding in accordance with law, if need arises.

Mr. Kirtiman Singh, learned counsel, who appears for respondent Nos. 1 to 3, states that even if the athletes become eligible to participate in the coaching camps of the probables for the country in Asian Games, the Federation will have reservation to support him financially.

It is the obligation of Union of India to support the Federation financially and also to promote the interest of sports and the interest of the athletes of the country to participate in prestigious tournaments like Asian Games. This Court finds it extremely saddening and deprecates the stand of the Federation that they are raising the issue of financial burden if an athlete becomes eligible to participate in the Asian Games. Though the issue with regard to financial burden is not before this Court and this Court is not expressing any opinion on the same, however, this Court deprecates the stand of the Federation to even have raised an issue of financial burden if meritorious athletes bring laurels to the country by participating in the prestigious sports event like Asian Games.

With the above direction, the writ petition is disposed of along with the pending application."

74. The EFI moved the Review Petition seeking recall/ review of Order dated 12.01.2023 pursuant to the developments taken place in the factual circumstances as explained above. But, the EFI failed to explain in the Review Petition, the difficulty which has arisen in complying with the Order in review after these recent developments.

75. However, during the course of arguments, Mr. Kirtiman Singh, learned counsel for EFI has submitted that since the coaching camps will now commence from second week of March, 2023, Mr. Chirag cannot be permitted to join the coaching camps since there is no time left for selection trials in March and April,

2023. Mr. Kirtiman Singh, has further submitted that Mr. Chirag cannot be allowed to participate in coaching camps on the basis of his MERs in selection trials conducted under Selection Criteria V-3 as it would be in violation of Clause 518 of the Eventing Rules dated 01.01.2022 issued by FEI.

76. It would be apt to reproduce the Clause 518 of the Eventing Rules dated 01.01.2022 issued by FEI for the sake of convenience:

"518 Minimum Eligibility Requirement Validity Period

518.1 Championships

The valid period for obtaining a Minimum Eligibility Requirement is from the preceding calendar year to the closing date of the nominated entries."

77. As per the said clause, the MER obtained by a Horse-Rider Combination is valid for a period of one year before the closing date of nominated entries. Since the last result of the Petitioner in this Writ Petition was published on the website of the EFI on 06.05.2022, whereas the submission of final entries to the Organizing Committee of the Asian Games would take place sometime in August, 2023, the Petitioner is not eligible to be considered. This Court is surprised by the arguments advanced by the learned counsel for the EFI in this regard. It is an admitted position that none of the selected core probables will have same horse-rider combination as the riders are yet to select their horses. Hence, as on today, except the candidates placed abroad, all the candidates have to make a fresh horse-rider combination. Therefore, if others can participate in the trials, the same rules will be applicable to the Petitioner in W.P(C) No. 16490/2022. Hence, the said objection of the EFI is overruled.

78. It is to be noted that in light of the recent development and due to the restrictions placed on the movement of horses from India, the Equestrian players from India have already faced a disadvantage due to disruption in the rider-horse combination as mentioned above. Under this scenario, Mr. Chirag, who already has his horse placed in France, if he would be able to participate in the sport with his horse, then it will only be in the best interest of the Indian Equestrian Team. This Court is of the view that in no case, if Mr. Chirag is allowed to be a part of pool of Probables and allowed to join coaching camps, then it will cause any disadvantage either to the EFI or any other player.

79. Asian games Organising Committee informed the EFI way back in 28.03.2022 that all the competing horses could be transported to China only from the 5 specified countries after being quarantined for atleast 7 days. Despite these clear communications, EFI woke up from their slumber only after 7 months. Hence, vide email dated 15.10.2022, they asked Directorate General, Food & Safety, European Union regarding the future course of action and the EFI's request was promptly rejected vide email dated 17.10.2022. Thereafter, EFI started communicating with the Abu-Dhabi Authorities, which was finally rejected vide email dated 02.02.2023. The records placed show that EFI started

communicating with the Abu-Dhabi Authorities only in the month of January 2023.

80. As stated earlier, the fact that Mr. Chirag's horse being placed in France will be in the benefit of the Federation only, so instead of finding reasons for setting aside of the Order in Review, it should focus on withstanding on its submission made before this Court.

81. Nevertheless, this Court is of the opinion that under these recent developments, and keeping in mind that the EFI has already relaxed the minimum number of MERs required, the EFI should broaden its pool of Probables and let all the Petitioners herein along with the other deemed appropriate candidates to join the coaching camps and thereafter, select the best Indian team among them.

82. Mr. Shashank's horse is already placed in Germany and it has been submitted by his counsel that Mr. Shashank's horse 'Icaro' in Germany is a 4-star horse. Even though he had participated in events in India under Selection Criteria V-5 and was not able to earn even a single MER, but he was riding on a 2-star horse in India so if he performs on his 4-star horse placed in Germany then he might be able to earn the required MERs. In the view of this Court, even Mr. Shashank should be given a chance to participate in the coaching camps in light of the recent changed circumstances.

83. Similarly placed is the case of Mr. Yash, who has his horse placed in United Kingdom. In view of the observations made above, this Court is of the opinion that he should also be allowed to participate in the coaching camps.

84. Learned counsel for the EFI placed reliance on Judgment of the Coordinate Bench of this Court in Balaji Vijay Shanker (Supra). This Court carefully examined the ratio of the said Judgment. In the said case, the Petitioner therein participated in an event which does not meet the technical requirements as per the EFI Selection Criteria. In the said context, the Hon'ble Court observed that there is no infirmity with EFI lowering the Benchmark to select the best available candidates as the Petitioner was not eligible in any case. However, the facts of the present case are totally different from the aforesaid case. In the present case, EFI changed the basic qualification and eligibility criteria during the selection process. Hence, all the Petitioners would have been eligible for selection as per the changed criteria.

85. Moulding the relief in the present case is the biggest challenge before this Court. This Court is conscious of the fact that 19th Asian games are round the corner and now is the time for all the equestrians to undergo rigorous practice rather than wasting their precious time before this Court. EFI initially adopted selection criteria V-3 and in the month of June, 2022 they selected core probables for each stream. However, without any change in the technical parameters, EFI adopted fresh Selection Criteria V-5. In both the selection process, majority of the selected core probables had participated in the selection

trials conducted in India and hence, in view of the new developments, all these core Probables will have to lease new horses in Europe and again there will be a new horse-rider combination. In view of the same, this Court is of the considered opinion that EFI failed miserably in conducting the first stage of the selection process. There is no time left for the EFI to conduct the first step of the selection process all over again. Therefore, this Court is of the view that the interest of justice would be met if all the equestrians who participated in either of the selection process, i.e. V-3 or V-5 should now get equal opportunity to prove their merit. Needless to say, the horse-rider combination throughout the coaching camps and participation in FEI competitions has to be same. In view of the same, this Court directs EFI to allow all the equestrians who participated in either of the selection Process, i.e. V-3 or V-5 to attend the coaching camps and allow them to participate in the FEI competitions in which already selected Probables will be participating. This will give a sizable zone of consideration to the EFI to select the best equestrians who can bring glory to the country in the 19th Asian Games.

86. Without expressing its opinion regarding the final list of candidates who will ultimately represent the Indian contingent in the 19th Asian Games, this Court strongly desires that the best pool of candidates shall compete for the prestigious spot in the national team. The present three young petitioners, being meritorious and having an advantageous position with respect to the location of their horses, are great assets to the Indian equestrian fraternity. A National Sports Federation like the EFI should prioritize identifying and fostering the best talent in the country, without being muddled by hyper-technicality and personal vendettas against any candidate. This Court is deeply saddened by the sorry state of affairs and the deplorable condition of professionalism amongst the representatives of the EFI. Instead of spending a considerable amount of energy and funds on prohibiting young sportsmen from entering the list of 'probables,' the EFI should rather focus on improving its administration and chalking out a strategy to bag as many international laurels as possible.

87. A sportsperson belongs to the field and stadium, not to the corridors of the Courts. The present case seems to have become a David and Goliath contest, where an organization is using all its might to eliminate certain individual from the competition.

88. This Court takes this opportunity to remind everyone involved in this process that Athletes, be it of any stream, are our national assets. It is the dream of every Indian Athlete to represent the Country in an International forum. It is the dream of every Indian citizen to hear our National Anthem being played when one of our athletes stand on the podium. It is a proud moment for every Indian citizen to see our Athletes with Tricolour in their hand. The country recognises the years of hard work and dedication put by each Athlete to reach at that stage. The role of National Federations is to ease the difficulties faced by the Athletes and extend the necessary help to them to enable them to better their performances. As pointed out by the UOI in its Affidavit, National Sport

Federations are responsible for judicious selection of national teams for participation in major international events based on their merit and with the objective of enhancing national prestige and bringing glory to the country. It is the duty of the National Sports Federations to ensure that the selection process is conducted in a fair and transparent manner and the selection criterion are made known to all stakeholders well in advance. Any dilution to this process will not only shatter the dreams of these athletes, but every citizen of this country. This Court, at this stage, can only wish all the very best to each of the contestants and requests the EFI to select the best team to represent the country so that they can fulfil the dreams of every Indian citizen.

89. No one who aims to bring laurels to their motherland should be subjected to mental agony by the federations and its officials. Bearing in mind the lower position of India in the medal tally in the last-held 18th Asiad, our whole endeavor should be towards providing our athletes with a supportive ecosystem wherein their attention is only on improving their performance and achieving top spots in tournaments.

90. In view of the detailed discussions herein above, the Review Petition 54/2023 filed by the EFI in W.P(C) No. 16490/2022 is allowed. The writ Petition, 16490/2022 is heard along with the other two writ Petitions.

91. With the observations as mentioned herein above, all these Writ Petitions are allowed. EFI is directed to allow all the equestrians who participated in either of the Selection Process V-3 or V-5 to attend the coaching camps and participate in the FEI competitions in which already selected 'Probables' will be participating. It is clarified that this will include the Petitioner in W.P(C) No. 1199/2023.

92. All the pending Applications are also disposed of. No order as to cost.