

(2012) 05 JH CK 0117
In the Jharkhand High Court
Case No : L.P.A. No. 315 of 2011

Gyanendra Narain and Others

APPELLANT

Vs

Konda Prabhakar Rao and Others

RESPONDENT

Date of Decision : 14-05-2012

Acts Referred:

Citation : (2012) 3 JCR 559

Hon'ble Judges : R.K. Merathia, J;Dhrub Narayan Upadhyay, J

Bench : Division Bench

Advocate : Indrajit Sinha, for the Appellant; P.K. Prasad and Sachin Kumar for the Respondent No. 1 and Rajesh Shankar, GA for the State, for the Respondent

Judgement

1. Heard the parties at length, except respondent Nos. 5 and 6. As no order adverse to respondent Nos. 5 and 6 is begin passed, they will not be prejudiced by not hearing them. The election of Jharkhand Badminton Association (JBA for short) was held on 28.11.2010, which was challenged by the appellants (the Secretaries of Godda, Seraikella-Kharsawan, Koderma, Deoghar and Ranchi Districts Badminton Association) along with respondents No. 5 and 6 herein (the Secretaries of Jamshedpur and Chatra Districts Badminton Association). mainly on the ground that the elected persons were not eligible as per the existing bye-laws. It was registered as Misc. Case. A notice dated 13.1.2011 was issued to the elected candidates. They appeared on 2.2.2011. Ultimately they filed writ petition being W.P.(C) No. 2685 of 2011 on 18.5.2011, challenging the notice dated 13.1.2011 issued by the Inspector General of Registration (I.G. Registration for short) on the ground that as per Rule 12 of Bihar Societies Registration Rules. 1965 (Rules for short), he had no jurisdiction to entertain election dispute.

2. The I.G. Registration passed an interim order on 13.6.2011 under memo dated 15.6.2011, inter alia, that--

(i) the Director, Sports or his authorized representative will hold an enquiry.

(ii) as prima facie the elected body was against Clause-8 of the registered bye-laws, the existing body was directed not to function,

(iii) if the elected body so wished it could hold a general meeting under supervision of Sports Department for constitution of an ad hoc body.

3. This order was also challenged in the writ petition by way of I.A. No. 1867 of 2011. The said writ petition was placed "for orders" on 26.7.2011 on the office note dated 25.7.2011. The office note was whether the notices on respondent No. 4 (appellant No. 1 herein), respondent No. 6 (respondent No. 5 herein), respondent No. 8 (respondent No. 6 herein) and respondent No. 9 (appellant No. 4 herein) should be accepted as valid or steps for fresh service be taken and whether fresh notice should be issued on respondent No. 7 (appellant No. 3 herein).

4. The said writ petition was disposed of on 26.7.2011 which is the order impugned in this intra Court appeal.

5. It was submitted by Mr. Indrajit Sinha, Learned Counsel, appearing for appellants, that on 26.7.2011, adjournment was sought on behalf of appellant Nos. 2 to 5 herein, but the writ petition was disposed of on merits. He further submitted that as the petitioner got the contesting respondent Nos. 4, 6 and 8 deleted, the writ petition became non-maintainable. He also submitted that the writ petition was allowed mainly on the ground that the notices issued to the writ petitioners were vague, whereas it was a formal notice and moreover the writ petitioners knew well about the complaint made before the I.G. Registration and therefore, the writ petition could not be allowed on the ground that notice was vague. In fact such complaint was Annexure-1 to the writ petition. Furthermore the said interim order dated 13.6.2011 was also set aside. He lastly submitted that no opportunity of hearing was given to the contesting parties while passing the impugned order.

6. On the other, Mr. P.K. Prasad, learned senior counsel, appearing for the respondent No. 1, submitted that a counter-affidavit/cross objection has been filed to the effect that learned single Judge was not justified in remanding the matter back to the I.G. Registration, as he had no jurisdiction.

7. In reply, relying on the judgment reported in North Eastern Railway Employees Union and Others Vs. IIIrd Additional District Judge, Farukhabad and Others, Mr. Sinha submitted that under Rules 12 and 13, the I.G. Registration has administrative control over the society and has wide powers even to look into the complaints about the election.

8. In view of the order we propose to pass, it is not necessary to decide the said questions raised on behalf of the parties. The following orders are being passed:-

9. A fresh election of JBA will be held under the supervision of I.G. Registration. A representative of Badminton Association of India may act as an Observer. Such election will be held as per the bye-laws of JBA approved by I.G. Registration.

The eligibility to take part in the election will be decided as per the approved bye-laws. Such election process should be completed as early as possible and preferably within three months from the date of receipt of a copy of this order through any of the parties.

In the meantime, the Sub Divisional Officer, Jamshedpur will look after the functioning of JBA till the fresh elections are held and the elected body takes over the charge. He will take charge from the existing body by 21.5.2012. The existing body will not function from today till the charge is handed over by it to the Sub-Divisional Officer.

10. In view of this order, the Misc. Case pending before the I.G. Registration against the election held on 28.11.2010 has become in fructuous. With these observations and directions, this L.P.A. stands disposed of.