

(1992) 04 DEL CK 0049

In the Delhi High Court

Case No : Letter Patent Appeal No. 11337 of 1991 and Suit No. 3293 of 1991

Kanti Chaudhuri and Others

APPELLANT

Vs

Indian Olympic Association and Others

RESPONDENT

Date of Decision : 01-04-1992

Acts Referred:

Citation : AIR 1993 Delhi 96 : (1992) 48 DLT 409 : (1992) 22 DRJ 516

Hon'ble Judges : Arun Kumar, J

Bench : Single Bench

Advocate : S.K. Manaktala, K.K. Venugopal, P.P. Tripathi, R.K. Anand and Harsh Palm, for the Appellant;

Judgement

Arun Kumar, J.

(1) The dispute in the present case really pertains to the control of management of the Indian Olympic Association (hereinafter referred to as IOA) which is an apex sports body of this country affiliated to the International Olympic Committee. It is paradoxical that those who are fighting for the control of management of a sports association have shown total lack of sportsman spirit on their part. The suit is part of an ongoing battle regarding the control of management of Adair?s of the Ioa After the efforts of this Court in an earlier litigation and that of the Madras High Court to have the elections of the Ioa smoothly conducted were thwarted in a manner which leaves behind a bad taste (putting it most mildly), the Supreme Court ordered the elections to be held for the remaining term which expires in November 1992. In the elections so held in April 1991 defendant Nos. 2 and 3 were elected as President and Secretary General of the Ioa respectively. The prayer in the present suit is to restrain these duly elected office bearers of defendant No. I from discharging their functions as such. Along with the suit an application has been filed being I.A. No. 11337 of 1991 for interim orders in this behalf. By this order I propose to dispose of the said application.

(2) The suit has been filed by three plaintiffs each of whom claims to be the President of his respective sports body. The sports bodies are affiliate members of defendant No. I. It is further stated that these sports bodies are Societies duly registered under the Societies Registration Act 1860. A registered society can sue and be sued in its own name. However, the present suit is not by the three registered societies whose Presidents the plaintiffs claim to be, nor is there any averment in the plaint that the suit has been filed by the three plaintiffs on behalf of their respective sports bodies. In view of absence of such an averment it would be unnecessary to look for any authorisation by the respective sports bodies whose Presidents the three plaintiffs claim to be, in favor of the three plaintiffs authorising them to file the present suit on behalf of these bodies. In fact there is no such authorisation placed on record. I may also note here that the suit is not claimed to be a suit u/s 91 of the CPC in relation to a public matter, if that were to be so, requirements of Section 91, CPC would have had to be fulfilled. The prayer in the suit is to restrain defendants 2 and 3 who are the President and Secretary General of defendant No. I respectively from functioning as such. In a nut-shell what was lost at the ballot is sought to be achieved through process of the Court.

(3) Counsel for the plaintiffs has pointed out the following three reasons for grant of injunction in favor of the planetoids :-

(1) Defendants 2 and 3 have large funds of the Ioa at their command and they are not utilising the funds in the interests of the Association. (2) Defendants 2 and 3 are not doing anything in furtherance of aims and objects of the Ioa which is apparent from the fact that even National Games have not been held. In this behalf it is also submitted by Counsel that the Afro-Asian Games which were to be held in India between 7th March and 16th March 1992, were not held. (3) the Rules of the Ioa have been amended in a manner so as to perpetuate their control over the Ioa by defendants 2 and 3. It is not disputed by the plaintiffs that defendants 2 and 3 were duly elected as office bearers of defendant No. I in the special General Assembly Meeting of the Ioa held on 28th April 1991. It is submitted that defendant No. 2 is a permanent resident of Madras and the Secretariat of Ioa is located at New Delhi and he is, Therefore, unable to take proper interest in the affairs of IOA. In para 20 of the plaint certain instances have been enumerated to show that defendants 2 and 3 are not taking proper interest in the affairs of defendant No. I.

(4) Replies to all these allegations have been given in the written statement. For instance regarding not holding the Afro-Asian Games in March 1992, Explanation is that these dates were falling within the month of Ramzan when most of the Muslim countries observe fast and requests were received from various Muslim countries for postponement of the games for that reason. For the purposes of Afro-Asian Games various Muslim countries have to participate and their request for postponement of games was justified. It is further explained that when the dates of these games were fixed for March 1992, the Muslim countries were

represented and no such objection was taken by all of them. Then it is submitted that the Olympics are to be held in Barcelona, Spain in July 1992 and preparations have started for the said games by India as well as other countries. Therefore, Afro-Asian Games could not be held soon after March 1992.

(5) Counsel for the defendants have strongly objected to the locus standi of the plaintiffs to file the present suit. It is submitted that the IOA in its constitution has no provision for membership of individuals except those individuals who are members of the International Olympic Committee. All other members of the IOA are affiliate members being sports associations/bodies representing various sports in the country. Rule III deals with the membership of the Association and is reproduced as under :-

"III.Membership. The Membership of the Association shall be open to the undermentioned subject to recognition by the General Assembly : (i) National Sports Federations/Associations, whose sport is included in the Olympic/Asian or Commonwealth Games. (ii) National Sports Federations/Associations, which represent widely played Indian sports recognised by the I.O.A (ii) Olympic Association of States, as well as Centrally Administered Union Territories (the geographical boundaries of a State, Centrally Administered Union Territories shall be the same as recognised by the Constitution of India). (iv) Services Sports Control Board (for purposes of brevity, called "SSCB"). (v) Indian Citizens who are Members of the International Olympic Committee."

(6) The sports bodies of which the plaintiff are Presidents members of defendant No. I. The mere fact that the associates or bodies of which they are the Presidents, are members of defendant No. I will not make any difference since this is not even averred by the plaintiffs that they have filed the suit on behalf of their respective associations/bodies. Therefore, it is submitted that the plaintiffs have no locus standi to interfere in matters which are essentially relating to internal affairs of defendant No. 1. Secondly, it is submitted that if the suit had been filed by the member associations or bodies the suit would not have been maintainable because the Rules of defendant No. I provide vide Rule XIX for settlement of disputes through arbitration. The member or the sports body concerned being bound by the Rules would have had to adhere to the requirements of the said rule and no suit could have been filed.

(7) During the course of hearing of the matter before me Counsel for the plaintiff had not at all touched upon this objection of the defendants not to speak of making an effort to meet the point. Prima facie, I am of the view that the plaintiffs have no locus standi to file the present suit. Secondly, prima facie the matter appears to me to be a matter pertaining to internal affairs of a registered Society and the plaintiffs not being members have no locus standi to interfere.

Regarding the allegation of financial mis-management it is submitted on behalf of the defendants that since defendant No. I is a society registered under the Societies Registration Act, recourse should have been made to the provisions of

Sections 22, 23 and 24 of the said Act. Again there is no reply to this argument from the plaintiffs' side. However, in spite of there being no reply from the plaintiff to this point I am, prima facie, not satisfied that the ground alone can be sufficient to non-suit the plaintiffs. On merits the allegation is denied and it is submitted that the accounts of defendant No. 1 are subject to audit and there can be no hanky panky. It is also submitted that anybody who holds the office of President and Secretary General of defendant No. 1 will have the funds at his command and this bald allegation by itself means nothing. No such allegation has been made by any member and it does not lie in the mouth of plaintiffs to level the same.

(9) To the point regarding amendment of the Rules of defendant No. 1 at the behest of defendants 2 and 3 in a manner so as to perpetuate their control over defendant No. 1, the reply of the defendants is that none of the members who ought to have taken such an objection, if they were aggrieved have come forth to make such a grievance or object to the amendments. On merits of the amendments of the Rules it is submitted that experience of past litigation had shown that such amendments were necessary to prevent unnecessary litigation.

(10) As regards the allegation that defendants 2 and 3 are not functioning in the interest of the games and are not devoting themselves towards fulfillment of the aims and objects of defendant No. 1, the answer on behalf of defendants is with reference to various documents placed by them no record that they are doing their best to achieve the aims and objects of the Association and to enquire that India is able to put up best performance in the Olympics. It is submitted that such bald allegations made by the plaintiffs are neither here nor there. It is worth noting that except making certain allegations in the plaint the plaintiffs have not placed any material on record to justify or substantiate their allegations. On the contrary the defendants have placed various documents to show that they are functioning properly in furtherance of the objects of the Association. The preparations of the forthcoming Olympics are stated to be in full swing.

(11) Further Counsel for the defendants have urged that considerations of balance of convenience demand that at present there should be no interference in the manner in which the defendants are pursuing their activities for promotion of the sports and for making preparations for the July 1992 Olympics at Barcelona. Any interference in the functioning of the defendants at this stage could shake the confidence of the members which may not be in the interest of the IOA. Any interference at this stage, it is submitted, will discredit the persons involved and effect the preparations for the Olympics. In any case fresh elections are due in November 1992 and if the defendants are not discharging their functions properly and in the interests of the game, they will be thrown out.

(12) On the basis of the aforesaid discussion I am of the prima facie view that neither the plaintiffs have locus standi to file the present suit nor they have any case on merits. Even the consideration of balance of convenience does not support the plaintiffs and it requires that there should be no interface in the

functioning of defendants 2 and 3 at this stage particularly in view of the fact that the Barcelona Olympics are almost at hand and fresh elections of IoA are due in November 1992.

(13) In the end, a moral prayer has been made by Counsel for the plaintiff to at least appoint an Observer in the meanwhile who will oversee the functioning of defendants 2 and 3. Counsel for the defendants have strongly objected to such a prayer on various grounds. They submit- Firstly, such a prayer coming from persons who have no locus standi to even file the present suit deserves no consideration :- Secondly, defendants 2 and 3 are admittedly duly elected office bearers of defendant No. 1 and no third person can be imposed on them on the basis of mere bald allegations which have also been shown to be incorrect and without any merit or substance; Thirdly, such a course will discredit the duly elected office bearers of defendant No. 1 in the eyes of its members as well as in the International Olympics Committee and their confidence in the elected representatives of defendant No. 1 will be shaken.

(14) I agree with the Counsel for the defendants and reject the request of plaintiffs for appointment of an Observer for the aforesaid reasons.

(15) In view of the aforesaid reasons the application of the plaintiffs under Order 39, rules 1 and 2 of the CPC is dismissed. In the circumstances of the case there will be no order as to costs.