
(2018) 03 RAJ CK 0090

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2696, 2697 of 2018

**Jaipur District Cricket Association @APPELLANT@Hash Registrar,
Cooperative Societies**

Date of Decision : 14-03-2018

Acts Referred:

Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005
— Section 5, 16, 24, 35
Constitution of India 1950 — Article 226

Citation : (2018) 03 RAJ CK 0090

Hon'ble Judges : INDERJEET SINGH, J

Bench : Single Bench

Advocate : Ravi Bhojak, Mahesh??Gupta, Naina Saraf, G.S. Gill, Harish C.??
Kandpal, Kamalakar Sharma, Alankrita??Sharma, Sarwat Alam, Peush Nag, Jai Raj
Tantia, Mahendra Goyal

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.

2. The petitioners have filed the instant writ petition with the following prayers:-

â??(i) Kindly quash and set aside order dated 2011-2017 (Ann.10), being without jurisdiction.

(ii) Kindly quash and set aside arbitrary, illegal and perverse inquiry report dated 07-12-2017 (Ann.11), being contrary to the Act of 2005, Rules of

2004 as well as contrary to the Judgment/Order dated 04-12-2017 passed by the Division Bench of the Honâ??ble High Court.

(iii) Kindly quash and set aside arbitrary, illegal and without jurisdiction order dated 18-01-2018 (Ann.22) and corrigendum dated 22-01-2018 (Ann.23),

being contrary to the Judgment/Order dated 04-12-2017 passed by the Division Bench of the Honâ??ble High Court.

(iv) Any other relief which may be deemed fit and proper in the facts and

circumstances of the case in favour of the humble petitioner, may kindly be granted.â??

3. Learned Senior Counsel for the respondents raised certain preliminary objections. Firstly with regard to maintainability of the writ petition as the order of Registrar (Societies), Jaipur is appealable under Section 35 of the Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005 (hereinafter referred to as â??the Act of 2005â??), and secondly that process of election for Executive Committee of the Jaipur District Cricket Association has already been started.

4. Learned Senior Counsel appearing on behalf of the respondents submitted that the order dated 20.11.2017 (Annexure-10)Â passed by the Registrar(Societies), Jaipur as well as order dated 18.01.2018 (Annexure-22) passed by the Registrar(Societies), Jaipur are appealable under Section 35 of the Act of 2005.

5. Section 35 of the Act of 2005 reads as under:-

â??35. Appeal.- (1) Any sports Association or person aggrieved by an order made by the Registrar under the provisions of this Act may appeal

against the order to the Secretary to the Government, Department of Youth Affairs and Sports within thirty days of such an order being made.

(2) The decision of the Secretary to the Government, Department of Youth Affairs and Sports made in such an appeal shall be final and a revision

against his order may lie with the High Court within thirty days of such an order.â??

6. Learned Senior Counsel for the respondents submits that since the petitioners are having an alternative statutory remedy under the Act of 2005,

therefore, the writ petition deserves to be dismissed. In support of his submissions, he has relied upon the judgment passed by the Division Bench of

this Court in D.B. Special Appeal(W) No.436/2015- Gunjan Sharma Vs. Registrar, Sports Associations, Ajmer & Anr., dated 29.03.2016, which reads

as under:-

â??The respondent in the writ petition has filed the instant appeal against the order dated 23.03.2015, passed by the learned Single Judge, whereby

the writ petition (No.3522/2015) filed by the petitioner (respondent herein) was dismissed as not maintainable on the ground that alternative remedy of

statutory appeal is available to challenge the impugned order passed by the Registrar under the Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005. While dismissing the writ petition, a liberty was given to the respondent herein to file a statutory appeal before the Appellate Authority against the order of the Registrar dated 04.03.2015 and if such an appeal is filed, the same was directed to be decided within a period of two months from the date of its filing. It was also observed that in the meanwhile if any election is held to the Ajmer District Cricket Association, Ajmer, that would be subject to outcome of such appeal in the event its content and adjudication relate thereto.

2. The appellant herein is aggrieved against the observation of the learned Single Judge to the effect that any election if held to the Association, it will be subject to outcome of such appeal.

3. After hearing the Counsel for the appellant, we are not inclined to interfere in the order passed by the learned Single Judge.

4. As far as filing of appeal by the respondent herein is concerned, there is no issue that a statutory appeal can be filed against the said order. As regards other observations, whatsoever is the effect of the decision of the appeal, in that light election will be looked into by the competent authority and if the appellant herein is aggrieved against such order, he is always at liberty to challenge the said order in accordance with law.

5. In these circumstances, we are not inclined to interfere in this special appeal. Hence, it is dismissed. It is however observed that dismissal of this appeal will not adversely affect the rights and interests of the appellant herein.â??

7. Learned Senior Counsel has further relied upon the judgment passed by a Coordinate Bench of this Court at Principal Seat at Jodhpur in the matter of Sriganganagar District Cricket Association & Anr. Vs. State of Rajasthan & Ors., reported in 2009(3) RLW 2596(Raj.), wherein in paragraphs 16 and 25 this Court has held as under:-

â??16. Without entering into the merit of the case, first of all, it is necessary to decide the preliminary objections with regard to maintainability of this writ petition in view of availability of- the alternative remedy. It is true that according to Section 35 of the Act of 2005, there is provision for filing appeal. Section 35 of the Act of 2005 reads as follows:

â??35. Appeal.-(1) Any Sports Association or person aggrieved by an order made

by the Registrar under the provisions of this Act may appeal against the order to the Secretary to the Government, Department of Youth Affairs and Sports within thirty days of such an order being made.

(2) The decision of the Secretary to the Government, Department of Youth Affairs and Sports made in such an appeal shall be final and a revision against his order may lie with the High Court within thirty days of such an order.â??

25. Therefore, following the judgment of the apex Court, this writ petition is dismissed on the ground that there is alternative remedy available under

Section 35 of the Act of 2005 by way of filing appeal. The petitioners are, therefore, at liberty to avail the same.â??

8. Learned Senior Counsel for the respondents further submits that the election programme for conducting the elections of Executive Committee of

the Jaipur District Cricket Association has already been notified by the competent authority vide order dated 08.02.2018, according to which the voting

is scheduled to be held on 18.03.2018. Therefore, learned Senior Counsel submits that once the election process has started, no interference is

required by this Court at this stage with regard to elections of the Association.

9. In support of their contentions, learned Senior Counsel has relied upon the judgment passed by the Honâ??ble Supreme Court in the matter of

Shaji K. Joseph Vs. V. Viswanath And Ors., reported in (2016) 4 SCC 429, wherein in paragraph 15 it has been held as under:-

â??15. In our opinion, the High Court was not right in interfering with the process of election especially when the process of election had started upon

publication of the election program on 27th January, 2011 and more particularly when an alternative statutory remedy was available to Respondent

No. 1 by way of referring the dispute to the Central Government as per the provisions of Section 5 of the Act read with Regulation 20 of the

Regulations. So far as the issue with regard to eligibility of Respondent No. 1 for contesting the election is concerned, though prima facie it appears

that Respondent No. 1 could contest the election, we do not propose to go into the said issue because, in our opinion, as per the settled law, the High

Court should not have interfered with the election after the process of election had commenced. The judgments referred to hereinabove clearly show

the settled position of law to the effect that whenever the process of election

starts, normally courts should not interfere with the process of election

for the simple reason that if the process of election is interfered with by the courts, possibly no election would be completed without court's order.

Very often, for frivolous reasons candidates or others approach the courts and by virtue of interim orders passed by courts, the election is delayed or

cancelled and in such a case the basic purpose of having election and getting an elected body to run the administration is frustrated. For the

aforestated reasons, this Court has taken a view that all disputes with regard to election should be dealt with only after completion of the election.â??

10. It is his further contention that the writ petition has not been filed by duly authorised person as no resolution in this regard has been placed on

record by the petitioners. Further more, Adhoc Executive Committee for the Association has already been constituted by the Registrar vide order

dated 18.01.2018 to look after the affairs of the Association and the same has superseded the earlier Executive Body.

11. Learned counsel for the petitioners submitted that the elections of the Association were duly held on 10.02.2016 and therefore there is no

requirement of fresh elections. He submitted that the present matter is covered under Section 16 of the Act of 2005 and the Registrar has no authority

to pass the order under Section 24 of the Act of 2005.

12. Learned counsel also submits that on an earlier occasion this Court has interfered in the matter and remitted the matter back to the

Registrar(Societies). However, the Registrar (Societies) has not taken into consideration the judgment passed byÂ the learned Single Judge of this

Court as well as the judgment rendered by the Division Bench of this Court. He further submits that the writ petition is maintainable against the order

passed by the Registrar(Societies).

13. In support of his submissions, learned counsel for the petitioners has relied upon the judgment passed by the Division Bench of this Court in the

matter of Balendu Singh & Ors. Vs. Registrar, Cooperative Societies & Ors., reported in 2014 WLC(Raj.) UC 527. He has further relied upon the

judgment passed by the Honâ??ble Supreme Court in Special Leave Petition(C) No.18914/2010- Union of India & Ors. Vs. Tania Construction Pvt.

Ltc., dated 18.04.2011.

14. I have heard learned counsel for the parties and perused the record.

15. The writ petition filed by the petitioners deserves to be dismissed for the reason firstly, an alternative statutory remedy of appeal is provided under

Section 35 of the Act of 2005 and, therefore, I am not inclined to exercise the extraordinary discretionary jurisdiction of this Court under Article 226 of

the Constitution of India. Secondly, the election process has already been started for conducting the elections of Executive Committee, Jaipur District

Cricket Association and polling is going to be held on 18.03.2018. Therefore, once the election process has started, the same is not required to be

interfered with by this Court, as has been held by the Honâ??ble Supreme Court in Shaji K. Joseph Vs. V. Viswanath And Ors.(supra).

16. In that view of the matter, the writ petition filed by the petitioners is hereby dismissed.