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**(1997) 11 CAL CK 0012**  
**In the Calcutta High Court**  
**Case No : Writ Petition No. 1970 of 1997**

Shyamal Ghosh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 17-11-1997

**Acts Referred:**

Constitution of India, 1950 — Article 12, 226

**Citation :** AIR 1998 Cal 199

**Hon'ble Judges :** Pinaki Chandra Ghose, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Pinaki Chandra Ghose, J.—This writ application has been filed against the Board of control for Cricket of India (herein after referred to as BCCI) challenging an interview scheduled to be held on 13th and 14th September, 1997 of the candidates selected on the basis of the Examination held on 4th May, 1997.

The facts of the case in the petition are as follows :

The writ petitioner after passing the probationary Examination held by the Cricket Association of Bengal in the year 1988-89 for selecting the candidates as Umpires to conduct the cricket matches within this State and the petitioner was empanelled as a State Panel Umpire, Grade-III in the year 1990-91. Subsequently, thereto, in the year 1994-95 petitioner became a State Panel Umpire, Grade-I. On March 6, 1997 a notice was issued by the BCCI to all its affiliated Associations to the effect that the Board was going to conduct an examination for selection of Umpires on the panel of the State Association.

2. The petitioner on February 20, 1997 received a letter from the Cricket Association of Bengal (hereinafter referred to as CAB), whereby the petitioner was informed that the BCCI was going to conduct the Ranji Panel umpires Examination in the end of April, 1997 for selecting the eligible candidates.

3. The petitioner's further allegation was that holding the examination on the basis of obsolete and/or "presided laws in unfair and unjust. Thereafter, the petitioner on September. 9, 1997 came to learn that the BCCI was going to hold an interview of the selected candidates on 13th and 14th September, 1997, and the writ petitioner has challenged the said fact in this writ application.

4. Mr. Usanath Banerjee appeared on behalf of the respondents states that this Court has no jurisdiction inasmuch as none the recourse of the case are not lying within the jurisdiction of the Original Side of this Court. Furthermore, the respondent No. 2 is neither a instrumentality of the State nor "other authority" within the meaning and the ambit of the Article 12 of the Constitution of India and thus the writ Court has no jurisdiction to entertain this application.

5. He further submitted as follows :

(a) Board of Control for Cricket in India (BCCI), being the Respondent No. 2 herein is an autonomous association limited and restricted to its Members only and registered under the Societies Registration Act. It is a private organisation whose objects are to promote the game of Cricket in India. Its functions are regulated under its own Rules. It has got nothing to do as regards others who are not Members.

(b) The Respondent No. 2 receives no grant or assistance in any form or manner from the Government. In this context, it may be stated that in a writ, under Article 32 of the Constitution of India (Writ Petition No. 859 of 1989) filed by one Sri Vineet Kumar against the BCCI before the Hon'ble Supreme Court of India (which was subsequently withdrawn), Union of India filed a Note stating categorically that as because BCCI does not follow the Government Guidelines which have been consolidated and issued under the title "Sports India Operation Excellence" vide Circular No. F. 1 -27/86-DESK-1 (S.P.IV) dated 16th February, 1988 issued by the Department of Youth Affairs & Sports, Government of India has neither extended any financial assistance to BCCI nor has any relationship of whatsoever nature with it and no financial assistance is also extended for participation of any tournament, competition or otherwise organised by BCCI.

(c) BCCI is neither controlled by the Government Agency nor receives any financial assistance or grant of whatsoever nature. References may be made to the case of Secretary, Ministry of Information and Broadcasting, Govt. of India and others Vs. Cricket Association of Bengal and others,

(d) The entire affairs and management of Respondent No. 2 is controlled by the working committee elected from amongst its members in accordance with its own Rules. There is no representation of the Governmental or any Statutory Body of whatsoever nature or by whatever form in the Respondent No. 2.

(e) There exists no control of the Government over the function, administration, management and affairs of the Respondent No. 2.

(f) Each and every function of the Respondent No. 2 is governed by its own Rules

and Regulations, independent of any Statute. Rules and Regulations of the Respondent No. 2 has neither any statutory force nor it has any statutory powers to make rules having statutory force.

(g) BCCI organises matches and/or tournaments between the Teams of its Members only and with the Members of International Cricket Council and not otherwise. Matches that are organised are played at places belonging to its members only. For the purpose of organising any match or tournament with foreign participants, Board requires and obtains specific prior permission of the Ministry of Sports, as aforesaid.

(h) Respondent No. 2 has neither any statutory powers to make any rules having statutory force.

6. He has also submitted that it has now been well settled that unless a body as "deep pervasive control" of the Government and/or unless the Government functions under the corporate fund of a body, such body cannot be said to be an instrumental and the State or other authority within the ambit of the Article 12 of the Constitution of India.

7. In support of his contention he has referred the case reported in Chander Mohan Khanna Vs. The National Council of Educational Research and Training and other[OVERRULED], Sheela Barse Vs. Secretary, Children's Aid Society and others, Sabhajit Tewary Vs. Union of India (UOI) and Others, in support of his contention that the respondent No. 2 is not a State within the meaning of Article 12 of the Constitution of India and the writ does not lie against the respondents Nos. 2 to 8.

8. After considering the said facts and circumstances of this case I am of the opinion, that the Respondents Nos. 2 to 8 are not the State within the meaning of Article 12 of the Constitution of India and as such no writ lies against them.

9. In the instant case facts show that the examination for selecting the Umpires have been done by respondents Nos. 2 to 8 and there is no scope for the Union of India nor the Union has acted in the matter in any manner whatsoever.

10. In view of the aforesaid facts, I am of the opinion, that the writ application is not maintainable and as such this application is dismissed. No order as to costs.