

(2017) 10 DEL CK 0078

In the Delhi High Court

Case No : Civil Writ Petition No. 195 Of 2010

Rahul Mehra

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 31-10-2017

Acts Referred:

Constitution Of India, 1950 — Article 14, 25

Citation : (2017) 10 DEL CK 0078

Hon'ble Judges : S. Ravindra Bhat, J;Najmi Waziri, J

Bench : Division Bench

Advocate : Rahul Mehra, Anil Soni, Naginder Benipal, Anil Grover, Mishal Vij, Hrishikesh, Hemant, P.V. Kapur, Premtosh Mishra, Yojna Goyal, Saloni Aggarwal, Divyaa Kapur, Pratibha Sridhar, Sidhant Kapur, V.K. Nagrath, Jitender Panchal

Judgement

Najmi Waziri, J

CM 46919/ 2016 & CM 19815/2012

1. On 15.12.2016, this Court had stayed the election process of the All India Football Federation (AIFF), of which the applicant seeks vacation and/or modification. The order reads as under:

"CM No.5982/2012 in WP(C) 195/2010 (Disposed off application)

Issue notice. Mr. Anil Soni accepts notice for respondent nos. 1 & 2. Issue notice to respondent nos. 3 to 13, returnable on 20.01.2017. The petitioner urges that the elections to All India Football Federation are prima facie in conflict with the directions of this Court and relies upon the previous orders dated 11.04.2012, 25.04.2012, 13.09.2012, 17.09.2012 and 18.12.2012. The last order i.e. order dated 18.12.2012 was in respect of elections to the All India Football Federation. The Court had suspended the election proceedings and in the other order, the Court had directed that elections to the National Sports Federations/Indian Olympic Association (IOA), as the case may be, ought to be conducted not only as per the applicable rules of the institution concerned, but also in consonance

with the National Sports Code of the Govt. of India and the elections guidelines contained therein - both with respect to conduct as well as eligibility conditions including age, tenure and restrictions. In the circumstances, prima facie we are of the opinion that the elections scheduled for 21.12.2016 to the All India Football Federation should be stayed. It is hereby so directed. The All India Football Federation - respondent No. 8, which is a party in these proceedings - is hereby restrained from completing its election scheduled for 21.12.2016. Union of India is hereby directed to ensure that the elections to the Archery Association of India (AAI) are conducted in consonance with the constitution of the said institution, the National Sports Code and also in conformity of the orders of this Court dated 17.09.2012 & 15.10.2012 in CM No. 5982/2012, especially paras 4 and 7 of the order dated 15.10.2012. It is also directed that complaints of the States/Union Territories/Institutions for inclusion of their names in the Electoral College should also be resolved before the date of the elections. The election process shall be completed not later than 31.03.2017....."

2. Earlier, apropos a challenge to the election of the Archery Association of India (AAI), this Court on 15.10.2012 had passed the following order:

"CM No.5982/2012 (of the petitioner for directions)

1. This application pertains to the Archery Association of India (AAI). On 17.09.2012, it was informed that a General Council Meeting of the AAI was scheduled to be held on 29.09.2012, when the elections of the AAI were also to be held. Vide order of the said date, it was directed that only if elections of AAI are held in accordance with its Bye-laws / Memorandum / Rules as well as the Sports Code of the Government of India, will the Government of India accord recognition to the AAI and not otherwise.

2. The petitioner today informs that the elections were not so held on 29.09.2012. He has handed over in the Court a copy of the letter dated 08.10.2012 of the AAI to the Presidents / Secretaries of affiliated Regular State Associations / Units and to the Executive Members of the AAI laying down the schedule of the elections now proposed to be held on 28.10.2012. He further states that though Justice J.D. Kapoor (Retd.) has been appointed by the AAI as the Returning Officer for the elections but the elections as proposed to be held are in contravention of the National Sports Development Code of India, 2011. The following contraventions have been pointed out:

(a) that as per the letter dated 08.10.2012 supra, the nominations are to be submitted either in person or through registered post in a sealed envelope though addressed to the Returning Officer but at the address of Sh. Vijay Kumar Malhotra, the present President of the AAI. It is argued that since Sh. Vijay Kumar Malhotra is also one of the contestants in the proposed elections, the submission of nominations at his address is improper;

(b) that there is no certainty of the Electoral College and the same is being tampered with. Attention in this regard is invited to the list of affiliated Units of

the AAI as on 01.04.2008 and as earlier appeared on the website of the AAI and which included Himachal Pradesh Archery Association (HPAA) and Uttarakhand Archery Association (UAA). Attention is next invited to the list of affiliated Units as on 01.04.2008 as now appearing on the website of the AAI and from which list, the aforesaid HPAA and UAA are missing. It is contended that the persons who have been in the management and control of the AAI for decades, have attempted to remove the said two Associations from the Electoral College apprehending that they will not vote in favour of the said persons. Similarly, it is contended that the Associations of the State of Mizoram, Tripura and Arunachal Pradesh have been removed from the Electoral College. Correspondence in this regard with the Arunachal CM No. 10461/2017 in Pradesh Archery Association is also handed over. Copy of the letters written by the Archery Association of Assam expressing doubts as to the fairness of the elections proposed to be held are also handed over;

(c) that the letter dated 08.10.2012 does not prescribe that the elections will be held by secret ballot;

(d) that the Forms of nomination and withdrawal of nomination prescribed are different from the Model Forms prescribed in the Code aforesaid; and

(e) that no time for campaigning has been given, again with a view to not allow any other person to contest the elections.

3. We find that Clause 4(4) of the Model Election Guidelines to be followed by all National Sports Federations (as AAI is) contained in the Code, require each Member State / Union Territory to intimate the names of their representatives by a specified date and Clause 4(5) requires the National Sports Federation to prepare a list of such Authorized Representatives and circulate a copy of the said list to all member States / Union Territories / Boards / Institutions by display on the website. Clause 4(6) requires the President / Secretary General of the Federation to furnish the said list immediately to the Returning Officer also. A perusal of the letter dated 08.10.2012 shows that the date of 15.10.2012 has been prescribed for receipt of names of representatives from member Associations / Units and of 16.10.2012 has been prescribed for finalization and delivery of authorized list of Representatives to the Returning Officer. No date for circulating the list of Authorized Representatives of the member States / Union Territories / Board / Institutions to all member States / Union Territories / Board / Institutions or for publication on the website has been prescribed. Rather, the dates of 18.10.2012 to 22.10.2012 immediately thereafter have been prescribed for submission of nomination forms. Upon the same being brought to the attention of the senior counsel for the AAI, he states that even though no date for such circulation in compliance with Clause 4(4) to 4(6) has been prescribed but in compliance therewith, upon finalization of the list on 16.10.2012, it shall be put up on the website. We are however of the opinion that the very purpose of so displaying the list on the website and/or circulating it, is to enable the persons if any aggrieved from the said list to make

representations. The schedule of the proposed elections as fixed in the letter dated 08.10.2012 does not leave scope for any objections to be preferred to the list to be so circulated.

4. Mr. Mehra has in this regard also drawn our attention to the letter dated 01.11.2011 of the Government of India to the Gymnastic Federation of India regarding its elections and which letter is to be read as part of the Code, prescribing the stages of:

§ issuance of notice for election and inviting the names of representatives from state Units to form Electoral College;

§ publication of Electoral College;

§ appointment of Returning Officer;

§ Returning Officer to call nominations;

§ Screening of nominations by Returning Officer;

§ Publication of valid nominations also indicating the details of invalid nominations by the Returning Officer;

§ Time for withdrawal of nominations;

§ Publication of final list of candidates by Returning Officer; Adequate time for canvassing;

§ Holding of elections by secret ballot by the Returning Officer; and

§ Announcement of election results by the Returning Officer with reasonable time gaps, in the election process.

He has contended that the election process, as prescribed in the Code, is to be in the aforesaid manner; the process prescribed in the letter dated 08.10.2012 is thus not as per the Code and leaves scope for mischief.

5. Attention is also invited to the letter dated 24.12.2009 of the Government Observer for elections to Hockey India, 2010, also requiring publication of the list of contestants drawn after scrutiny, for information of all contestants and Electoral College members and further prescribing election by secret ballot.

6. Reference in this regard is also made to the judgment dated 04.01.2012 in W.P.(C) No.4860/2011 titled Haryana Wrestling Association Vs. Wrestling Federation of India of a Single Judge of this Court, also holding the elections to have been not held fairly on account of tight time schedule fixed for conduct of the elections.

7. The Model Guidelines *supra* in the Sports Code, vide Clause 6(4) require the nominations to be personally delivered to the Returning Officer in person by the candidate himself / herself. The procedure prescribed in the letter dated 08.10.2012 of the AAI, of filing of nominations in person or through registered

post at the address of the President of the AAI is thus not in accordance with the Sports Code.

8. Faced with the same, the senior counsel for the AAI states that the necessary modifications shall be issued.

9. The nomination forms as prescribed in the letter dated 08.10.2012 are indeed not as per the Model Forms prescribed in the Guidelines aforesaid. The same require the nomination paper to prescribe the "serial number in the Electoral College" and which column is missing from the nomination form prescribed by the AAI. Mr. Mehra contends that it has been so deleted since the Electoral College is being manipulated. The same is the position vis-a-vis the withdrawal form.

10. This Court has already on 17.09.2012 directed the Elections to be held as per the Sports Code. Variations in the election process initiated by the AAI from the Sports Code having been noticed, it is deemed expedient to direct fresh steps for holding of the elections to be taken and strictly in accordance with the Sports Code and rectifying the defects hereinabove noted.

11. Since Justice J.D. Kapoor (Retd.) is informed to be appointed as Returning Officer, we request the Returning Officer to look into all the aforesaid aspects and the other requirements as per the Code and to lay down the fresh schedule for conduct of the elections, rectifying the aforesaid defects and strictly in accordance with the Code. The complaints of the States / Union Territories / Institutions for inclusion in the Electoral College be also resolved before the same. However the election process be completed as soon as possible.

12. AAI to immediately furnish copy of this order to the Returning Officer for compliance.

13. With the aforesaid directions, the application is disposed of..." (Emphasis supplied)

3. The applicant contends that once initiated, the election process should not be stayed and that the order of 15.12.2016 was passed in the absence of its counsel. The applicant is a registered Society, governed by its constitution which provides a detailed mechanism for conducting its elections and the applicant is required to adhere to the same; that in compliance of this Court's order dated 18.12.2012 the election process was initiated on 17.11.2016 according to the Society's Bye-laws, Rules and Regulations, as well as the National Sports Code. It is contended that the election was to be held on 21.12.2016 in its Annual General Meeting; that a retired Judge of a High Court had been appointed as the Returning Officer on 25.11.2016, on which date the Electoral Roll of the applicant Society had been furnished to him; the agenda of Annual General Meeting was sent to the Society's members on 5th December, 2016. On 24.11.2016 the Secretary General, Indian Olympic Association (IOA)/ had appointed Observers for the AGM. On 17.12.2016 nominations of the candidates were duly scrutinized

by the Returning Officer and a list of candidates with valid nominations were prepared. The date for filing valid nominations was 10.12.2016. The applicant further submits that in consonance with the guidelines of the Sports Code, candidates whose nominations were equal to the number of posts required to be filled in the elections, were deemed to be elected unopposed; that the National Sports Code and the rules and regulations of the applicant are not incongruous in particular, Clause 9 of the Model Election Guidelines. On 11.12.2016, the list of candidates for the various posts was circulated with the intimation that the formal announcement for the successful (elected) candidates will be made in the agenda of the meeting proposed to be held on 21.12.2016.

4. The applicant submits that on 18.12.2012, this Court had directed the AIFF to follow Bye-Laws, Rules and Regulations and the Sports Code by holding elections due on 20th December 2016; that the elections were duly held and the Government of India has recognized the same as valid as per the AIFF constitution as well as the Sports Code and accordingly granted recognition to the aforesaid elected body. The applicant contends that the current elections also are being held under the same rules and in compliance with the Sports Code, in particular, under Article 25 of its Constitution; that its President and Treasurer are eligible to hold the posts for a maximum of 3 and 2 four year terms, respectively. Since the tenure of the previous office bearers was to expire on 19.12.2016, by a notice dated 20.11.2016, the process of election was scheduled for 21.12.2016. However, on 20.12.2016, this Court as an interim measure had modified the order on 15th December, 2016 to the extent that the election could proceed but its result could be subject to the final outcome of the application CM No. 19815/2015.

5. The applicant urges that it has a responsibility of popularizing and promoting the sport of football in India and for organizing its own domestic and international competitions; that under Article 14 of its constitution, it has to comply with the Statutes, Regulations, Directions and Decisions of the Federation of International Football Association (FIFA), the international organization which governs international football competitions and with which the applicant is affiliated. It also contends that under Article 27 of FIFA's constitution, the mechanism prescribed for election for its President and other office bearers is that a prospective candidate is required to have the support of at least five member associations. In other words, a candidature for election would be valid only if it had the support of or is proposed by five member associations with the condition that each member association could support only one candidate. It is argued that likewise, for the election of the applicant's own Executive Committee and its President, Vice President and Treasurer, a prospective candidate is required to have at least five Permanent and/or Associate Members as its proposers. According to the applicant, a Permanent and/or Associate Member can propose the name of only one candidate for the post of President; and only one candidate from each Zone for the post of Vice President; and only two candidates from each Zone as Members of the Executive Committee.

6. It is argued that the National Sports Code itself requires the applicant to be affiliated with FIFA. However, for the continued affiliation with the latter, compliance with the Rules of FIFA is essential. The applicant further submits that National Sports Code itself acknowledges and recognises that the National Sports Federations are fully responsible and accountable for the overall management, direction, control, regulation, promotion and development, and sponsorship of the discipline of sports for which they are recognised by the International Federation concerned. Therefore, there is an expectation of the AIFF to adopt such practices as would ensure its continued affiliation with the FIFA. The applicant further submits that rule of One State - One Member - One Vote, as followed by the AIFF is an universally valid practice and indeed, has found favour in the matter of Board of Control for Cricket vs. Cricket Association of Bihar & Ors 2016 (8) SCC 535

7. The writ petitioner, Mr. Mehra refuted the applicant/association's submissions and argued that the elections were in clear violation of the National Sports Code, the adherence to which is necessary for the said AIFF to be recognised by the Government of India. He contends that the National Sports Code 2011 as well as the Model Election Guidelines stipulated under it, are to be mandatorily followed by the IOA and all National Sports Federations (NSFs) to enjoy various facilities and concessions and/or to receive financial and other assistance from the Government of India. This assistance is in the form of grant of use of large stadia and facilities at nominal lease/rent, income and entertainment tax exemptions, customs/duty exemption, railway concession, admissions to schools and colleges and grant of government jobs under the sports quota, grant of import license on restricted items and to derive the authority to perform the public functions of selecting and deputing the national teams for participation in recognized international sport competitions, which involve representation of member countries, and to represent the country in international associations, events, meets, conferences, etc. Therefore, to enjoy the aforesaid benefits and privileges at the national level, the NSF would have to comply with the stipulations mandated in the Sports Code. In particular, the petitioner relies on Clause 5.1 (c) (iii) which stipulates that in case of failure to comply with the Sports Code, the aforesaid facilities, concessions, financial assistance and others provided by the government of India would not be available to a sports federation. Relying upon Clause 8 of the Sports Code read with its Annexures II and XV, the petitioner contends that recognition of an NSF is for four years or for the elected term of the sports body. Instead, the affiliation has to be renewed annually so that the Government can monitor that the Sports Federation continues to observe and comply with the eligibility criteria as laid down under Clause 9.3 (xiii). These criteria include the limit of tenure and age of office bearers of the NSFs as notified in Annexure XIII notified on 01.05.2010, inclusion of sportspersons (say 25%) and (iii) holding elections of their office bearers as per Model Election Guidelines, etc.

8. The petitioner further submits that the National Sports Code has already

received judicial imprimatur by an order of this Court on 09.05.2014 in WP (C) 2310 of 2012 viz. Indian Olympic Association vs. UOI where it was held inter alia that the maximum tenure for the posts of President and Vice President and the Secretary and Treasurer is 12 years. Such elected persons can serve for a maximum of two successful terms of four years each after which the minimum cooling period of four years would apply before fresh election can be sought by the candidate. The aforesaid three office bearers - viz. President, Secretary and Treasurer shall cease to hold that post upon attaining the age of 70 years. In the aforesaid order the Court further observed:

"the other provisions in respect of the tenure limit as contained in the letter of 1975 mentioned above shall as it is. The above dispensation will come into operation with immediate effect. This regulation (subject to any subsequent amendments) should, till appropriate legislation is framed by Parliament, bind the parties and all NSFs as a condition for recognition, aid and crucially, for the use of the term "India" by any team in International Olympic sporting event"

9. The petitioner contends that on 17th November, 2016, all permanent and associate members of the All India Football Federation were intimated that the Annual General Body Meeting of the AIFF will be held on 21.12.2016 at New Delhi. Nomination forms would be available from the Returning Officer, whose name was intimated a week later on 25th November. List of electoral college along with the details of the Returning Officer i.e. his address was mentioned. However, his landline telephone number was intimated through email on 30.11.2016. Effectively, prospective candidates for the elections could have initiated contact with the Returning Officer by post only after receipt of information on 25th November and through telephone only after 30.11.2016. The petitioner argues that there has been a failure on part of the AIFF by not adhering to the Sports Code on various counts including (i) each member associate of a NSF can nominate two delegates and cast two votes whereas in the AIFF's electoral process, each of its member association can send only one delegate and has to cast only one vote (Clause 4); (ii) as per Clause 6(2) of the Model Election Guidelines of the Sports Code (Annexure XXXVII), each candidate for election as officer bearer or a member of the Managing Committee has to be proposed by one of the representative of the member association and seconded by one such representative, whereas, in the AIFF's electoral process, each candidate for the post of President, Vice-President, Treasurer or Member of the Executive Committee has to be proposed by at least 5 permanent and/or associate members as per Clause 25.3 of the AIFF's Constitution. The AIFF justifies the requirement of five proposers to a candidate's nomination by relying on Article 27(1) of the FIFA Constitution which, it contends is a necessity for its continued affiliation with FIFA- the international sports body.

10. The applicant argues that its electoral contains 35 permanent associate members. Five of such members can nominate prospective candidates. For the post of one President, one Vice President and one Treasurer, there can be, say

seven candidates contesting. However, whether members chose to nominate 7 candidates to contest either of the posts, would be the discretion of each member and cannot be the subject matter of the writ petition. It is argued that the election to the aforesaid three posts, though honorary and without remuneration, places onerous responsibility of guiding and managing the affairs of the sport of football throughout the country. The applicant further submits that there is no default with respect to the representation of sports persons with voting rights in the management of the NSF and while it is endeavouring to increase their participation, it has already co-opted two international players and a FIFA recognised Referee to its Executive Committee. These three persons are Mr. Deepak Kumar, Mr. Deepak Sharma as players and Mr. Deepak Chauhan as referee. The applicant argues that the nomination of sports persons to the Executive Committee is done by the State Associations; besides, the language of Clause 9.3 (XI) of the Sports Code suggests that it is only directory in nature and not mandatory apropos elections of such sports persons to the executive committee.

11. The aforesaid clause shows that it is applicable only for elections of the President of FIFA and not for the election of the office bearers and the Executive Committee of the AIFF. It does not direct the FIFA member association to necessarily follow the same rule. Perhaps for a scheme of its international affairs, FIFA considered it prudent to have at least a minimum of 5 member associations to nominate apropos candidature for the post of President FIFA. This was deemed perhaps all the more necessary since the election to the international body would be on the basis of votes from National Sports Bodies so as to lend some gravitas to serious candidature. However, there has not been any such compulsion on the AIFF to follow the same pattern of nomination by five members for the election of office bearers to the AIFF, the same is really restrictive and undemocratic. Furthermore, so far as the Sports Code requires one proposer and one seconder for each nomination, this principle would have to be implemented and anything in derogation thereto would have to be disregarded. A robust and more egalitarian participation in the elections would not only be in keeping with the ethos of a sports promotion body but could also lead to good governance in accordance with best international practices. It would also be fair that the prospective candidates declare their age as on the date of the election so as to obviate any doubt about their tenure should they be elected. The Sports Code recognises minimum age of an office bearer to be 70 years; such minimum term of an elected officer bearer which includes President, Secretary and Treasurer of a National Sports Federation. As regards the electoral college, the petitioner states that the same was not properly prepared because complaints have been lodged with the Returning Officer by the Goa Football Association, Delhi Soccer Association, Haryana Football Association, Telengana Football Association and Uttar Pradesh Football Sangh, etc.

12. By an order dated 17.11.2016, the office of Registrar of Societies had directed that the elections to the said society (Delhi Soccer Association) which

was overdue since May, 2015 be concluded within 25 days from the date of receipt of that letter. It requested the AIFF to direct DSA to conduct the elections before the AIFF elections, pending which the DSA would not be properly represented nor would it be able to participate in the AIFF elections scheduled to be held on 25.12.2016. Likewise, the AP Football Association had expressed its concerns and constraints with respect to the existing affairs of the game of football especially after the division of Andhra Pradesh into the two States of Telangana and Andhra Pradesh. Its President rued the fact that the affairs of the sport of football were paralysed in the entire erstwhile undivided State of Andhra Pradesh. Intriguingly, he requested that "Now, we request you to consider one nomination for any suitable post in the Executive Committee for Telangana State or Andhra Pradesh State."

13. In a similar vein, Mr. D.K Bose of the Hindustan Football Club, Delhi had written a letter dated 30.11.2016 to the Ministry of Youth Affairs and Sports, Government of India. Mr. Welvin Menezes, Hon. General Secretary, Goa Football Association also wrote a letter dated 6.12.2016 complaining to the "Returning Officer of AIFF Executive Committee Elections 2016" that there was a breach of 30 days required notice in the receipt of electoral college in consonance with Article 23.2. of AIFF Constitution. The Roll of the Electoral College was sent on 23.11.2016 while the AGM was scheduled on 21.12.2016. Furthermore, the name and the contact details of the returning office should have been intimated to all Member Associations at least 30 days before the AGM. The same was intimated on 25th November, 2016 and again on 30th November, 2016 with an addition of the landline number. This land line number provided was incorrect. This was done when the elections were to be held 21 days later. It also alleged electoral malpractice and breach of good governance and ethics on part of the Senior Vice President of AIFF, Mr. Subrato Dutta insofar as he sent an email to all Member Associations giving a list of the proposed Executive Committee members with various posts of office bearers and members. Further, the letter mentioned that this was followed by a related SMS referring to the earlier e-mail exhorting indeed, instructing all members that they have to fill up the nomination forms in accordance with the proposed executive committee mailed by Mr. Dutta. Mr. Welvin Menezes, Hon. General Secretary, Goa Football Association further wrote, "the above is a clear misuse of the position as Senior Vice President of AIFF to manipulate the election process and influence the composition of the Executive Committee"

14. The Goa Football Association (GFA) further drew the attention of the Returning Officer to the breach in the electoral process i.e. requirement by the applicant AIFF for five proposals for prospective candidates to the elections instead of one as required under the National Sports Code as well as the requirement of one delegate one vote. The GFA also referred to a few other essential aspects of the sport of football in Goa such as (i) Goa has a vibrant football culture; (ii) It is one of the two power houses of Indian football along with West Bengal; (iii) it has 192 football clubs affiliated to it and has a four tier

senior league along with age group competitions from under - 14 to under - 20; (iv) Goa is the only State in the country whose Government has declared football as the State Sport. The petitioner Mr. Rahul Mehra, asseverates that the letter dated 11.12.2016 issued by the AIFF to all member associations is fait accompli insofar as President, Vice President and five office bearers represent North, East, West, South and North-East and nine members of the Executive Committee being elected in the posts unopposed. Their having been aforesaid was merely formal to be announced by the R.O. on 21.12.2016. This according to the petitioner was nothing but a falsity being perpetuated since the elections were representative.

15. The petitioner contends that the elections need to be set aside and otherwise not given effect to, because the Electoral College is not in consonance with Rule 4 of the Model Code which provides the votes each permanent member would have for the election of office bearers and the rest of the Executive Committee. On 05.12.2016, the AIFF was requested to send the list of the Electoral College so that prospective candidates could meet the delegates/persons who would be casting the votes, but the same was not made available till 13.12.2016; whereas the elections were due 9 days later on 21.12.2016. Furthermore, the name of delegates who would cast votes had been changed and the Electoral College in terms of the letter dated 13.12.2016 was significantly different from that when the elections took place.

16. Mr. P.V. Kapur, the learned counsel for the respondent submits that there is no basis to suggest that the nominees representing the voting members are persons to whom the candidate should canvass, and the National Sports Code does not say that it prevails upon international laws or rules of the FIFA.

17. We do not find the said argument tenable because by its order dated 9.5.2014 in WP (C) 2310 of 2012, this Court has already directed that the National Sports Code shall be applicable till appropriate legislation is framed by the Parliament and shall bind all the National Sports Federations as a condition for benefit of national aid/grants and for use of the term "India" by any team in international sports events.

18. The Court is also unable to agree with the applicant's contention because till the votes are cast it would not be known as to in whose favour they would be cast. Therefore, at least till the votes are cast the prospective candidates should have the opportunity to canvass for their candidature to the members nominated to vote as per the Electoral Roll. These nominees would ordinarily be persons holding executive positions in their respective Executive Committees, therefore, canvassing to them would be of some significance. The purpose of democratic elections is that candidates contesting for different posts should be able to do so freely and should be able to canvass with the electorate. Opacity and confusion as to whom the canvassing should be done to cannot be deemed to be fair practice in any election. Therefore, the change of the Electoral Roll on the date of casting of votes vitiates the entire process since the electorate had changed. In

such circumstances, the votes cast on 21.12.2015 and results declared cannot be held to be valid.

19. Furthermore, the argument that a prospective candidate is necessarily required to have five proposals in terms of the FIFA Constitution for a valid nomination is untenable because the said clause applies only to elections to FIFA and this condition is not mandated for elections to the respective National Sports Member Associations' bodies. Clause 27(1) of the FIFA constitution reads as under:

"Only the member associations may propose candidatures for the office of FIFA President. A candidate for the office of FIFA President shall only be valid if supported by a total of at least five member associations. Member associations must notify the FIFA general secretariat, in writing, of a candidature for the FIFA presidency at least four months before the start of the Congress, together with the declarations of support of at least five member associations. A candidate for the office of FIFA President shall have played an active role in association football (e.g. as a player or an official within FIFA, a confederation or an association, etc.) for two of the last five years before being proposed as a candidate and must pass an eligibility check carried out by the Review Committee in accordance with the FIFA Governance Regulations."

20. Evidently, the said provision is apropos elections to the international body and not for the national football association of a Member Association. There is nothing on record to show that the same method of voting is essential for the Member Associations of FIFA and the said clause is either mandatory or applicable to the applicant. Hence, it will have to be disregarded, especially since it is not in consonance with the National Sports Code.

21. The Court is of the view that: (i) in the absence of the list of the Electoral College having been shared with the candidates; (ii) the requirement of five voting members as per the schedule of the applicant Society; (iii) the non-adherence to the format specified / mandated in the National Sports Code; (iv) prevention of certain members from participating fully in the elections, in particular - the Delhi Football Association, the elections cannot be held to be valid in terms of the National Sports Code.

22. The Court is of the view that insofar as the Rules of the AIFF are in breach of the National Sports Code and the Model Guidelines for the conduct of elections, the results of the elections of the AIFF declared on 21.12.2016 would have to be set aside. It is so ordered. Fresh elections shall be conducted in accordance with the Model Guidelines. Additionally, nominations would be required to be proposed and seconded by one member association each and with clear notice, as required by the Model Election Guidelines read with rules of AIFF. Furthermore, the Electoral College shall be first prepared after addressing the complaints of various members who may have grievances in this regard. This exercise should be carried out by a person who has experience in sports affairs, public

administration and conduct of elections. Accordingly, this Court directs Mr. S.Y. Quraishi, Former Chief Election Commissioner of India, who has also served as Secretary in the Ministry of Youth Affairs and Sports, Government of India to be appointed as the Administrator-cum-Returning Officer for the conduct of the elections of the AIFF in the following manner:

(i) To resolve the issue of disaffiliation of members/units of AIFF as on 30th November, 2016 and to prepare the Electoral List, within a month by giving the concerned parties two weeks' notice;

(ii) Elections shall be held in six weeks after the preparation of the Electoral college. This elected body shall carry out the requisite amendments to the AIFF Constitution to bring it in conformity with the National Sports Code.

(iii) Once the AIFF Constitution has been amended, a fresh round of elections shall be carried out in terms of the National Sports Code, to ensure that age and tenure restrictions along with the provision for due representation of the sports-persons are strictly complied with.

(iv) The AIFF shall make available to the Administrator an appropriate office space and facilities for the discharge of the aforesaid directions and make available such staff and personnel as the Administrator may express the need for. Alternatively, the Administrator may appoint such personnel to assist him in the aforesaid matter and expenses towards the same shall be borne by the AIFF.

(v) Till the elections are conducted and results declared in consonance of the National Sports Code and in compliance with the preceding directions, the AIFF shall not make any new financial commitments except with the prior approval of the Administrator. Routine expenses of AIFF too shall be defrayed, only with the prior approval of the Administrator. The entire exercise will be completed within five months from the date the Administrator assumes charge;

(vi) However, to obviate any impediment in the conduct of any competitive tournament that may have been scheduled by the applicant, this order shall come into effect after two weeks from today.

23. The applicant and the AIFF shall seek consent of Mr. S.Y. Quraishi, of his acceptance of the aforementioned responsibility.

24. The Court would consider fixing an honorarium for the Administrator's assignment at a later date.

25. The applications are disposed off in the above terms.