

(1998) 12 DEL CK 0031

In the Delhi High Court

Case No : Civil Writ Petition No. 5966 of 1998 and C.M. No. 11294 of 1998

K. Bhaskaran and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-12-1998

Acts Referred:

Olympic Association Rules — Rule 19

Citation : AIR 1999 Delhi 150 : (1999) 48 DRJ 12

Hon'ble Judges : A.D. Singh, J

Bench : Single Bench

Advocate : R.M. Bagai, for the Appellant; Rohit Aggarwal, for No. 1, R.K. Anand and Lovkesh Sawhney, for No. 3., for the Respondent

Final Decision : Dismissed

Judgement

Anil Dev Singh, J.—This is a writ petition whereby the petitioners seek a direction to the respondents to announce Indian Kabaddi Team comprising of petitioners by clearing all the formalities at the earliest so as to enable them to participate in the 13th Asian Games at Bangkok which are starting on December 6, 1998.

2. The genesis of this case is in a dispute between two factions of the fourth respondent Amateur Kabaddi Federation of India. While one faction is led by Shri Kuldeep Vats, the other faction is led by Shri J. S. Gehlot. Both S/Shri Vats and Gehlot were claiming to have been elected to the post of the President of the said association. The faction led by Shri Vats under the supervision of an observer of the Sports Authority of India selected the Kabaddi team comprising of the petitioners to represent India at the 13th Asian Games. According to the petitioners, various Kabaddi coaching camps were organized for them at different places as per the following details :--

1. National Institute of Sports, Patiala, from February 2 to 28, 1998.
2. National Institute of Sports, Patiala, from April 6 to 25, 1998.

3. High Altitude Training Centre, Shillaroo (H.P.) from June 18, 1998 to July 17, 1998.

4. National Institute of Sports, Patiala, from August 12, 1998 to September 29, 1998.

5. National Institute of Sports, Patiala, from September 29, 1998 till December 1, 1998.

3. It is significant to point out that in Civil Writ Petition No. 2883 of 1998 a single Judge of the Rajasthan High Court passed an order on September 18, 1998 which had the effect of directing the concerned authority to appoint an arbitrator for the resolution of disputes between the two factions in accordance with the decision of the Supreme Court in M.P. Triathlon Association through its Secretary and Another Vs. Indian Triathlon Federation and Others, . Pursuant to the direction of the Rajasthan High Court and in accordance with Rule XIX of the Rules and Regulations of the Indian Olympic Association, the Indian Olympic Association appointed Shri B. S. Ojha, Vice President of the Indian Olympic Association, an arbitrator for resolving the disputes between the above said two factions.

4. The fourth respondent herein through Shri A. K. Sana belonging to the faction led by Shri Vats filed a writ petition in the High Court of Andhra Pradesh at Hyderabad being Writ Petition No. 25087 of 1998 for direction to the Union of India, Indian Olympic Association, Amateur Kabaddi Federation of India represented by the Secretary General. The Director General Sports Authority of India and the Chairman, Railway Board, to accord permission to the team comprising of the petitioners to participate in the 13th Asian Games at Bangkok. The learned single Judge of the Andhra Pradesh High Court passed an interim order dated November 2, 1998 directing the authorities to clear the way to enable the sponsored sportsmen to travel to Bangkok for participating in the Asian Games. The Indian Olympic Association not satisfied with the order of the Andhra Pradesh High Court filed a writ appeal. On November 19, 1998 the Division Bench of the Andhra Pradesh High Court directed the Arbitrator Shri B. S. Ojha, Vice President, Indian Olympic Association, to hear both the parties and decide the arbitration matter within three days from the receipt of the copy of the order. The writ appeal with the said direction was disposed of with the consent of the parties.

5. While the arbitration proceedings were in progress, the Indian Olympic Association on November 23, 1998 constituted a Selection Committee to select the Kabaddi team for 13th Asian Games. At the same time it directed the ten best players each from the coaching camps being held at Jaipur (by the Gehlot faction) and Patiala (by the Vats faction) respectively to participate at the trials which were to be held at the National Stadium, New Delhi, on November 25, 1998 along with their coaches. Pursuant to the direction of the Indian Olympic Association, it appears that the ten players selected by each of the factions

converged at the National Stadium, New Delhi, on November 25, 1998 for selection trials. The Committee consisting of Shri Ajay Kumar Sarnik, Member Parliament; Col. G.A. Siddiqui, Secretary (Services), Sports Control Board; Shri Asan Kumar, Coach; and Shri S.P. Singh, Coach, selected twelve players including two stand byes and notified the team to the Indian Olympic Association on November 26, 1998. Six of the petitioners have found their place in the team.

6. Learned counsel for the petitioner submitted that the petitioners having undergone extensive training under the auspices of the Sports Authority of India should be sent to the Asian Games at Bangkok to represent India in the discipline of Kabadi. He also contended that as per the direction of the learned single Judge of the Andhra Pradesh High Court the authority should have cleared their names to enable them to travel to Bangkok for participating in the Asian Games. He also canvassed that the decision of the Indian Olympic Association in nominating the Selection Committee at the eleventh hour is mala fide and is based on extraneous grounds.

7. I have given my anxious consideration to the submissions of the petitioners. It is unfortunate that due to the internal squabbling and fight between the two factions this unsavoury controversy has cropped up. It goes without saying that the sporting interest of the country is being jeopardised because of their inter se rivalry. It is because of this controversy that selection of the team by the Indian Olympic Association was delayed.

8. The question for consideration in this writ petition is whether any illegality attaches to the team selected by the Selection Committee constituted by the Indian Olympic Association. As per para 10.3 of the Guidelines for Assistance to National Sports Federations issued in July, 1997 by the Government of India, Ministry of Human Resource Development, Department of Youth Affairs and Sports, Shastri Bhavan, New Delhi, the Selection Committee is to be constituted by the concerned federation comprising of the President, the National Coach and eminent ex-sport persons. The Government of India is required to appoint an observer for each discipline who is to be associated with all the activities of the National Federation. Since there was a dispute between the two factions of the fourth respondent which is affiliated to the Indian Olympic Association, the matter was required to be resolved in accordance with the Rules and Regulations of the Indian Olympic Association. Rule XIX (iii) of the Rules and Regulations of the Indian Olympic Association provides for resolution of the disputes arising within the National Sports Federations/Associations/State Olympic Associations affiliated to the IOA through arbitration. According to the said Rule, the dispute is required to be placed by the Federations/Associations before the IOA for appointment of an arbitrator. On October 19, 1998, in consonance with the said Rule; the IOA appointed Shri B. S. Ojha as the arbitrator for resolving the disputes between the two factions of the fourth respondent. It needs to be noticed that before the Andhra Pradesh High Court parties agreed for a direction to the arbitrator to decide the matter expeditiously. It is worthwhile to mention

that both the factions were represented before the Andhra Pradesh High Court by their respective counsel. Since there was a dispute as to whether Vats or Gehlot was the President of the fourth respondent it was not possible to associate the President of the Federation in the deliberations of the Selection Committee in accordance with para 10.3 of the Guidelines for Assistance to National Sports Federations. Therefore, the IOA constituted the Selection Committee in pursuance of para XIX(iii) of the Indian Olympic Association Rules without nominating either Gehlot or Vats thereto. The Selection Committee constituted on November 23, 1998 by the Indian Olympic Association selected the Indian contingent to participate in the 13th Asian Games from both the factions after judging their performance at the trial. The coach who was imparting training to the petitioners was also a member of the Selection Committee. There is no reason to doubt the bona fides of the Selection Committee in selecting the best sportsmen for the Indian team. The arbitrator after the selection of the team on December 2, 1998 informed the President of the IOA that he has reached the conclusion that Shri J. S. Gehlot was legally elected as the President of the fourth respondent in the meeting held at Sawaimadhopur on September 19, 1997. A copy of the communication was presented in Court by the learned senior counsel for the IOA. Thus, the team sponsored by Shri Vats cannot claim to be the team selected according to the Rules.

9. Learned counsel for the petitioners submitted that according to the order passed by the Andhra Pradesh High Court only they can be sent to Bangkok for participating in the Asian Games. As already pointed out the order of the learned single Judge of the Andhra Pradesh High Court was subject matter of a writ appeal. The Division Bench while disposing of the writ appeal only passed an order directing the arbitrator to expedite the matter. This was a consent order. Since the petitioners claim that the order passed by the learned single Judge was still effective even after the order passed by the Division Bench disposing of the writ petition, they ought to have moved the Andhra Pradesh High Court for a direction to the respondents to comply with the same. But they have not selected this course of action.

10. Learned counsel for the petitioners has presented in Court an additional affidavit to the Court Master today in which it is claimed that the players of Gehlot faction should not have been selected to participate in the forthcoming Asian Games as they had been attending to their duties in their respective offices, thereby claiming that they had not been given extensive coaching for the forthcoming Asian Games. It is not necessary to go into the allegation as the matter of selection must rest with the Selection Committee,

11. In the circumstances, the writ petition is dismissed.

12. Before parting with the order I am constrained to observe that the Indian Olympic Association ought to have moved early in the matter of selection of the team so that extensive training could have been imparted to the members thereof. The arbitrator also took considerably long time in resolving the disputes

between the parties. It should have been the endeavor of the members of the fourth respondent to rise above the internal politics in the interest of the country. Rivalry between the members has the potential of destroying the sport.