

(2022) 04 SHI CK 0066

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No.3091 Of 2019

Suresh Kumar (Minor)

APPELLANT

Vs

Board Of Control For Cricket In India And Others

RESPONDENT

Date of Decision : 06-04-2022

Acts Referred:

Citation : (2022) 04 SHI CK 0066

Hon'ble Judges : Mohammad Rafiq, CJ;Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Sunil Mohan Goel, Ankush Dass, Vikrant Thakur

Final Decision : Disposed Of

Judgement

Mohammad Rafiq, CJ

1. This writ petition has been filed by the petitioner-Suresh Kumar in the year 2019, when he was minor, aged only sixteen years, through his father-Dole Ram.

2. The challenge in the writ petition is to the communication dated 22.07.2015 and also the BCCI Age Verification Programme 2015-16, whereby eligibility for Under-19 age group for the purpose of age determination has been kept as per the Government issued birth certificates as primary evidence and ancillary evidence, such as school and hospital records. Prayer has been made to direct the respondents to revert to the BCCI protocol being followed before issuance of impugned communication dated 22.07.2015, whereby in case of a player, who has already participated in the Under-16 tournament on the basis of TW3 bone test, his age calculated as per the TW3 bone age test, may be considered to be the basis for determining his age and the age so determined may be carried forwarded by adding one year per season for Under-19 and Under-23 age group cricket tournaments, respectively. The petitioner has further prayed that birth certificate of such players may be considered authentic only if it is within six months of age determined with the TW3 bone age test and the registration number mentioned in the birth certificate matches with the registration number

in the birth register. In case of a player, who has not participated in Under-16 tournament, a birth certificate registered within a month of birth alongwith certified copy of birth register should be taken as the proof of age.

3. Further prayer made in the writ petition is that the respondents may be directed to fix the cut- off date of eligibility for playing Under-16, Under-19 and Under-23 as 1 st April instead of 1st September of every year for the reason that the inter-district tournaments for all the age groups are held from April/May of every year and as such the advertisement, which is issued in March/April, makes the players born from 1st April to 31st August ineligible for playing under the age group category tournament and only the players born from 1st September to 31st March are only eligible. This arbitrary fixation of cut-off date, according to the petitioner, has shortened his eligibility period to seven months only instead of twelve months. This situation, according to the petitioner, arises in the career of every player during all the three segments of Under-16, Under-19 and Under-23. Prayer has also been made to direct the respondents to make it mandatory for players to submit a certified copy of birth register alongwith birth certificate to verify its authenticity.

4. The petitioner has made very serious allegations in paras 7 to 11 of the writ petition, alleging that the method adopted by the respondents for determination of age and fixation of cut-off date is breeding corruption and is giving rise to preparation/ production of forged date of birth certificates in a big way. This situation has also been taken note of and acknowledged by many international players as would be found from the opinion expressed by them in different articles/interviews/news items placed on record at Annexures P-5 to P-10.

5. Learned Senior Counsel appearing for respondent No.1-BCCI submits that the petitioner instead of approaching this Court should approach respondent No.1-BCCI, because as far as respondent No.2-HPCA is concerned, it is subject to supervision of BCCI and has to act as per the Guidelines issued by it on the method of determination of age as also about the cut-off date and the decision, which the BCCI would take, would have PAN India ramifications. It is argued that sufficient time may be granted to BCCI to examine grievance of the petitioner in the light of his arguments as it will involve consultation and deliberation at various stages.

6. This is essentially a matter of policy for BCCI whether they should have 1st September as cut-off date or 1st April, as suggested by the petitioner, because any date that is chosen as cut-off date, would certainly affect one category of the players in one way or the other, but at the same time, it is for the petitioner to demonstrate this aspect before the BCCI as to how fixation of 1st September as the cut-off date, is the reason for number of players, as alleged by him, to indulge in preparation and production of forged birth certificates. On the other aspect, the petitioner has also to demonstrate why determination of age of a player, who has already participated in the Under-16 tournament on the basis of TW bone age test, would be justified by carrying forward the same by adding one

year per season for Under-19 and Under-23 age group cricket tournaments and then for the BCCI to examine as to what is the justification for differentiation of method for determination of age as per the communication dated 22.07.2015, addressed by the BCCI to Honorary Secretaries of all its affiliated units, particularly in a situation when generally same set of players participate in all the three segments.

7. This writ petition is, therefore, disposed of with a direction to respondent No.1- BCCI to treat the memorandum of writ petition alongwith its enclosures as representation of the petitioner, to examine the issues, some of which are really important and pertinent, to take a policy decision whether or not, there would be necessity for revisiting them, on the basis of opinion expressed by certain international players, which the petitioner has placed on record, especially Annexures P-6 to P-11, and take a decision, so as to examine the correctness of the allegations and if any substance is found therein, then to devise a mechanism by which the alleged menace of production of forged date of birth certificates by players, which practice, according to the petitioner, is rampant for quite some time, can be arrested. Such decision should be taken by the BCCI within six months from the date of submission of a copy of this order alongwith memorandum of writ petition.

The writ petition stands disposed of in the above terms, so also the pending miscellaneous application(s), if any.