
(2011) 02 DEL CK 0083
In the Delhi High Court
Case No : CS (OS) No. 143 of 2011

K.S. Minhas

APPELLANT

Vs

Wrestling Federation of India and Another

RESPONDENT

Date of Decision : 02-02-2011

Acts Referred:

Citation : (2011) 02 DEL CK 0083

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Ravi Prakash Gupta, for the Appellant; Gurbaksh Singh and Karan Singh for D-1, Pardeep Dewan and Rajiv Samaiyar, for D-2, for the Respondent

Judgement

V.K. Jain, J.—In this case, two written statements have been filed on behalf of Defendant No. 1. The first is a joint written statement on behalf of Defendant Nos. 1 and 2 filed through Shri Anupam Dhingra and Shri Rajiv Samaiyar, Advocates. The other is the written statement handed over today in the Court and filed through Shri Gurbaksh Singh, Advocate. Obviously, the Court cannot consider two separate written statements on behalf of Defendant No. 1. It appears that the written statement filed by Shri Gurbaksh Singh, Advocate, has been authorized by the General Secretary of Defendant No. 1 whereas the written statement filed through Shri Rajiv Samaiyar, Advocate, has been authorized by Defendant No. 2 who is its President. Primarily, it is for the Executive Council of Defendant No. 1 to decide who will represent it in this suit and what stand it has to take on behalf of Defendant No. 1. Admittedly, the matter has not been placed before the Executive Council of Defendant No. 1 to take a decision in this regard. It is, therefore, directed that an extraordinary meeting of the Executive Council of Defendant No. 1 will be held on 7th February, 2010 at 5.00 PM at a suitable place to be decided by Defendant No. 2 in Jalandhar, Punjab where all the members of the Executive Council are stated to have reached in connection with Shaheed Bhagat Singh International Wrestling Tournament scheduled to be held from 9th February, 2011 to 12th February,

2011. All the parties present in the Court want the meeting to be held at Jalandhar only. The president of Defendant No. 1 will inform all the members of the Executive Council through courier as well as by telegram and on telephone about the date, time and venue of the meeting. The Executive Council in that meeting will decide who is to represent Defendant No. 1 in this suit and who is to be engaged as its counsel for the purpose of defending this suit. The decision of the Executive Council will be conveyed to the Court on the next date of hearing.

2. List this matter again for hearing on 6th July, 2011.

I.A. No. 884/2011

3. This is an application seeking stay of the notice dated 12th January, 2011 issued by Defendant No. 2, proposing to hold special meeting of General Council of Wrestling Federation of India on 5th February, 2011 at Ghaziabad and for restraining Defendant Nos. 1 and 2 from holding the proposed meeting. Another relief sought in the application is to restrain Defendant No. 2 from discharging any functions as President of Defendant No. 1 and interfering in its functioning. Yet another interim relief sought by the plaintiff is a direction to Defendant No. 1 to adopt guidelines dated 1st May, 2010 issued by Government of India, Ministry of Youth Affairs and Sports relating to tenure restrictions. The plaintiff is also seeking a direction to Defendant No. 2 to render all accounts relating to expenditure made by him as President of Defendant No. 1. Another interim relief sought by the plaintiff is stay of the show cause notice dated 10th January, 2011 issued by Defendant No. 2.

4. The main plea taken by the plaintiff is that since Defendant No. 2, who was a member of the Delhi Amateur Wrestling Association, was ousted from the membership of that association in its meeting held on 5th June, 2009, he cannot continue as the President of Defendant No. 1. He has further submitted that though Defendant No. 2 now claims to be a representative of Gujarat State Wrestling Association, his appointment as the representative of that association came to be made later i.e. on 13th June, 2009.

5. There is absolutely no document on record that Defendant No. 2 was ousted from the membership of Delhi Amateur Wrestling Association in a meeting held on 5th June, 2009. On the other hand, Defendant No. 2 has placed on record a certificate dated 27th January, 2011 issued by the President and Secretary General of Delhi Amateur Wrestling Association certifying that he is a founder member of the association since 1991 and that he has continued to be its member without any break and interruption.

6. Thus, prima facie, it appears that Defendant No. 2 never ceased to be a member of the Delhi Amateur Wrestling Association.

7. It was pointed out by learned Counsel for the plaintiff that in the meeting of the Executive Council of Defendant No. 1 held on 13th June, 2009, Defendant No. 2 did not sign the minutes as a representative of the Delhi Amateur

Wrestling Association but signed as a representative of Gujarat State Wrestling Association. He has further submitted that under the Constitution of Defendant No. 1, no person can hold membership of more than one State unit. The case of Defendant No. 2 in this regard is that he never became a member of the Gujarat State Wrestling Association and was only nominated to represent that association for the meeting held on 13th June, 2009.

8. Be that as it may, prima facie, there is no material on record from which it may be inferred that Defendant No. 2 is no more a member of Defendant No. 1. Admittedly, Defendant No. 2 was elected as the President of Defendant No. 1 in the meeting of the General Council of Defendant No. 1 held on 18th April, 2007 and the tenure of President being four years, he continuous to be the President of Defendant No. 1.

9. Defendant No. 1 has convened a special meeting of General Council of Defendant No. 1 for 5th February, 2011 and the meeting is scheduled to be held at Ghaziabad. As per the Constitution of Defendant No. 1, the special meeting of the General Council is to be convened by its President. Therefore, prima facie Defendant No. 2 was well within his right in convening the special meeting of the General Council, scheduled to be held at Ghaziabad on 5th February, 2011.

10. Learned Counsel for the plaintiff states that item No. 2 of the agenda circulated for the meeting scheduled to be held on 5th February, 2011 proposes amendment of the Memorandum of Association of Defendant No. 1 and since such an item can be put up to the General Council only by the Secretary General of Defendant No. 1, this item cannot be put up to the General Council by Defendant No. 2. I, however, find no merit in this contention. Since the special meeting of the General Council is to be convened by the President, obviously, the agenda items to the General Council also have to be put up by him only. The learned Counsel for the plaintiff has drawn my attention to Clause 17 of the Memorandum which provides that any proposed amendment to the Memorandum of Association of Defendant No. 1 will be submitted to the Secretary General, who will circulate it to all the members. This clause in my view cannot be interpreted to mean that agenda item proposing amendment of the Memorandum of Association is also to be presented only by the Secretary General. The Memorandum of the society provides that any amendment to the Memorandum can be carried out only at a special meeting of the General Council by two third majority. The power to convene the special meeting of the General Council has been given only to the President, under Article 12 of the Memorandum. Thus, the agenda items including a proposal for amendment of the Memorandum have to be put up to the General Council only by the President. The provision requiring submission of the proposed amendment to the General Secretary is meant to ensure that all the members of the society get copy of the proposed amendments before they attend the meeting. Admittedly, this has already been done by Defendant No. 2. Therefore, in my view, there is no sufficient ground to restrain the Defendant No. 2 from placing agenda item No. 2

before the General Council.

11. For the reasons given in the preceding paragraphs, I find no good ground to stay the meeting of the General Council, scheduled to be held on 5th February, 2011 at Ghaziabad. Other reliefs claimed in the application are not interim in nature and cannot be granted at this stage. The application is hereby dismissed. It is, however, made clear that any decision taken by the General Council in its meeting, scheduled to be held on 5th February, 2011, will be subject to final decision of the suit.

12. One copy each of the order be given dasti to learned Counsel for both the parties under signatures of the Court Master.