

(1992) 05 DEL CK 0044

In the Delhi High Court

Case No : Interim Application No. 10428 of 1991, 2645 of 1992 and Suit No. 3003 of 1991

Prithipal Singh

APPELLANT

Vs

Board of Control for Cricket in India and Others

RESPONDENT

Date of Decision : 10-05-1992

Acts Referred:

Citation : (1992) 48 DLT 107 : (1992) RLR 404

Hon'ble Judges : Usha Mehra, J

Bench : Single Bench

Advocate : Ashok Sapra, K.K. Mehra and S.K. Chaudhary, for the Appellant;

Judgement

Usha Merhra, J.

(1) Shri Prithipal Singh alleges to be continuing as the President of Himachal Pradesh Cricket Association (hereinafter referred to as H.P.C.A.) since 1980, and Therefore sought directions against defendant No. 1, the Board of Control for Cricket in India, to accept him as nominee of H.P.C.A., being its president.

(2) In short the case of "the plaintiff is that the defendant "No. 1, a registered body, was established with the object of controlling the game of cricket in India. It has its own Rules and Regulations, according to which various Associations in India who are Full Members of the said Board have to send one representative on the Board of defendant No. 1. H.P.C.A. is the "Full Member" of defendant No. 1. plaintiff being President had been representing the Hpca as its representative. Being its president, all the correspondence had been exchanged between defendant No. 1 with the plaintiff in pursuance to the circulars issued by defendant No. 1 and defendant No. 2. On 31st July, 1991, plaintiff attended the meeting of the defendant No. 1 as the representative of the H.P.C.A. Defendant No. 4 was earlier the Vice- president of the said Association, but subsequently claimed to be the president of Hpca, which fact the plaintiff has denied. News item was also given wherein it was reported that defendant No. 3 as the

president of defendant No. 1 had recognised the claim of defendant No. 4 as president of HPCA. Before acknowledging the claim of defendant No. 4, defendants I to 3 never called upon the plaintiff nor given any reasonable opportunity of being heard. The General Body Meeting of the Board of defendant No. 1 was scheduled to be held on 28th & 29th September, 1991, in which election of its office bearers were to take place. On 25.9.91, defendant No. 3 recognised defendant No. 4 as the president of Hpca and allowed him to attend the meeting of the Board of defendant No. 1 as representative of the Hpca to be held on 28th September, 1991. This decision was conveyed to the plaintiff, whereas some members of the Hpca had authorised the plaintiff to represent the Hpca in the meeting to be held by defendant No. 1. It is in this background that the injunction was sought by the plaintiff.

(3) Notice of this application was issued to the defendants. Defendants I to 3 filed the written statement and so did the defendant No. 4. They also filed the replies. In the replies it has been pleaded that so far as the dispute between the plaintiff and defendant No. 4 is concerned that is already a subject matter of litigation in Himachal Pradesh Court. The matter being subjudice, the present suit is not maintainable. Even otherwise the interim relief if granted, would amount to decreeing the suit. The suit has otherwise become infructuous because the plaintiff was allowed to attend the meeting held on 29th September, 1991. Therefore, the suit has become infructuous.

(4) I have heard Mr. Ashok Sapra for the plaintiff, Mr. S.K. Chaudhary for defendant No. 4 and Mr. K.K. Mehra for defendants 1 & 2. Mr. Chaudhary has filed the order passed by Shri M.K.. Bansal, Sub Judge 1st Class (II) Hamirpur, dated 18.12.91. Vide the said order he has restrained by way of ad-interim injunction, the present plaintiff from interfering into the day-to-day functioning of the Hpca and also from proclaiming to be president and holding any other meeting in this respect, till further orders. The present plaintiff has filed the written statement and reply in the said suit. But this fact he concealed from this Court when he filed the present suit on 27.9.91. At no stage he brought this fact to the notice of the Court not even subsequently, that the defendant No. 4 and the Hpca have filed a suit against him at Hamirpur.

(5) Therefore, in view of this concealment of fact, the plaintiff is not entitled to any relief. Even otherwise nothing survives because meetings against which he wanted restrained order have already been held and the plaintiff was allowed to participate in one of the same. . Had the fact of previously instituted suit against plaintiff been brought to the notice of this Court, this Court might not have granted the discretionary relief. plaintiff in fact concealed this fact of pendency of suit before Sub Judge at Hamirpur, nor informed this Court that the said Sub Judge has already restrained the present plaintiff from proclaiming himself to be the president. The relief sought in this application is in violation of the injunction order passed by the Sub Judge, Hamirpur, which suit was filed prior in a point of time. The plaintiff has also not filed any replication or rejoinder to controvert

these averments that the Hamirpur Court in Himachal Pradesh was already seized of the matter and had restrained him from interfering in the day-to-day functioning of the Hpca, through defendant No. 4. Moreover from the documentary evidence placed on record it is apparent that the meeting dated 13th September, 1990 was held under Chairmanship of the present plaintiff when the defendant No. 4 was elected as president.

(6) Therefore, his averment that he came to know only through newspaper that the meeting was held on 13.9.91, is nothing but an act of misrepresentation on the part of the plaintiff. On the face of these documents which have not been refuted by the plaintiff, the plaintiff is not entitled to any discretionary relief, rather is liable to be prosecuted for perjury .

(7) In view of my above discussion, the stay already granted in favor of the plaintiff is hereby vacated. It is further clarified that the ex-parte injunction granted vide order dated 28.9.91 pertained to only one meeting which was scheduled to be held on 29.9.91 and not for any subsequent meetings. Both the applications stand disposed of.