
(2006) 09 JH CK 0046

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3071 of 2006

Jharkhand State Cricket Association and Others

APPELLANT

Vs

The Board of Control for Cricket in India and Others

RESPONDENT

Date of Decision : 07-09-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2007 Jhar 26 : (2006) 4 JCR 11

Hon'ble Judges : M.Y. Eqbal, Acting C.J.;Permod Kohli, J

Bench : Division Bench

Advocate : Ramchandran, J. Singh, U. Choudhary and C.S. Singh, for the Appellant; Ravi Shankar Prasad D. Jerath, K. Ranjan, R. Kumar, D.K. Bharati, L.N. Mishra, S. Tiwary, K.K. Jha "Kamal" and K.K. Mihsra, for the Respondent

Judgement

1. Heard the counsel for the parties on the prayer made by the petitioners for stay of the operation of the decision taken by the Board of Control for Cricket in India (in short BCCI) in its meeting dated 16.08.2006 and for modification of the order dated 7.8.2006.

2. Mr. Ramchandranan, learned Counsel appearing on behalf of the petitioners submitted that this Court, by order dated 20.6.2006 while issuing notices to the respondents, passed interim order to the effect that the report of the Three Men committee in pursuance of the resolution dated 1.6.2006 shall be subject to the decision of this Court. Again this Court, by order dated 7.8.2006 while allowing two weeks" time to B.C.C.I. to take final decision on the report of the Three Men committee, directed not to give effect to such decision without prior permission of the Court. The contention of Mr. Ramchandran is that despite the aforesaid order, the petitioner-Association was not allowed to participate in the Special General Meeting held on 16.8.2006 at Chennai. Learned Counsel drew our attention to the statements made in paragraph 13 of the affidavit filed by respondent No. 1, B.C.C.I. and submitted that the statements made therein are in utter defiance of the order of this Court passed on 7.8.2006.

3. Mr. Ravi Shankar Prasad, learned Senior Advocate appearing on behalf of the Board of Control for Cricket in India on the other hand, submitted that the order dated 7.8.2006 needs modification in view of the decision taken by BCCI on 16.8.2006. Learned Counsel submitted that in the Special General Body Meeting dated 16.8.2006 it was decided by BCCI to constitute an ad hoc committee to conduct election of BSCA in accordance with the decision of the Board and to run the cricket affairs and also for the purpose of selection of a team to participate in the Board's tournaments so that the game of cricket may not suffer. Learned Counsel further drew our attention to the decision dated 16.8.2006 taken in the Special General Body Meeting of BCCI, a copy of which has been annexed as Annexure-E to the affidavit. Learned Counsel submitted that there is no question of defiance of the Court's order inasmuch as in the decision it has been clearly mentioned that the decision of the Special General Body Meeting will not be implemented without the previous approval of this Court.

4. Before deciding the question it would be useful to refer some of the relevant facts which are not much in dispute. Bihar State Cricket Association (in short BSCA) was established with its Head Quarter at Jamshedpur in the year 1935. Since its very inception, BSCA has been a full member of the BCCI. After the Bihar Reorganisation Act, 2000 came into force, a Special General Body Meeting of BSCA was held on 7.1.2001, wherein it was decided that two adhoc committees be appointed for the two States to deal with the matter. Consequently, the two Associations, namely, Jharkhand State Cricket Association (in short "JSCA") having its headquarters at Jamshedpur and Bihar State Cricket Association (in short "BSCA"), having its headquarter at Patna came into existence. In 2001, a dispute arose in between the two Associations as to which shall be treated as the original Association for the purpose of granting right to vote in the BCCI election. A Division Bench of this Court by order dated 20.8.2001 directed that the issue shall be placed before the Full House of BCCI who shall decide the issue after taking into account all the aspects, norms, conventions, instances and the facts. It appears that without complying the aforesaid directions, the President of BCCI gave right to BSCA having its headquarters at Patna, the right to vote. However, the new BCCI President revoked the earlier decision as it was contrary to the direction given by the High Court in W.P. (PIL) No. 4507 of 2001.

5. In 2004 the General Body of original BSCA, in its Special General Body Meeting, resolved to change its name as Jharkhand State Cricket Association. Accordingly, the rules and regulations were also amended. The said decision was communicated to BCCI seeking its approval. The BCCI, in its Special General Meeting approved the said change of name and also the amendments in the rules and regulations. The minutes of the Special General Meeting was ratified in the Annual General Meeting of BCCI. Then again a dispute arose with regard to the entitlement of different Cricket Associations to vote in the election of BCCI. The matter went upto the Supreme Court in SLP Nos. 20180 20181 of 2005. The Supreme Court after, hearing the parties and with their consent including the

BCCI appointed one Shri T.S. Krishnamurty, former Chief Election Commissioner, as Observer and directed him to decide all the issues relating to the ensuing election including the eligibility and right of the members to vote. Mr. T.S. Krishnamurty, after hearing all the parties and after considering all the objections, inter alia, held that BSCA with its headquarters at Patna was a new Association and that JSCA was the original Cricket Association whose change of name as JSCA has been duly approved in the Special General Meeting held on 12.9.2004 and subsequently ratified in a Special General Meeting held on 29/30.9.2004. A copy of that decision has been annexed as annexure-11 to the writ application. The relevant portion of the decision of Mr. T.S. Krishnamurty is reproduced herein below:

Status of Bihar Cricket Association: - At the Chennai meeting on 23th November on the basis of the representation made by the Bihar Cricket Association it was stated that there was no clarity about including the Bihar Cricket Association (1935) in place of Bihar Cricket Association and that in view of the provision in the BCCI Rules only the Bihar Cricket Association (Original) continued to be a member. In the circumstances, a direction was given to the effect that any contrary documentary evidence in favour of the Bihar Cricket Association (1935) and its subsequent change of names to Jharkhand State Cricket Association as a replace of Bihar Cricket Association could be produced on 27th November 2005 to verify the legality of Jharkhand State Cricket Association as a member of BCCI, Minutes of the Working Committee Meeting on 26th November 2001 and subsequent Special General Meeting on 26th November 2001 and subsequent Special General Meeting on 12th September 2004 were produced to point out that the expression Bihar Cricket Association 1935 was used only to refer to the Original Bihar "Cricket Association with its headquarters at Jamshedpur since the Bihar Cricket Association now in existence is a new Association registered at Patna. It was also stated at Chennai on 23rd November 2005 that the minutes of the Special General Meeting held at Chennai on 12th September 2004 approving the change in the name of Bihar Cricket Association to Jharkhand State Cricket Association were not confirmed at the subsequent Annual General Meeting at Kolkata on 26th September 2004. A careful perusal of the minutes of the AGM at Kolkata on 26th September 2004 however shows that the minutes relating to the change in the name of Bihar Cricket Association to Jharkhand State Cricket Association were also confirmed. The decision at the Special General Meeting on 12th September was to approve the change in the name and also to carry out the consequential amendments in the relevant Clauses II the Memorandum and Rules and Regulations of the Board. The minutes of the 26th September 2004 AGM show that "minutes of the Special General Meeting of the Board held on 12th September 2004 at Taj Coromandel, Chennai at 2.30 PM with regard to the amendments to the Rules and Regulations of the Board were confirmed". Thus, the decision allowing the change in the name of Bihar Cricket Association to Special General Body meeting taken by the Special General Meeting on 12th September 2004 appears to have been duly ratified by the AGM on

26th September 2004. I am fortified in my above view by the fact that at the last AGM held on 26th September 2004 it was the representative of Jharkhand State Cricket Association who was allowed to participate and vote for the elections to the posts of Office bearers. Accordingly, the authorized representative of the Jharkhand State Cricket Association shall be eligible to participate and vote at the adjourned AGM on 29th & 30th November 2005.

Mr. Kirti Azad, representing Cricket Control Association of Bihar requested first that his association should be given Associate member status of Bihar. Later on he filed a representation to the effect that he should be allowed to vote for Bihar Cricket Association. As far as Associate membership is concerned it is not within my purview of conducting the elections of BCCI. It is for the AGM to consider his application. His request for the right to vote for the Bihar Cricket Association does not subsist in the light of above.

6. From bare perusal of the aforesaid decision, it is manifestly clear that the authorized representatives of JSCA were held eligible to participate and vote in the annual General Meeting of BCCI.

7. After the dispute was set at rest, the respondents- BSCA filed a suit at Chennai being Civil Suit No. 274 of 2006 for a declaration that it continues to be full-fledged member of BCCI and also prayed for interim injunction. In the said suit, a stand was taken by BCCI to resolve the dispute in its next meeting. On 1.6.2006, a Special General Meeting of BCCI was held in Mumbai where the representatives of the petitioner-BSCA alleged to have been prevented from participating in the meeting and a Three Men committee was constituted to take a decision on the dispute raised by BSCA. The said decision of the BCCI appointing Three Men committee has been challenged in the instant writ application. On 20.6.2006, this Court passed the following order:

One of the questions requires for determination is as to whether the writ petition under Article 226 of the Constitution of India is maintainable against the P¹ respondent, Board of Control for Cricket of India.

Let notice be issued on 1st respondent as to why this case be not admitted or if possible, disposed of at the stage of admission.

Requisite etc. must be filed in Court within one week under registered cover with A/D, failing which this writ petition as against the concerned respondent shall stand rejected without further reference to a bench.

Place this case for admission on 7th August, 2006 within five cases.

During pendency of the writ petition, if any report is submitted by three men committee in pursuance of Resolution dated 1st June, 2006, it will be subject to the decision of this case.

However, if any adverse decision is taken or is proposed to be taken against the petitioners, it will be open to the petitioners to bring the same to the notice of

the Court.

8. Thereafter, the matter was placed on 7.8.2006 and the following order was passed:

Mr. Ravi Shankar, Senior Counsel, appearing for the Board of Control for Cricket in India, prays for and is allowed two weeks time to enable the Board of Control for Cricket in India to take a final decision on the report submitted by Three Men Committee.

The Board of Control for Cricket in India is also allowed to take a decision on the report submitted by Three Men Committee, but is prohibited from giving effect to such decision without prior permission of the Court.

Let the case be listed under the heading "For Orders" on 1st September, 2006, so that the case may be disposal of on the next date.

Let a copy of this order be handed over to the counsel for the parties.

9. From the facts narrated herein above, it is, prima facie, clear that the petitioner-Association with its headquarters at Jamshedpur was treated as the original Association and the change in the name and amendments in the Rules and Regulations were also approved in the Special General Meeting and Annual General Meeting of BCCI. The Chief Election Commissioner also came to the conclusion that the authorized representatives of JSCA are eligible to participate in the Annual General Meeting.

10. It is very strange to note that, on the one hand, in the decision taken on 16.8.2006 in the Special General Meeting of BCCI it was held that the decision of the General Body Meeting will not be implemented without the approval of this Court but, on the other hand, in the affidavit filed by respondent No. 1 on 1.9.2006 it has been stated in paragraph 13 that the respondent-BCCI had decided not to allow the representatives of either of the Associations to attend the meeting of the Board and it shall continue to do so till the time the dispute is resolved. Para-13 of the affidavit is reproduced herein below:

It is submitted that the answering Respondent with a view to safeguard the interest of Cricketers from both States of Bihar and Jharkhand has decided in it's Special General Body Meeting dated 16.8.2006 to constitute an ad-hoc committee to conduct the elections of Bihar Cricket Association (original) which includes Petitioner Nos. 3 as it's member, in accordance with the decision of the Board and to run the cricket affairs and for the purpose of selection of the teams to participate in the Board's tournament so that the game of cricket does not suffer. It is submitted that the General Body of the Board has authorized the president of the Board to select the members of such ad-hoc committee. However without prejudice to it's right and contentions the Board submits and accepts any committee that may be constituted by this Hon'ble Court. It is submitted further that even prior to passing of the order dated 7.8.2006 the answering respondent had decided not to allow the representative of either of

the association to attend the meeting of the Board and shall continue to do so till the time the dispute is resolved.

11. It is, therefore, clear that respondent-BCCI, instead of implementing the order dated 7.8.2006, made an attempt to circumvent the same by constituting an ad hoc committee to conduct election of BSCA and to run cricket affairs ignoring the admitted fact that since the very inception the entire cricket activities including staging of international matches JSCA has been producing cricketers of international repute from Jamshedpur and its surrounding areas. The order dated 7.8.2006, therefore, needs modification by this Court.

12. We, therefore, modify the order dated 7.8.2006 and direct that till further order is passed, the petitioner-Association, its representatives/nominees shall be allowed to participate in the meetings of BCCI and also to participate in the elections and exercise the right to vote.

13. Let this matter be placed on the date fixed i.e. on 15th September, 2006.