
(2021) 04 MAN CK 0001

In the Manipur High Court

Case No : Writ Petition No. 118, 537 Of 2020

Manipur Fencing Association (MFA)

APPELLANT

Vs

Fencing Association

RESPONDENT

Date of Decision : 06-04-2021

Acts Referred:

Societies Registration Act, 1860 — Section 13, 22, 23

Citation : (2021) 04 MAN CK 0001

Hon'ble Judges : Kh. Nobin Singh, J

Bench : Single Bench

Advocate : M. Devananda, Ruchir Mishra, Sharan Dhulia, M. Hemchandra, Lenin Hijam

Final Decision : Disposed Of

Judgement

[1] Heard Shri M. Devananda, learned Advocate appearing for the petitioners; Shri Ruchir Mishra and Shri Sharan Dhulia, learned Advocates appearing for the Fencing Association of India; Shri M. Hemchandra, Senior Advocate appearing for the respondent No.3 and Shri Lenin Hijam, learned Addl. Advocate General appearing for the State respondents.

[2] Since the above writ petitions have arisen out of similar set of facts, the same are being disposed of by this Court vide its common judgment and order.

WP(C) NO. 118 of 2020

[3.1] The validity and correctness of the order dated 07-02-2020 issued by the Fencing Association of India (hereinafter referred to as "the FAI") is under challenge in this writ petition in view of the judgment & orders dated 01-03-2016 and dated 09-05-2016 passed by this Court and the alleged violation of the principles of natural justice and in addition thereto, a prayer has been made by the petitioner association to direct the respondents and in particular, the FAI from interfering with the functioning of the petitioner association in violation of the provisions of the Manipur Societies Registration Act, 1989 and the rules made

thereunder.

[3.2] The petitioner, Manipur Fencing Association (hereinafter referred to as "the petitioner association") is an association duly registered under the provisions of the Societies Registration Act, 1860 (hereinafter referred to as "the Act, 1860". It was established with the aims and objectives of promoting and developing the game of fencing in the State of Manipur and the country in general and is affiliated to the Manipur Olympic Association (MOA) vide a certificate dated 05-03-1989 issued by it. Like other association or body of sports registered with the Registrar of Societies, Manipur, the petitioner association has a constitution which defines the powers, functions and duties of its office bearers and lays down the rules concerning its administration and its relations with the affiliating units/ members

[3.3] The petitioner association is affiliated to the FAI and under its aegis, the fencers from the State were able to participate in many national and international sporting events/ championships. Not only the players but also the officials of the petitioner association were deputed/ selected as referees/ officials in various championships/ national sporting events. The FAI is a registered association as well as a non-governmental national association with non-profit making purposes of national interest and in other words, it is a legal entity having its own Memorandum of Association, Constitution etc., thereby laying down the rules governing its own functioning and matters concerning it in relation to the members and affiliating units etc.

[3.4] Facts and circumstances as stated in the writ petition, in short, are that since the last election of the petitioner association was held on 14-12-2014, the next election ought to have been held before the 13-12- 2018 but the same could not be held due to the law and order problems in the State of Manipur regarding the implementation of the Inner Line Permit System (ILP) in the State. There were frequent bandhs, blockades, curfews, riots etc. in the State of Manipur and in particular, the Imphal Valley, because of which the election of the petitioner association could not be held and in the meantime, the then Secretary, Shri W. Ranjit Singh had expired, for which a condolence message dated 15-12-2019 was circulated to all concerned. The post of the Secretary of the petitioner association which remained vacant for some time, was later filled up on in-charge basis, so that the functioning of the petitioner association would not be disrupted.

[3.5] After the law and order situation in the State having improved considerably, the petitioner association initiated the process of holding an annual general body meeting with the election of new office bearers, for which a communication dated 23-01-2020 was sent to the Secretary General, the FAI requesting him to send an observer for the annual general body meeting to be held 09-02-2020. On the same day i.e.23-01- 2020, a letter dated 23-01-2020 was sent to the Director, Youth Affairs & Sports, Government of Manipur for sending an observer on the day of holding the election. On the next day, a letter dated 24-01-2020 was sent

to the Registrar of Societies for appointment of a Returning Officer for the election to be held on 09-02- 2020. The Returning Officer was duly appointed and accordingly, the I/C Secretary of the petitioner association Issued a press release dated 25-01-2020 informing about the annual general body meeting and the election of the petitioner association to be held on the 09-02-2020. On 01-02-2020, a communication was sent to the Registrar of Societies, Manipur requesting him to send an observer for the annual general body meeting to be held on 09-02-2020.

[3.6] Thereafter, the Returning Officer issued a notice dated 03-02- 2020 notifying the election to be held on 09-02-2020 and after the election notification being issued by him, the i/c Secretary issued a final voter list for the election to be held on the 09-02-2020 and the names of the nominated members for the election to the various posts were also issued accordingly.

[3.7] In the meantime, the office of the Registrar of Societies, Manipur wrote a letter dated 07-02-2020 informing that Shri Deepak Khuraijam, Inspector C.S. was deputed as the Meeting Observer for the annual general body meeting to be held on 09-02-2020.

[3.8] To the shock and surprise of the petitioner association, the FAI issued an office order dated 07-02-2020 dissolving the petitioner association by invoking Article 19(iv) of its Memorandum of Association and appointed the respondent No.3 to look after all the activities and to administer the affairs & functioning of the petitioner association in respect of the game of fencing in Manipur. The order further states that a decision has been made to suspend and dissolve the petitioner association and after the submission of a report by the Enquiry Committee, it will constitute an Ad-hoc Committee to look after the fencing activities in Manipur till a new election is conducted as per the National Sports Development Code, 2011, MYAS and in accordance with the constitution of the FAI.

[3.9] Being aggrieved by the order dated 07-02-2020, the instant writ petition has been filed by the petitioner association questioning it on various grounds. It has been submitted by it that the FAI has failed to take cognisance of the election process being undertaken by the petitioner association. The FAI while issuing the order dated 07-02-2020 suspending/ dissolving the petitioner association and entrusting to the respondent No.3 the task of looking after all the activities and to administrate the affairs & functioning of the fencing activities in the State, has illegally and arbitrarily interfered with the functioning of the petitioner association. It has further been submitted that on bare perusal of its Memorandum of Association/ constitution, the FAI is nowhere conferred the power to interfere with the functioning and working of any affiliating member, leave alone the petitioner association. The Memorandum of Association of the FAI was framed/ made so as to lay down the rules and regulations for its own functioning and to maintain and regulate the standard of fencing as a sport in the country. Although the petitioner association by duly following the provisions of

the constitution conducted its election, the FAI had acted illegally and arbitrarily and failed to take cognisance of the election process initiated by the petitioner association. The contention of the FAI that after the submission of a report by the Inquiry Committee, it will constitute an Ad-hoc Committee to look after the fencing activities in Manipur till a new election is held, goes to show the intent and motive of the FAI to accommodate persons of its choice thereby violating the principles of natural justice. Article 19(iv) which provides for expulsion of a member from the FAI, has been misquoted in the impugned order to justify its interference with the affairs and functioning of the petitioner Association in order to accommodate the respondent No.3 illegally and arbitrarily. In a similar case pertaining to the Sepak Takraw Federation of India (hereinafter referred to as "the STFI"), the validity and correctness of the constitution of an Ad-hoc Committee after the petitioner therein being disaffiliated by it, was challenged wherein this Court vide its Judgment & Order dated 01-03-2016 held that STFI had no power and jurisdiction to interfere with the affairs/ functioning of any of its affiliating units; that there was no provisions in its Constitution to constitute Ad-Hoc Committee and that the STFI had no authority to constitute Ad-Hoc Committee. The STFI being aggrieved by it, preferred writ appeals being WA No.15 of 2016 and WA No.16 of 2016 before the Division Bench of this Court which dismissed them vide its Judgment & Order dated 09-05-2016 upholding the judgment and order of the learned Single judge. Similar is the case with the Cycling Association of India which constituted an Ad-Hoc Committee and it came to be challenged before this Court, by way of a writ petition being WP (C) No,431 of 2019, which stayed the constitution of Ad-hoc Committee vide order dated 29-05-2019. Since this Court having held that such an association like the FAI, cannot interfere with the functioning of its affiliated units/ associations, the case of the petitioner association is covered by the said judgment & orders and consequently, the impugned order dated 07-02- 2020 deserves to be quashed and set aside. The impugned order dated 07-02-2020 is not sustainable in law, as it was issued by the FAI without any authority of law and without proper application of its mind and is contrary to the judgment & orders passed by this Court.

[4.1] In the affidavit filed on behalf of the respondent No.1 & 2, it has been stated that since the issues relating to the questions of facts have arisen, the interference by this Court is not called for and this Court being not an appropriate forum, it may not exercise its jurisdiction under Article 226 of the Constitution of India. The petitioner association is well aware of the Memorandum of Association/ bye-laws of the FAI but it has presented misleading picture concealing the constitution of the FAI which contains Article 19(iv) as amended till 24-12-2019. Since the judgment and order dated 01-03-2016 passed by this Court in STFA and similar orders have been delivered in different set of facts, the same are not applicable to the facts of the present case. The FAI is the only National Federation for the sports of fencing in India, recognized by and affiliated to the international federation for the sports of fencing and also

recognized by International Olympic Committee (IOC) and Indian Olympic Association (IOA). The State associations being the members of the FAI, they are required to observe, conform and follow the provisions contained in the Memorandum of Association/ bye-laws of the FAI which have been framed in tune with the Olympic Charter, bye-laws of Indian Olympic Association etc and have been amended from time to time. At the relevant time, the bye-laws as amended till 24-12-2019 were in force, on the basis of which the impugned order was issued by the FAI. Article 16 confers power upon the FAI to disaffiliate or take any action against any unit & member for indiscipline, misbehaviour or any undesirable activity, violation of constitution, bye-laws etc. and for non-functioning properly and appoint Ad-hoc Committee to discharge the functions of the associations of States/ UTs till the formation of new representative association in place of the Ad-hoc Committee. In addition thereto, the Executive Committee is empowered to appoint special/ ad-hoc committee(s) for specific functions and duties, as and when it is necessary for its smooth functioning and/ or its affiliated units in their States/UTs. Article 19(iv) provides that all members are mandatorily required to obtain renewal of their membership from the FAI/ affiliation to it on yearly basis. The members are required to conduct fresh elections at least once in four years and their failure in doing so would bring into effect automatic disaffiliation. A six months' extension is permissible, subject to prior approval. Article 17 (a)(v) provides that the President shall have the authority to suspend/ dissolve/ disaffiliate summarily any member/ associate member and/ or official/ office bearer, except the Secretary General of the association in serious cases of misconduct or disobedience in the association. The election was to be held before 13- 12-2018 but the petitioner association failed to discharge its obligation to conduct the election. The petitioner association had not applied and sought for approval of the FAI to conduct the election within a grace period of 6 months. The writ petition is, therefore, liable to be dismissed in view of an efficacious remedy available under Article 20 of the FAI's Memorandum of Association which provides for a mechanism of settlement of disputes/ conflicts by way of arbitration which the petitioner association has not resorted to. The office bearers of the petitioner association had no lawful authority to continue in their offices/ posts/ positions as their tenure had ended on 13-12-2018 without process of election having been initiated by the petitioner association before 13-12- 2018. The mechanism to administer the affairs of petitioner association as has been put in place by the office order dated 07-02-2020, is interregnum mechanism to remain in place till the inquiry report is submitted by the Inquiry Committee constituted vide office order dated 07-02-2020. After the report of the Inquiry Committee being received, the consequent decision based thereon will have to be taken to constitute an Ad-hoc Committee and thereafter, a fresh election is to be conducted in accordance with the relevant provisions. After the impugned order being issued by the FAI, the petitioner association has no authority to transact any business and any action taken by it towards holding election, is not valid and illegal. Therefore, the alleged AGM referred to by the petitioner association in the writ petition was

illegal AGM. The petitioner association had no authority to call and convene AGM and also no authority to hold the election. It has been denied that the impugned order dated 07.02.2020 has been issued in haste and that too, in violation of the principles of natural justice and to accommodate the persons of its choice as alleged.

[4.2] The stand of the respondent No.3 as indicated in his affidavit, is similar to that of the respondent No.1 & 2 and therefore, the same is not repeated here for the sake of brevity. However, it has been stated by him that the issue relating to the maintainability of the writ petition has been raised on the inter-alia grounds that the writ petition suffers from lack of locus standi as well as vague, misrepresentation and non-enforceable right being accrued to the petitioner association and that to entertain the writ petition by this Court would amount to unnecessary intervention in the exercise of statutory rights of the authorities provided under articles of the Memorandum of Association of the FAI effective from 24-12-2019. The ratio of the judgment and order rendered by this Court in STFI case will have no application, as the facts thereof are entirely different from that of the present writ petition. There is no illegalities, irregularities, arbitrariness and impropriety in issuing the impugned order on the part of the FAI, as it is the outcome of the procedure being followed as per the constitution of the FAI, despite several letters/ reminders dated 14-09- 2017; 31-10-2017; 10-11-2017; 20-12-2017; 04-03-2018 & 01-03-2019 being sent to the petitioner association. The impugned order has been issued by the Secretary General, FAI thereby dissolving the petitioner association by invoking Article 19(iv) of the Memorandum of Association and appointing the answering respondent to look after all the activities and to administrate the affairs & functioning of the sports/ fencing activities in Manipur. There are no illegalities, arbitrariness & malafide in issuing the said order dated 07-02-2020 which was issued in compliance with the Article No 19 (iv) of the Memorandum of Association of the FAI. The FAI can interfere with the affairs and functioning of the petitioner association and has also the power to suspend/ dissolve it. The FAI has also the power, authority and jurisdiction to constitute Ad-hoc Committee for the reason(s) as stated hereinabove [5] In the rejoinder affidavit, it has been stated by the petitioner association that there is no any issue relating to disputed questions of facts. No material facts have been concealed by it while filing the writ petition. The only issue which calls for consideration by this Court is as to whether the FAI has the authority to issue the impugned order in view of the judgment and order dated 01-03-2016 passed by this Court. It has further been stated that the petitioner association was not aware of the amendment of the Memorandum of Association nor was it communicated to it and therefore, a copy of the memorandum of Association which was bonafide believed by it to be in force, was filed along with the writ petition.

Since the election was held in accordance with law, the FAI had no power to interfere with it. As regards the appointment of Ad-hoc Committee and disaffiliation of the petitioner association, the power of doing so, will have to be

exercised only on the recommendation of the Executive Committee. Since there was no such recommendation of the Executive Committee, the action taken by the FAI without following the procedure laid down in the constitution, was arbitrary and illegal.

WP (C) NO. 537 of 2020:

[6.1] During the pendency of the writ petition being WP(C) No.118 of 2020, the above writ petition was filed by the petitioner association praying for issuing a writ of mandamus or any other writ to direct the respondents to approve its election held on 11-03-2020 and also to consider the representation dated 13-03-2020 submitted by it.

[6.2] Facts and circumstances of the above case are similar to that of the writ petition being WP(C) No.118 of 2020 and therefore, the same are not repeated here for the sake of brevity. According to the petitioner association, since the last election was held on 14-12-2014, the next election was to be held before 13-12-2019 but could not be held on account of the law and order problem in the State and in the meantime, Shri W. Ranjit Singh, the Secretary of the petitioner association had expired. After the law and order situation having improved, the petitioner association initiated the process of election for which a letter dated 23-01-2020 was sent to the FAI requesting it to send an observer for the annual general body meeting and the election to be held on 09-02-2020. On the same day, a similar letter was sent to the Director, Youth Affairs & Sports, Government of Manipur for the same purpose. On the next day, a letter was sent for appointment of Returning officer who was duly appointed and accordingly, a press release was issued on 25-01-2020, followed by a letter dated 01-02-2020 addressed to the Registrar of Societies, Manipur for sending an observer. The Returning Office issued a list of voter after the date of election being declared. Shri Deepak Khuraijam. Inspector was deputed as the observer.

[6.3] Although the annual general body meeting was held on 09-02- 2020 as scheduled but the election of the officer bearers was deferred on the advice of the FAI. Thereafter, a letter dated 12-02-2020 was sent to the FAI submitting all the necessary documents. On the grant of sanction by the FAI, a letter dated 05-03-2020 was sent to the Registrar of Societies, Manipur requesting it to hold the election and to depute an observer for the election to be held on 11-03-2020. The election was duly held on 11-03-2020 and the petitioner association vide its letter dated 13-03-2020 sent the proceedings thereof to the Registrar of Societies, Manipur along with relevant documents for approval. However, the Registrar of Societies, Manipur failed to issue any order approving it. Being aggrieved by the inaction on the part of the respondents, the instant writ petition has been filed by the petitioner association.

[6.4] The stand of the respondents as indicated in the affidavit filed on their behalf, is that the deputation of Shri Deepak Khuraijam, Inspector for the election to be held on 09-02-2020 was not denied. However, it has been stated

that he submitted a report to the effect that the election could not be held on 09-02-2020 for want of quorum. The receipt of letter dated 13-03-2020 was also not denied but all that has been stated in the affidavit, is that no acknowledgment was issued on account of the WP(C) No.118 of 2020 being pending before this Court for disposal.

[7] From the pleadings as aforesaid, the short question which calls for consideration by this Court is as to whether, having regard to the judgment and order dated 01-03-2016 passed by this Court in WP(C) No.184 of 2015 & ors, All Manipur Sepak Takraw Association Vs. Sepak Takraw Federation of India & ors (hereinafter referred to as "the AMSTA"), the respondent No.1 can be said to have issued the order dated 07-02-2020 in accordance with law or not. In other words, whether the order dated 07-02-2020 issued by the respondent No.1 is sustainable in law.

[8.1] Since the learned counsel appearing for the petitioner having heavily relied upon this Court's judgment and order 01-03-2016, this Court deems it appropriate to examine the facts and circumstances of the said case and the observations made therein.

[8.2] The AMSTA is affiliated to the STFI and the AMSTA was allowed by it to hold championships in the State of Manipur. In a General Body Meeting of the AMSTA held on 22-06-2014, its officer bearers and executive members were elected for the term 2014-2018 by strictly following the bye-laws as well as the provisions of the Manipur Societies Registration Act, 1989 (hereinafter referred to as "the Act, 1989") and the STFI was duly informed about it. Accordingly, the Secretary General, STFI addressed a letter dated 23-06-2014 to the President/ Secretary of the AMSTA requesting it to inform the players and the coaches and to make sure that they attended the National Coaching Camp to be held on 29-06-2014 at Victory Indoor Stadium, Chaderghat, Hyderabad. To its shock and dismay, the STFI declared the said election of the office bearers of the AMSTA as null and void and decided that an Ad-hoc Committee be constituted vide its letter dated 30-06-2014. However, according to the AMSTA, the Registrar of Societies, Manipur vide its letter dated 04-08-2014 had accorded approval to the said election of its office bearers. In consequence of the said letter dated 30-06-2014, the STFI issued a notice dated 05-10-2014 for holding a meeting of the Executive Body on 01-11-2014 to discuss the agenda as regards the conversion of the temporary suspension of the AMSTA into permanent disaffiliation along with other agenda. No formal decision a p p e a r s t o h a v e b e e n taken or for that matter, no order was issued by the STFI temporarily suspending the AMSTA from being its member. The AMSTA, assuming probably from the notice dated 05-10-2014 that it has been suspended temporarily, approached this Court praying for appropriate writ directing the STFI to revoke the temporary suspension. A writ petition being WP (C) No. 822 of 2014 was filed by the AMSTA praying for issuing an appropriate writ directing the STFI to revoke the temporary suspension of the AMSTA.

[8.3] During the pendency of the said writ petition being WP (C) of 822 of 2014, a resolution was passed by the STFI in its Annual General Body Meeting held on 01-11-2014 for permanent disaffiliation of the AMSTA and for forming an Ad-hoc Committee. Being aggrieved by the said resolution dated 01-11-2014, the AMSTA challenged it by way of a writ petition being WP(C) No.184 of 2015 on the inter-alia grounds that the STFI had no legal authority to intervene in the election of the office bearers of the AMSTA; that no notice was given to it for holding the said Annual General Meeting although 21 days notice was required to be given as per the rules and regulations of the STFI and that the rules did not provide for disaffiliation of the AMSTA from the STFI.

[8.4] According to the AMSTA, surprisingly and much to its consternation, the Secretary General, the STFI issued an order dated 15- 12-2014 constituting an Ad-hoc Committee comprising the Director of Youth Affairs and Sports, Government of Manipur and two representatives from the STFI who were international players from the State of Manipur. Being aggrieved by the said order dated 15-12- 2014, a writ petition being WP(C) No.318 of 2015 was filed by the AMSTA on the inter-alia grounds that the STFI had no authority to constitute the said Committee and as such, it was not sustainable and illegal and that even after the representatives from the Sports Department having been withdrawn, the Ad-hoc Committee was constituted to suit the whims and fancies of the STFI by adopting a method of pick and choose with vested interest.

[8.5] The said writ petitions were being contested by the STFI by filing separate two affidavits-in-opposition raising preliminary objections that the AMSTA did not come before this Court with clean hands and had concealed material facts; that the AMSTA had not whispered a word about the reasons of its suspension; that the AMSTA having no interest in the development of Sepak Takraw in the State of Manipur, had manipulated the election of its office bearers and that the writ petitions were not maintainable on the ground that the writ petitions ought to have been filed before the Hon'ble High Court of Delhi, since all the respondents have their office bearers and place of work in Delhi. As regards the merits of the case, it was stated that the STFI being a sole body to develop, manage, control and regulate the sports of Sepak Takraw in India, consists of various associations and All India Control Boards as its members; that the STFI had the power to make new member and to take action against the existing members in the form of suspension or penalty etc. Since the AMSTA had not followed the decision taken in the meeting held on 16-10-2013 at Kohima, the STFI vide its letter dated 30-06-2014 informed the AMSTA that its election be declared as null and void and that an Ad-hoc Committee be constituted for managing the affairs of the sport of Sepak Takraw in the State of Manipur in the interest of the sports till fresh and fair election is held; that the STFI was compelled to conduct such a step on account of non-transparent election being held in violation of the rules; that the STFI has the right to regulate the functioning of its members and make rules, regulations and by-laws to ensure democracy, transparency, accountability and good governance. In the writ petition being WP(C) No.318 of 2015, an

affidavit-on-opposition has been filed on behalf of the respondent Nos. 5 to 8 wherein it is stated that Ad-hoc Committee was constituted in the interest of the players after the disaffiliation of the AMSTA and that the said Ad-hoc Committee was looking after the affairs of the sports of Sepak Takraw in the State.

[8.6] In view of the rival contentions made therein, the following issues arose for consideration by this court:

- a) Whether the respondent federation has the power to declare the election of the petitioner association as null and void, when the said election has been held in accordance with the provisions of the Manipur Registration of Societies Act, 1989?
- b) Whether the respondent federation is justified in disaffiliation of the petitioner association on the ground of its election having been declared as null and void by the respondent federation?
- c) Whether the petitioner association has concealed material facts from this court thereby rendering its present writ petition liable to be dismissed by this court?
- d) Whether the respondent federation is empowered by its rules and regulations to constitute an Ad- hoc Committee?

[8.7] The relevant paragraphs of the said judgment and order passed by this Court in AMSTA case read as under:

In Re: Issue No.(a)&(b):

[9] It is not in dispute that the petitioner association being a registered society, is affiliated to the respondent federation and would be governed by the rules and regulations framed by it. But on perusal of the said rules and regulations of the respondent federation, it is evident that the said rules and regulations are silent as to how the relationship between its members including the petitioner association and the respondent federation would be regulated and the procedure to be followed at the time of taking any action against its members, is also not prescribed therein. As has been stated hereinabove, the membership is opened to the associations in the States, all India governmental organisations etc. and not to any individuals at all. In other words, to be a member of the respondent federation, one has to be a registered institution or all India organisations established by the Government or its agencies. The petitioner association is a society registered under the provisions of the Manipur Registration of Societies Act, 1989 and since the petitioner association is governed by the provisions of the said Act, it has to act within its ambit. In case of violation of bye-laws or any provisions of the said Act and on receipt of information about it, the Registrar under Section 22 may order an enquiry into it and after the enquiry having been held, it shall submit the report to the State Government which may give directions for removal of any defects or irregularities and in case of failure in removing the defects or irregularities by a society, may direct the Registrar to move the court for dissolution of the Society. Section 23 provides that when an

enquiry has been held, the Registrar may, if satisfied that the Society has contravened any provisions of the Act or rules made there under or has conducted business not in accordance with the bye-laws or for any reason mentioned therein, cancel the registration after giving notice in writing to the society specifying briefly the grounds thereof and after giving an opportunity to show cause as to why the cancellation of registration should not be made. The election of the office bearers of the petitioner association is to be held in accordance with the bye-laws approved by the Registrar under the provisions of the said Act at the time of registration or any amendment made thereon and the conduct of election is an internal affair of the petitioner association and in the event of the said bye-laws being violated, it is open to any aggrieved person to approach the Registrar for taking necessary action against the society under the provisions of Sections 22 and 23 of the Act. Therefore, the contention of the learned counsel appearing for the petitioner association that the respondent federation has no power to declare the election as null and void, appears to be correct and countenanced. But the contention that there is no provision for disaffiliation is not acceptable to this court for the reason that the power of affiliation will include the power of disaffiliation. In other words, the power of disaffiliation is implicit in the power of affiliation. It is the State Government, on receipt of a report of enquiry, which has the power to give directions for removal of defects or irregularities and on failure to do so by a society, to direct the Registrar to move the court for dissolution. The Registrar is also conferred the power to cancel the registration on the grounds mentioned in the Act and in the manner indicated therein. The learned counsel appearing for the petitioner association has relied upon the decision rendered by the Hon'ble Supreme Court in the case of Andhra Pradesh Dairy Development Corporation Federation Vs. B. Narasimha Reddy & ors., reported in (2011) 9 SCC 286 to contend that the right to form an association is a fundamental rights guaranteed under Article 19(1)(c) of the Constitution. Nobody would deny the principles laid down therein but is not relevant for the purpose of deciding the issues involved herein. The learned senior counsel appearing for the respondent federation has fairly submitted that all the details cannot be provided in the rules and regulations and doing that will be voluminous and impossible. All that he has submitted is that the respondent federation being an apex body recognised by the international body, has the power to make its own rules and regulations and to issue guidelines, instructions etc. and that the petitioner association being a member enjoying its patronage, is bound by it. It is submitted by the learned senior counsel appearing for the respondent federation that in an Annual General Meeting of the respondent federation held on 16-10-2013, it was resolved that all members must submit their minutes of the meetings in which all the details as regards the election of the office bearers namely election dates, name of election officer, election schedule, nomination date, withdrawal date, voting mode etc., are mentioned, within 21 days from the date of election and that in case of any of the members failing to supply the said information, the respondent federation reserves the rights to declare the election as null and void and disaffiliate the member. It is

also the submission of the learned senior counsel for the respondent federation that since the petitioner association failed to comply with the said resolution, its election held on 22-06-2014 was declared as null and void and accordingly, a decision was taken by the Executive Council for disaffiliation of the petitioner association and on the same day in a meeting held on 01-11-2014, the said decision of the Executive Council was approved and petitioner association was permanently disaffiliated. According to him, the said decision was taken in order to ensure fairness, transparency and accountability in the management and administration of the affairs of the respondent federation as well as its members. These contentions of the learned senior counsel for the respondent federation are not acceptable to this court except that the respondent federation has the power to frame its rules and regulations to be abided by it and its members and consequent disaffiliation on the ground that election is null and void, is not sustainable in law. As has been stated above, the election of the petitioner association is its internal affair and is to be held in accordance with the bye- laws and in case of violation of bye-laws, it is the State Government or the Registrar who are empowered under the provisions of the Manipur Registration of Societies Act, 1989 to take action against the society. The respondent federation cannot encroach upon or usurp the power conferred upon the State Government or the Registrar on the basis of a resolution taken in its meeting. In the name of fairness, transparency and accountability, the respondent federation cannot violate the provisions of the said Act. The respondent federation is neither a supervisory body over the petitioner association in its internal affairs nor is its role referred to anywhere in the Act. If the respondent federation felt that the election of the petitioner association was not held in accordance with law, the only thing that could have been done by it was to inform the Registrar to take action against the petitioner association. A procedure for that purpose is specifically prescribed in the said Act. The relationship between the petitioner association and the respondent federation commenced from the day the petitioner association was affiliated as a member and the petitioner association was required to abide by the rules and regulations or the guidelines/ instructions as regards the promotion and development of Sepak Takraw in the country, some of which mention may be made, namely the timely payment of fees, nomination of representatives, supply of information relating to names of office bearers or members or utilisation of funds being provided by the respondent federation, the meetings of the Executive Council to be attended punctually, the conduct of championship in the State in accordance with the instructions/ guidelines of the respondent federation, fair selection of players for participating in the national and international championship etc. which are illustrative but not exhaustive. Violation of any of such guidelines/ instructions could be a ground for disaffiliation as agreed in the Annual General Meeting held on 16-10-2013 but not on any other ground pertaining to internal affairs of the member, including the election being declared as null and void, which are governed by the laws of their respective States. The procedure to be followed for disaffiliation is also not provided in the rules and regulations but in the absence of it, the principles of

natural justice ought to be followed before a member is disaffiliated by the respondent federation. In the present case, it appears that no show cause notice as to why the petitioner association be not disaffiliated, was given to the petitioner association before its disaffiliation and it appears that it was only on the basis of the correspondence between the petitioner association and the respondent federation that the Executive Council took the decision for disaffiliation on the ground that the petitioner association failed to furnish information, well in time, about the conduct of its election and that the election be declared as null and void which was approved in the Annual General Meeting thereby disaffiliating the petitioner's association permanently. Considering the facts of the present case and having heard the learned counsels appearing for the parties, this court is of the view that the declaration of election of the office bearers of the petitioner association as null and void is without any authority of law and consequently, the disaffiliation is illegal and hence, is liable to be quashed.

In Re:IssueNo.(c):

[10] As regards this issue, the learned senior counsel appearing for the respondent federation has submitted that since the petitioner association has suppressed material facts from this court, the instant writ petition is liable to be dismissed. Reliance has been made in the case of *Prestige Lights Limited Vs. State Bank of India*, reported in (2007) 8 SCC 449 wherein the Hon'ble Supreme Court held:

"33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter."

Further reliance has been made in the case of *State of Madhya Pradesh & ors. Vs. Narmada Bachao Andolon & ors.*, reported in (2011) 7 SCC 639, the Hon'ble Supreme Court held:

"8. It is a settled proposition of law that a party has to plead its case and produce/adduce sufficient evidence to substantiate the averments made in the petition and in case the pleadings are not complete the court is under no obligation to entertain the pleas.

10. Pleadings and particulars are required to enable the court to decide the rights of the parties in the trial. Thus, the pleadings are more to help the court in narrowing the controversy involved and to inform the parties concerned to the

question(s) in issue, so that the parties may adduce appropriate evidence on the said issue. It is settled legal proposition that "as a rule relief not founded on the pleadings should not be granted". Therefore, a decision of a case cannot be based on grounds outside the pleadings of the parties.

11. The object and purpose of pleadings and issues is to ensure that the litigants come to trial with all issues clearly defined and to prevent cases being expanded or grounds being shifted during trial. If any factual or legal issue, despite having merit, has not been raised by the parties, the court should not decide the same as the opposite counsel does not have a fair opportunity to answer the line of reasoning adopted in that regard. Such a judgment may be violative of the principles of natural justice. (Vide *Ram Sarup Gupta v. Bishun Narain Inter College and Kalyan Singh Chouhan v. C.P. Joshi.*)

12. It cannot be said that the rules of procedural law do not apply in PIL. The caution is always added that every technicality in the procedural law is not available as a defence in such proceedings when a matter of grave public importance is for consideration before the court. (Vide *Rural Litigation and Entitlement Kendra v. State of U.P.*)"

There can be no any doubt about the law being laid down by the Supreme Court but the application thereof depends upon the facts and circumstances of each case. In the instant case, the respondent federation has not specified the material facts which have been suppressed from this court by the petitioner association except that the petitioner association being fully aware of the reasons of its suspension and thereafter, disaffiliation, the petitioner association has not even whispered a word about that in its entire writ petition. The learned senior counsel may be right to the extent that the petitioner association has not stated about it in the averments made in the petition. However, a copy of the letter dated 30-06-2014 has been placed on record wherein the reasons for disaffiliation are mentioned. It can be otherwise, had the said document not been produced before this court. Admittedly the facts of the case are not in dispute and moreover, the issues with regard to the substantial question of law, have been raised by the petitioner association. The facts of the present case are different from that of the two cases referred to above. In the case of *Prestige Lights Ltd.* (supra), the contention of the appellant therein was that since it had submitted a representation on 20-10-2004 wherein it had proposed to pay dues of the respondent bank after selling the land and building of the factory, the action of the respondent bank initiated under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was illegal, unlawful and against the provisions of the Act. The respondent bank denied the receipt of such a representation from the appellant. In the other case namely *Narmada Bachao Andolon* case (supra), the appellant submitted that the Hon'ble High Court ought not to have entertained the writ petition as it did not have material facts/ particulars disclosing any cause of action to the writ petitioners even in the PIL. The Hon'ble Supreme Court has observed that in

cases where grave public importance is involved, every technicality in the procedural law is not available as a defence. In view of the above, the instant writ petition cannot be dismissed on that ground alone and accordingly, this issue has been decided in favour of the petitioner.

In Re:Issue No.(d):

[11] On perusal of the materials on record and in particular, the correspondence, the controversy appears to have arisen out of egoistic problems of the executive members of both the petitioner association and the respondent federation who have forgotten that both of them are entrusted the task of promoting and developing Sepak Takraw in the country. Both the petitioner association and the respondent federation are institutions discharging public functions and are expected to act fairly and reasonably and are not private institutions whose objectives are to earn profits. In this regard, the learned counsel appearing for the respondent federation has fairly submitted that the respondent federation has been declared by the Union of India as public body and is under the control of the Sports Authority of India. Although the source of income of the respondent federation is not stipulated in the memorandum of association, it is evident from the provisions of Article 12 of its rules and regulations that the respondent federation does definitely receive grants from the Union of India on account of the responsibility being shouldered by it. It may be noted that there are peculiar circumstances in the present case which may have led the petitioner association and the respondent federation to be egoistic in their approach. It is an admitted fact that both are the registered societies and as long as their registrations are not cancelled in accordance with law, no other societies can be registered in their place for the same name and purpose. This is what has happened in the instant case. Although the election of the office bearers of the petitioner association has been declared as null and void, its registration is still valid and continues to be the society so far as the State of Manipur is concerned and no other societies can be registered in its place. Since the petitioner association is disaffiliated, the task of selecting players in the State of Manipur is being entrusted to an Ad-hoc Committee which cannot be made a permanent feature applicable for all the years to come. It may be true that Ad-hoc Committee has been constituted by way of an interim arrangement but since there being no provisions in the rules and regulations for such Ad-hoc Committee, it can be safely held that the respondent federation has no authority to constitute such an Ad-hoc Committee. The respondent federation has to act within the bounds of its rules and regulations. The respondent federation cannot be permitted to do indirectly which it cannot do directly in law. It must be left with the State of Manipur but it may also find difficulty for two reasons - one, the petitioner association will continue to be a society so far as the State of Manipur is concerned because its election has been approved by the Registrar and second, the State of Manipur not being a member of the respondent federation, it cannot send its representatives to the General Council. Therefore, both the petitioner association and the respondent federation ought to maintain a healthy relationship in the

interest of sports and to endeavour to ensure that both do not indulge in politics and are free from being egoistic in the discharge of their functions. Since both the petitioner association and the respondent federation being legal entities, they have no heart and soul and are manned by persons namely executive members who are expected to act fairly, sincerely, reasonably and bonafide with no personal interest. The moment they are not sincere, there is always a room for the power being misused by them. The State Government, the petitioner association and the respondent federation can be said to be the stakeholders as regards the development of Sepak Takraw in the State and at this juncture, the role of the State Government is very important whose duty is to protect the interest of its citizens and is expected to arrange a joint meeting of the stakeholders and to thrash out the misunderstanding amongst them so as to avoid such controversy in future. At the same time, it is the high time and is absolutely indispensable for the respondent federation to lay down broad and detailed guidelines to regulate the relationship between it and its members and incorporate provisions therein as regards the procedure to be followed by it at the time of initiating proceedings for suspension or disaffiliation of its member.

[9] The facts which are not in dispute amongst the parties, are that the FAI is an association registered under the provisions of the Act, 1860 and established with the aims and objects, as enumerated in the Memorandum of Association, including the one to develop, promote, organise and control the game of fencing in the country. It holds championships-national or otherwise and makes selections of Indian team consisting of players, officials, coaches and managers, participating in the Asian Games, Asian Championship, Olympics and other international tournaments. The membership of the FAI is open to fencing associations of the States/ UTs subject to the condition that only one association from such area shall be admitted to membership and it will grant affiliation to it. It declares disaffiliation of its members, if the elections are not held once in four years or if the member does not inform about it to the FAI in advance etc. The jurisdiction of the FAI extends to all the States/ UTS. It takes its affiliation every year from the Sports Ministry, Government of India. The petitioner association is undoubtedly affiliated to the FAI and in other words, it is a member of the FAI. It is also registered under the provisions of the Act, 1860, although its area of jurisdiction shall be confined to the entire State of Manipur only. Both the petitioner association and the FAI are legal entities having similar aims and objects except the difference in the area of jurisdiction. Both are established under the same provisions of law for the similar purposes. The one thing which both of them are concerned, is the game of fencing and in other words, they are concerned and dealing with the interest of the sportspersons in the country. The members of the FAI select players in their respective States/ UTs through State level tournaments to represent their States/ UTs and participate in the national level, while the FAI selects players from amongst them to represent India in the international tournaments. That is how both of them deal with the same sportspersons in the country at different levels. Both the FAI and the petitioner

association being the legal entities having no heart and soul, the interest of the sportspersons/ players in the game of fencing is paramount. They may go on fighting for one reason or the other but it must be ensured by all concerned that the interest of the sportspersons/ players is not affected due to their tussle and that it is looked after at any cost and at all events. Whether they exist or not, is not important and even in their absence, the interest of the sportspersons/ players is to be taken care of by the Government in the interest of public in general.

[10.1] Before going into the merit of the case, this Court proposes to deal with the objections raised by the respondents and in particular, the FAI as regards the maintainability of the writ petition being WP(C) No.118 of 2020. It is the stand of the respondents therein that the writ petition is not maintainable for the reason that the petitioner association has no locus standi to file it because the impugned order has been issued by the FAI in accordance with the articles of its Memorandum of Association and that an alternative remedy is available as provided in the Article 20 thereof but since the petitioner association having failed to exhaust it, this Court shall not exercise its jurisdiction under Article 226 of the Constitution of India. In order to substantiate his argument, Shri Ruchir Mishra, the counsel appearing for the respondent No.1 & 2 has referred to the Memorandum of Association of the FAI as amended & effective from 24-12-2019 and in particular, Article 20 thereof which provides that all disputes shall be resolved as per the provisions of the Olympic Charter, for which the President of the FAI shall take steps to put a dispute resolution mechanism in place. All the member associations shall include in their constitution, a provision that they would have to resolve disputes with the provisions stated hereinabove. It is not known as to whether any dispute resolution mechanism has been put in place or not but the FAI reserves its right to refer any matter for arbitration under the Arbitration Act, 1940. Article 26 (4) provides that the FAI may sue or be sued in the name of the General Secretary and a law suit can only be filed at the headquarters of the FAI at New Delhi. Combating his submission, it has been submitted by Shri M. Devananda, learned counsel appearing for the petitioner association that the petitioner association is not aware of the Memorandum of Association as amended till 24-12-2019 nor has a copy thereof been furnished to it and therefore, it will have no application to the case of the petitioner association. In reply thereto, it has been submitted by the counsel appearing for the respondent No.1 & 2 that even in Article XVII of the un-amended Memorandum of Association, there are provisions which provide for resolution of disputes through the arbitration. The submission of the counsel appearing for the respondent No.1 & 2 appears to be correct to that extent.

[10.2] Article 226 of the Constitution confers extraordinary jurisdiction on the High Court to issue writs for enforcement of fundamental rights or for any purpose. It is wide and expansive. The Constitution does not place any fetter on the exercise of the extraordinary jurisdiction. It is left to the discretion of the High Court. But the remedy under Article 226 being, in general, discretionary,

the High Court may refuse to grant it where there exists an alternative remedy. A writ has been refused by the High Court where the petitioner could get adequate remedy under an arbitration clause in an agreement or by a suit or by raising a dispute under the Industrial disputes Act etc. These cases are illustrative but not exhaustive. In fact, the existence of an adequate alternative remedy is no bar to grant relief by the High Court under Article 226 of the Constitution of India, because of which the Hon'ble Supreme Court has held in some cases that a writ petition is maintainable, despite an alternative remedy being provided statutorily or otherwise. Such cases are the ones where a fundamental right has been infringed or where an authority has acted in contravention of the principles of natural justice or the authority imposes an ultra vires condition or there is some other defect going to the root of jurisdiction of the authority etc. In the present case, it may be noted that the contentions of the petitioner association are that the issue involved herein is covered by the judgment and order dated 01-03-2016 passed by this Court; that the FAI has no authority to issue the impugned order and that the impugned order was issued in violation of the principles of natural justice. In case the issues involved herein happen to be really covered by the said judgment and order, there is no point of referring the alleged dispute to arbitration and moreover, the main issue involved herein relates to the jurisdiction of the FAI. In other words, the issue will warrant the requirement of going into the root of its jurisdiction. Therefore, after having heard the learned counsels appearing for the parties, this Court is of the view that the writ petition cannot be said to be not maintainable and that the issue needs to be considered and decided by this Court.

[11] So far as the question formulated hereinabove is concerned, it has been submitted by the counsel appearing for the petitioner association that since such a similar question has already been decided by this Court, the FAI has no authority to interfere with the affairs and functioning of the petitioner association and that it has no authority to constitute Ad-hoc Committee. It has further been submitted by him that the impugned order was issued in a purported exercise of power conferred by Article 19(iv) of the Memorandum of Association which relates to the expulsion of the member from the FAI and that the provision of the said article has been misquoted while issuing the impugning order. On the other hand, it has been submitted by the counsels appearing for the respondents including that of the FAI that the impugned order was issued by the FAI in exercise of power conferred by the Article 19(iv) of the Memorandum of Association as amended & effective from 24-12- 2019. According to him, the Memorandum of Association, a copy of which has been filed along with the writ petition, has been amended and a correct thereof has not been filed by the petitioner association, to which it has been submitted by the counsel appearing for the petitioner that the petitioner association is not aware of such an amendment, nor has a copy thereof been furnished to it and therefore, it has no application at all. His contention appears to have some merit warranting consideration by this Court. In the counter affidavit filed on behalf of the

respondent No.1 & 2, it has been stated that the Memorandum of Association has been amended from time to time and the Memorandum of Association which is applicable to the present case, is the one amended till 24-12-2019 by which the impugned order was issued. The petitioner association being a member, is aware of the provisions of the FAI including the amendment made therein, a copy of which has not been filed deliberately by it. However, it is nowhere stated in their affidavit as to how the petitioner association has been made aware of the said amendment without any copy thereof being served upon it. The averment made by the petitioner association in its rejoinder affidavit, in this regard, remains un-rebutted by the FAI.

[12.1] Be that as it may, from the perusal of the impugned order dated 07-02-2020, the same appears to have been issued in exercise of power conferred by Article 19(iv) of the Memorandum Association as amended till 24-12-2019, the factum of which has been disputed by the petitioner association, as mentioned above, on the ground that it was not aware of it nor was a copy thereof furnished to it. In the impugned order issued by the FAI, it has been stated that the petitioner association has been dissolved with immediate effect from the date of the order and the FAI will form an Inquiry Committee to look into the legalities. In the meantime, the Vice-President of the FAI has been nominated to look after all the activities and will administer the affairs & functioning of sports activities in Manipur. It has also been stated that it has been decided to suspend and dissolve the petitioner association and that after the submission of a report by the Inquiry Committee, an Ad-hoc Committee will be constituted to look after the fencing activities in Manipur till the new election is conducted as per the National Sports Development Code and in accordance with the constitution of the FAI.

[12.2] The validity and correctness of the impugned order dated 07- 02-2020 can be examined and considered by this Court with regard to four aspects-one, the dissolution of the petitioner association; two, the new election to be conducted; three, the constitution of an Ad-hoc Committee and four, the disaffiliation of the petitioner association. As regards the first aspect namely, the dissolution of the petitioner association, it may be noted that it is an association registered under the provisions of the Act, 1860 and if it is to be dissolved, it shall be done in terms of the provisions of the Act, 1860 and not otherwise. Section 13 of the Act, 1860 which specifically provides for dissolution of societies, reads as under:

"13. Provision for dissolution of societies and adjustment of their affairs.- Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims and liabilities, according to the rules of the said society applicable thereto, if any, and if not, then as the governing body shall find expedient, provided that, in the event of any dispute

arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of the society is situate; and the Court shall make such order in the matter as it shall deem requisite:

Provided that no society shall be dissolved unless three- fifths of the members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose:

Provided that whenever any Government is a member of, or a contributor to, or otherwise interested in any society registered under this Act, such society shall not be dissolved without the consent of the Government of the State of registration."

As seen from Section 13 above, a society shall be dissolved, if any number of not less than three-fifths of the members may determine that it shall be dissolved. The first proviso states that no such society shall be dissolved, unless the said number of members shall have expressed a wish for such dissolution by their votes delivered in person or by proxy, at a general body meeting convened for the purpose. The second proviso states that whenever any government is a member of or a contributor to or otherwise interested in any society registered under this Act, such society shall not be dissolved without the consent of the Government of the State of registration. Section 22 provides for dissolution of a society which is financed wholly or substantially from the fund of the Government. In respect of such a society, the government is competent to dissolve it for reasons to be recorded in writing. On the date fixed for dissolution, the registration of the society shall stand cancelled and the society shall cease to exist as a corporate body. This Section 13 of the Act, 1860 makes it very clear that the dissolution of a society can be done by its members only in terms thereof. It is nowhere provided in Section 13 thereof that a society can be dissolved by another society or for that matter, the FAI in the present case. In other words, the FAI being an association registered under the same provisions of the said Act, 1860, is not conferred any power thereunder for dissolution of the petitioner association. Since a registered association cannot dissolve another registered association, the FAI has no authority or jurisdiction to dissolve the petitioner association. The FAI being a registered association registered under the provisions of the Act, 1860 cannot usurp power and act contrary to the provisions of the said Act. In the affidavit filed on behalf of the respondent No.1 & 2, an attempt has been made by the FAI to contend that the word "dissolve" is referable to the executive committee of the petitioner association. But the impugned order dated 07-02-2020 does not endorse or substantiate it. Therefore, the impugned order can be said to be bad in law and is, accordingly, liable to be quashed and set aside to that extent. In the impugned order issued by the FAI, the word "suspend" has also been used in front of the word "dissolve" but it is not clear to this Court in what context, it has been used by the FAI. Does it mean the suspension of the petitioner association from being a registered

association or does it mean the suspension of the petitioner association from being a member of the FAI ?. So far as the second part is concerned, it is no doubt true that in terms of the provisions of its Memorandum of Association, the FAI is conferred power to suspend its member. In any case, since the petitioner association has been disaffiliated/ dissolved by the FAI, the word "suspend" used in the impugned order will have no value at all.

[12.3] As regards the second aspect, the constitution of Ad-hoc Committee, Article 16(A)(xii) of the Memorandum of Association as amended till 24-12-2019 provides for appointment of an Ad-hoc Committee by the General council, after any unit or member is disaffiliated or suitable action is taken against it for indiscipline, misbehaviour or any other undesirable activity. A similar power is conferred upon the General Council under Article XIII(A)(xiii) of the un- amended Memorandum of Association and in addition thereto, Article XIII(B)(ii) thereof confers power upon the Executive Committee to appoint Ad-hoc Committee for specific functions and duties, as and when it is necessary for the smooth functioning of the association and/ or its affiliated units. The Executive Committee shall frame necessary rules and regulations/ terms of the reference for such Ad-hoc Committee. From these provisions of the amended/ un-amended Memorandum of Association of the FAI, it is clearly seen that the FAI has the authority to appoint Ad-hoc Committee and such an action shall be taken by it, only after the member is disaffiliated or any suitable action is taken against it. Some corollary issues have arisen in this regard. What is the role to be played by the Ad-hoc Committee? What will the Ad-hoc Committee do towards the interest of the sportspersons/ players, after the petitioner association being disaffiliated by the FAI ?. Will it be able to conduct tournaments regularly in the State ?. Who will bear the expenses for it ?. From where, will it function ?. Will it have its office in the State concerned?. What will the district level associations which are the members of only the State level association, say, the petitioner association in the present case, do? As long as the registration of the State level association, say the petitioner association in the present case, remains valid, they will continue to be its members and will continue to be governed by the constitution of the State level association. In case the Ad-hoc Committee happens to continue functioning for years together, how will it co-ordinate with the district level associations which are not the members of the FAI? In the event of the sportspersons/ players being selected by the Ad-hoc Committee to represent the concerned State in the national and international tournaments, who will bear the expenses ?. The answers for these issues are not available in the Memorandum of Associations of the FAI. The FAI needs to apply its mind to resolve all these issues in terms of its Memorandum of Association, for which the rules and regulations to be followed by such an Ad-hoc Committee need to be kept ready to meet such eventualities. In the absence of such rules and regulations being made known to the stakeholders in advance, any exercise of power by the Ad-hoc Committee may create a chaos in the concerned State. So far as the facts and circumstances of the present case are concerned, since the disaffiliation of

the petitioner association having been held by this Court to be bad in law, there is no need of appointment of an Ad-hoc Committee. Moreover, since the impugned order has been suspended by this Court while issuing notice to the respondents vide this Court's order dated 14-02-2020 which remains continued, the question of appointment of an Ad-hoc Committee will not arise at all.

[12.4] The third aspect relates to the conduct of a new election of the petitioner association. In the impugned order issued by the FAI, it is stated that the Ad-hoc Committee to be appointed by the FAI after a report of the Inquiry Committee being submitted, will continue till a new election is conducted as per the National Sports Development Code and in accordance with the Memorandum of Association/ constitution of the FAI. This part of the order is absolutely illegal and is without any authority of law. The petitioner association being a registered association, its election will be governed by the provisions of the Act, 1860. In other words, the election of the petitioner association will be held in accordance with its constitution as approved by the Registrar of Societies, Manipur in terms of the provisions of the Act, 1860. Article 22 of its constitution provides the manner as to how the election of the office bearers is to be held by the petitioner association. The tenure of the Executive Body as provided in Article 30 of its constitution, is four years to be effective from 1st April of a calendar year to the 31st March. The FAI cannot put or lay down any condition which is contrary to the provisions of the Act, 1860 or for that matter, the constitution of the petitioner association approved thereunder. A Laxman Rekha will have to be maintained by both of them in respect of their internal affairs. In this regard, the observations made by this Court in AMSTA case, are relevant which read as under:

"The relationship between the petitioner association and the respondent federation commenced from the day the petitioner association was affiliated as a member and the petitioner association was required to abide by the rules and regulations or the guidelines/ instructions as regards the promotion and development of Sepak Takraw in the country, some of which mention may be made, namely the timely payment of fees, nomination of representatives, supply of information relating to names of office bearers or members or utilisation of funds being provided by the respondent federation, the meetings of the Executive Council to be attended punctually, the conduct of championship in the State in accordance with the instructions/ guidelines of the respondent federation, fair selection of players for participating in the national and international championship etc. which are illustrative but not exhaustive. Violation of any of such guidelines/ instructions could be a ground for disaffiliation."

The above observations made by this Court are absolutely applicable to both the parties in the present case. The stand of the FAI is that since the election has not been held within six months of grace period, the disaffiliation has come into effect immediately. At the same time, it has also been stated that since the

petitioner association has been suspended and dissolved, its executive committee or for that matter, its office bearers have no authority to continue to be in their office, leave alone the holding of election. Such a stand taken by the FAI is absolutely unreasonable, as it is contrary to Article 22(b) of the constitution of the petitioner association which provides that the members of the executive body shall continue to hold office until the successors are elected. If the contention of the FAI happens to be accepted by this Court, who will conduct the election of the petitioner association in accordance with law? Will it be conducted by the FAI or the Ad-hoc Committee appointed by it. Is there any authority conferred upon it by law for doing so? The answer is in the negative. The election of the office bearers will have to be held in accordance with the constitution approved by the Registrar of Societies, Manipur which is the appropriate authority as mentioned in the Act, 1860 as amended from time to time. The main concern of the FAI is that such election ought to be held in time. It is not in dispute that for whatever reasons, the election was not held by the petitioner association before 13-12-2018. What will be the consequence thereof, is not reflected and is silent in the constitution of the petitioner association. The reasons given by the petitioner association for its inability to hold the election in time, are doubtful. However, the case of the petitioner association is that since the election could not be held before 13-12-2018, the process for it was initiated with the decision that it would be held on 09-02-2020. According to it, although the annual general body meeting was held on 09-02-2020, the agenda of the election was deferred on the advice of the FAI. The petitioner association vide its letter dated 12-02-2020 submitted to the FAI all relevant documents as required by it with a request that the petitioner association be permitted to hold the election. Thereafter, the petitioner association vide its letter dated 05-03-2020 requested the Registrar of Societies, Manipur for allowing it to hold the election and to depute an observer, followed by a letter dated 07-03-2020 addressed to the Returning Officer to hold the election on 11-03-2020. The election was stated to be held on 11-03-2020 and the proceedings thereof were sent to the Registrar of Societies, Manipur vide letter dated 13-03-2020 of the Returning Officer for necessary action. In the affidavit filed on behalf of the Registrar of Societies, Manipur in WP(C) No.537 of 2020, it has been stated that no appropriate action could be taken by him on the proceedings of the election on account of the pendency of the writ petition.

[12.5] So far as the power of the disaffiliation is concerned, there can be no dispute that the FAI has ample power either under the amended or un-amended Memorandum of Association. Such power is indispensable in order to control its members within the bounds of its Memorandum of Association/ constitution. The corollary issue is as to what procedure will have to be followed by the FAI before a member is disaffiliated by it. No procedure appears to have been contemplated in its Memorandum of Association except stating therein that if the election is not held with the grace period after the expiry of the tenure, the member will stand automatically disaffiliated. The contention of the petitioner association in this

regard is that the impugned order has been issued by the FAI in violation of the principles of natural justice and without any application of mind. The stand of the FAI is that despite its various letters/ correspondences being addressed to the petitioner association, it has failed to comply with the directions with the result that the petitioner association stands disaffiliated and dissolved. In such circumstances, can the need of giving a show cause notice be dispensed with automatically

?. In other words, are the principle of natural justice not required to be followed by the FAI ?. From the perusal of these letters/ correspondences as mentioned in the counter affidavit filed on behalf the respondent No.1 & 2, it is seen that they all are addressed to the Secretary Generals of all the member associations of the States/UTs requesting them to furnish the documents as mentioned therein. None of these letters/ correspondences is addressed to the petitioner association specifically informing that if it fails to comply with the direction, it will be disaffiliated by the FAI. The petitioner association was not given an opportunity to explain why the election was not held in time. The FAI did not take any decision after the petitioner association being given an opportunity of being heard. The disaffiliation of the petitioner association by the FAI without following the principles of natural justice is unreasonable and bad in law being violative of Article 14 of the Constitution of India.

[13] Facts and circumstances of the AMSTA case are not exactly the same as that of the present case but are identical except in respect of certain portions of the Memorandum of Association and therefore, the judgment and order dated 01-03-2016 passed by this Court is applicable to the present case to the extent indicated and reproduced hereinabove. Similar controversies have now surfaced in respect of other games and sports which are brought to the notice of this Court and the main reason for such controversies appears to be due to lack of supervision by the Government of India over the relationship between the State level and National level associations in the interest of the sportspersons/ players. The Government of India needs to pay its attention so as to avoid such controversies in future in respect of various games and sports. Policy decisions are being taken by the Government of India from time to time for the development of the games and sports in the country. The Government of India is expected to keep in mind, while laying down the guidelines, the fact that the State level associations and the National level association which are registered under the provisions of the Act, 1860, are governed by them and in particular, their respective Memorandum of Associations/ constitutions approved by the authority concerned under the said Act. They are not, in a sense, the private parties but are the authorities entrusted the task of shouldering the responsibility to promote, regulate, organise and control the games of fencing in the country. They are inter-connected in the sense that one without the other cannot fulfil the aims and objects sought to be achieved in their respective Memorandum of Associations/ constitutions. They ought to act bonafide in the interest of the sportspersons/ players who bring laurels to the nation, in order to ensure that

such controversies are not brought to the notice of the Court. They need to be avoided or resolved amicably by all concerned in the interest of the country. Such controversies, in addition to the lack of infrastructure and financial constraints, can be said to be some of the grounds resulting in the inability of the people in the country to exhibit their utmost talents in the international level, in spite of the sincere efforts being made by the Government of India for the development of games and sports in the country.

[14] In view of the above and for the reasons stated hereinabove, the instant writ petition being WP(C) No.118 of 2020 stands allowed in part and consequently, the portion of the impugned order dated 07-02- 2020 towards the dissolution of the petitioner association; the disaffiliation of the petitioner association and the appointment of the Ad-hoc Committee is quashed and set aside with the following directions:

(a) The Registrar of Societies, Manipur shall examine whether the election of the office bearers of the petitioner association, alleged to have been held on 13-03-2020, has been held in accordance with the provisions of the Act, 1860 and in particular, its constitution or not. If yes with reasons to be recorded, he shall issue an appropriate order granting approval to the proceedings of the election;

(b) In case the said election being found to have not been held in accordance with law as aforesaid, he shall reject the proceedings of the election;

(c) In the event of the proceedings of the election being rejected by the Registrar of Societies, Manipur, either he himself or through his subordinate officers, shall arrange to get the election of the office bearers of the petitioner association conducted within three weeks from the date of receipt of a copy of this judgment and order, after informing the FAI about it so that it could send its observer on the date of election;

(d) In view of the judgment and order passed by this Court in writ petition being WP(C) No.118 of 2020 above, the writ petition being WP(C) No.537 of 2020 stands disposed of.

There shall be no order as to costs.