
(2001) 09 JH CK 0079

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 4507 of 2001

Devendra Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 28-09-2001

Acts Referred:

Rules and Regulations of Board of Control for Cricket in India — Rule 3, 6, 9P

Citation : (2001) 09 JH CK 0079

Hon'ble Judges : Vinod Kumar Gupta, C.J.;D.N. Prasad, J

Bench : Division Bench

Advocate : L.C. Bihani, Shyamal Sarkar and A. Sen, for the Appellant; M.M. Banerjee, Advocate-General, P.K. Prasad, S. Standing Counsel, Central Govt., G.P. Singh and A.K. Sinha and A.K. Mehta, for the Respondent

Judgement

1. One application being IA No. 1346 of 2001 has been filed by Bihar Cricket Association through its President Mr. Lalu Prasad for impleadment as respondent No. 7 in this case.
2. In view of the averments contained in the application, we feel that for a thorough and proper adjudication of all the points of controversy and issues of dispute forming the subject matter of this petition, it shall be in the Interest of justice, if we allow the application.
3. We however do wish to make it absolutely clear that this order allowing the application shall not be construed as any expression of opinion by this Court with regard to any claim of this applicant. Such claim shall ultimately be decided in course of proceedings at an appropriate stage. This order, therefore, at present being only formal in nature allows the impleadment application and nothing more.
4. The IA application is accordingly disposed of. It is directed that Bihar Cricket Association through its President be added as respondent No. 7 in the writ application. The cause title should be amended accordingly.

5. Apart from the State of Jharkhand and the Union of India, as respondent Nos. 1 and 2 as originally impleaded in the writ application, we have before us the Board of Control for Cricket in India, its Secretary and Dr. A.C. Muthiah, President of the Board for cricket in India, as respondent Nos. 3,4 and 5 respectively, in this petition. One vakalat-nama has been filed by Mr. R. Krishna and three other Advocates of this Court on behalf of Shri "J.Y. Lele. Honorary Secretary. Board of Control for Cricket in India (Respondent No, 4).

6. It is submitted by these learned Advocates that this vakalatnama is being filed for and on behalf of respondent No.4 and that they are appearing for this respondent.

7. One counter affidavit has been filed by Shri S.J. Diwadkar son of Shri J.B. Diwadkar, who claims to be the Executive Secretary. BCCI. This affidavit purportedly has been filed on behalf of respondent Nos. 3,4 and 5. Undoubtedly, this person, the Executive Secretary. BCCI is not a party-respondent in this petition. This affidavit has been filed by him through his Advocates Shri Kalyan Roy and Shri Deepak Kumar Sinha.

8. Mr. A.K. Sinha, learned Senior Counsel, appearing on behalf of the respondent No. 4 has submitted that he wants to file counter affidavit of respondent No. 4 Mr. S. J. Diwadkar, because Shri Diwadkar is only an Executive Secretary of BCCI. We have gone through the affidavit of Shri S. J. Diwadkar and find that it does not contain any averment that he has been authorised by any of the three respondents (on whose behalf the affidavit has been purportedly filed) to file this affidavit. There, thus clearly appears, to be a dispute about the very locus standi of Shri S.J. Diwadkar in the sense, as to whether the affidavit filed by him should be considered as the affidavit on behalf of the respondents 3,4 and 5 or not. Our attention has also been invited to Rule 9-P of the Rules and Regulations of BCCI. which suggests that the Executive Secretary is a mere paid employee of the BCCI and is not one of its Office Bearers.

9. We are making the aforesaid observations only to highlight the dispute which has been created in the Court about the very locus standi of the aforesaid deponent and as to whether the affidavit filed by him should be treated as an affidavit on behalf of the respondents 3. 4 and 5 or not.

10. Notwithstanding the aforesaid, we have been informed that the Election of BCCI is scheduled to be held on 29th and 30th September 2001. An indirect suggestion was hinted at us that perhaps our order passed on 19th September 2001 might be construed as a restraint against the holding of the Election. We wish to make it absolutely clear that there is not an iota of an observation nor any direction in that order which can be considered as any restraint against the holding of the Election of BCCI. Neither we intended to issue such any restraint direction nor is any contained in our aforesaid order. BCCI, therefore, is at liberty to go ahead and proceed with its Election.

11. A dispute, however, has been raised during the course of hearing today with

regard to the following two aspects :--

(i) The non-consideration so far of the issue regarding the grant of affiliation to the Cricket Association of Jharkhand; and

(ii) Whether Bihar Cricket Association (BCA) as has originally been affiliated with BCCI with Headquarters at Jamshedpur should be granted the right to vote in the BCCI Election or this right be given to BCA, as has been permitted now to be impleaded as respondent No. 7 in this writ application.

12. In so far as the first question is concerned, we have no doubt that the BCCI being the parent body, the Apex Institution in the Country, will not ignore the mandatory requirement of Rule 6 of its Rules & Regulations. Undoubtedly, it will proceed without any delay in considering the question of admitting the Central controlling Body for Cricket in Jharkhand State as an Associate Member in terms of Rule 3 (a)(iii) of its Rules and Regulations and for such a purpose, it may devise such procedure as it considers most appropriate. Who would be the Central Controlling Body for Cricket in Jharkhand State will be a question which has to be decided by BCCI in accordance with either its existing norms, rules and procedure or those that it may devise for this purpose. We have left this question open, entirely to be decided by the BCCI.

13. In so far as the second issue regard-ing right to vote in the ensuing BCCI Election and the conflicting claims and contentions (as to whether BCA as originally affiliated with Headquarters at Jamshedpur, or BCA, as has no been impleaded as respondent No. 7 in this petition, should be allowed to cast vote), we direct that all the Full Members and all the Associate Member of BCCI, before start of the Election shall, in the Full House take a decision on this question. While taking this decision, neither the candidates for office bearers nor the outgoing office bearers shall participate. Such a House may accordingly decided "either to permit BCA as originally affiliated with Headquarters at Jamshedpur or to permit BCA, as has now been impleaded as respondent No. 7 in this petition to cast its vote or if it thinks that there is a serious dispute and that such dispute cannot be easily and immediately resolved, it may not permit any one of them to cast vote at wall.

14. This decision shall be taken by the Full House as mentioned above and we are quite sure that the decision shall be on its merits in accordance with established norms, conventions, customs, usage and whatever else these people think are relevant considerations. Undoubtedly, the aforesaid decision arrived at in the House shall abide by the result of the writ application.

15. Let the matter appear on 26th November, 2001, All affidavits by all the parties shall be exchanged and filed in the meantime.

16. A copy of this Order shall be issued to Mr. A.K. Sinha, learned Sr. Advocate for its immediate communication to the Honorary Secretary, BCCI for information, implementation and due compliance.

17. Ordered accordingly