

**Objections to the Nominations sent by Andhra Kabaddi Association (AKA) for the  
Electoral College of AKFI**

**ORDER**

Amateur Kabaddi Federation of India (AKFI), a National Sports Federation, is involved and engaged in promotion and development of Kabaddi Game. The body comprises of its affiliated State Associations / Units which are also registered bodies under the Societies Registration Act. AKFI has its constitution in the form of Memorandum of Association (MOA) which governs its functioning including election of its Office Bearers. AKFI was registered under the Societies Registration Act in the year 1975 and it so happened that Mr. J.S Gehlot elected as President of AKFI in the year 1984 continued to occupy the post till 2013. When fresh elections of Office Bearers of AKFI were held. Mrs. Mridul Bhadauria, a doctor by profession, was elected as President of AKFI and she was none else but wife of Mr. J.S Gehlot. Probably clause 15.2 (a) of the MOA of AKFI which prescribed only 3 terms, each for 4 years, for the President of AKFI, was an obstacle in Mr. J.S Gehlot continuing in the post of President of AKFI.

Mrs. Mridul Bhadauria was elected as President of AKFI though she was not member of any affiliated unit. Prior to her election, an amendment in Clause 15.2 of MOA of AKFI was brought about whereby even an “outsider” was brought within the eligibility to contest for the post of President. MOA was further amended to create a post of “Life President” and Mr. J.S Gehlot was nominated to that post of Life President.

Elections of office bearers of AKFI held in 2013 and amendments made in MOA were challenged by a Writ Petition WPC 4601/2013 filed in Delhi High Court, primarily on ground that President and Life President holding posts created by amendment in MOA of AKFI were in complete violation of National Sports Code. This petition was allowed by Hon’ble Court whereby amendments in clauses 8.9, 15.2, 15.8 and 17.2 of the MOA of AKFI were struck down as illegal. Appointment of Mrs. Mridul Bhadauria as President and nomination of Mr. J.S Gehlot as Life President of AKFI were declared illegal and were quashed and set aside, upholding the guidelines for violation of Sports Code. Hon’ble court further held and observed that in view of apparent anarchy prevailing in the affairs of AKFI, it was necessary to entrust its control and affairs to an Administrator. The Administrator so appointed was entrusted to take up the preparation of “Electoral College” and hold elections in accordance

with the Model Election Guidelines. The body so elected then would carry out amendments to the MOA, to bring it in conformity with NSCI. A fresh round of elections then shall be carried out as per the amended MOA as well in terms of National Sports Code of India (NSCI) ensuring that all stipulations in National Sports Code including Age and Tenure restrictions were strictly complied with.

In the year 1975 the Government of India, Ministry of Education and Social Welfare took up the subject of improvement of standard of sports and games in the country and conditions for financial and other assistance to Sports Federations. It was observed that primary responsibility for development and management of sports and games in the country rests on NSFS / IOA but then efforts of some of these organisations at times had fallen short of expectations. Though the Government was aware that various NSF dealing with sports had autonomous functioning but still, consistent with their own obligations, Government have to lay down certain norms. After considering the matter carefully and in consultation with All India Council of Sports that guidelines about tenure limit of Office Bearers of National Federations / Associations was prescribed. It is thus a way long back in 1975 that tenure limit for Office Bearers of NSF was prescribed as a measure for good governance and more efficient functioning of Sports bodies.

National Sports Code of India notified on 31.01.2011 codified the instructions and Guidelines laid down from time to time by Government of India. It came to be observed that while the Sports was a State subject and Sports Development would come within the purview of the States up to the State level, at National and International level, it fell within the realm of Union of India. It was further observed though National Sports Bodies were autonomous in nature but then by virtue of various High Courts and Supreme Court judgments NSF would come within the Writ Jurisdiction of High Court because they performed State like functions such as selection of National Teams representing the Country in International Sports Events.

National Sports Code 2011 further observed that Government of India had been taking various steps and initiatives from time to time to **Promote Good Governance practices in the management of Sports at National Level in pursuance of successive Sports Policies and those policies were based upon Basic Universal Principals of Good Governance of Olympic and Sports Movement.** Although these bodies may be registered in different States under Societies Registration Act or the Companies Act, then authority to

function as NSF will be dependent on compliance with Government Guidelines. The Government had taken various steps to further improve the management of NSFs and these measures included free, fair and transparent elections by NSFs, measures to combat age fraud in Sports and Guidelines for prevention of Sexual harassment of women in sports. Code further observed that in the matter of Rahul Mehra V/s UOI and Others Delhi High Court took a serious view on the mismanagement of Sports sector in the country and expressed deep concern and the inaction on the part of the Government in implementing and enforcing its own Guidelines particularly those related to age and tenure.

Clause 3.5 of the code mentioned gist of new initiatives taken by the Government in the recent past. Annexure XIII of the code dealt with the subject of **'Restoration of limits on the duration of tenure of Office Bearers of Indian Olympic Association and all the recognised NSFs**. Para 5 of this annexure letter observed that whereas after detailed examination of IOC charter, it was found that even the International Olympic Committee (IOC), which was the mother body of all sports federations, enforced tenure limits on its members and Office Bearers. It was further observed that Honourable Members of Parliament from across all political parties during a debate in Rajya Sabha on 24.10.2010, on the functioning of Ministry of Youth Affairs and Sports, pressed on the need to enhance transparency and accountability in the functioning of Sports Bodies by way of appropriate Guidelines including tenure limit for the Office Bearers.

Taking into account the subject in its entirety, with a view to encouraging professional management, good governance, transparency, accountability, democratic elections etc. in NSF, the code brought into force the tenure limit provisions in modified form whereby the President of any recognised NSF could hold office for a maximum period of 12 years with or without break. The Secretary and the Treasurer of any recognised NSF could serve a maximum of two successive terms of 4 years each after which a minimum cooling off period of 4 years will apply to seek fresh election. The President, Secretary and the Treasurer shall cease to hold post on attaining age of 70 years.

Annexure XIV, part of the Code provided for the guidelines for Good Governance in the context of 'Basic Universal Principles of Good Governance of Olympic and Sports Movement'. Reference was made to the recommendations made at the IOC seminar on "Basic Universal Principles of Good Governance of the Olympic and Sport Movement" held in February 2008 which was attended by 170 participants from NOCs, International Sports

Federations etc. etc., recommendations were further endorsed at XIII Olympic Congress held in October 2009.

Some of the core Principals of the “Basic Universal Principals of Good Governance of the Olympic and Sport Movement” were as below:

- Elections to the Sports Bodies should be governed by clear, transparent and fair rules.
- Adequate procedural regulations must exist to ensure there is no conflict of interests
- **The term of Office should be of a limited duration in order to allow renewal of Office Bearers on a regular basis and give access to new candidates**
- Co operation, coordination and consolation with Government to preserve autonomy.

National Sports Code 2011 thereby very emphatically stipulated that a National Sports Federation in order to be eligible for recognition was required to

I. Comply with the tenure limits prescribed in the letter dated 01.05.2010 whereby tenure for the President was a maximum of 12 years.

II. -----

III. Hold Elections for the post of Office Bearers, as per the Model Election Guidelines.

Code stipulated that non compliance with stipulations in the NSCI would, ipso facto, disentitle the concerned NSF from the right to Recognition as well as from the facilities made available by the Government to the NSFS.

The model Election Guidelines which formed part of NSCI required the candidates to be members of one of the Member States / UT's / Boards / Institutions, which was one of the constituent units of the AKFI as well as to figure in the Electoral College List.

In accordance with the directions of the Hon'ble Delhi High Court, for preparation of “Electoral College” of AKFI for holding elections of its Office Bearers, communication was sent to each affiliated State as well UT Association / Boards on their emails as well by Speed Post to send names of its two representatives.

Each affiliated State as well UT Association / Board, communicated names of its two representatives by email and by post. Accordingly Electoral College List was prepared and

was published on the Website of AKFI on 27.09.2018. To ensure correctness and genuineness of the Electoral College, objections against nominations were invited. Said information was also published with the Electoral College list. A time limit was set for receiving these objections, which were invited either by email or by post. Objections from different States were received. Hearing on those objections was arranged and the schedule of dates on hearing objections was also published on the website of AKFI. This order takes up objections received from Andhra Pradesh.

Andhra Kabaddi Association, an Affiliated State Association of AKFI, sent names of its two representatives for Electoral College namely Mr. V. Veeralankaiah, Honorary Secretary and Mr. K.E Prabhakar, President of the Association. Against these two nominations objections were filed by Mr. K.P Rao, a former office bearer of the Association, which were received on the email of AKFI and by post also. In substance the objections were to the effect that President Mr. K.E. Prabhakar and Secretary Mr. V. Veeralankaiah were holding post over and above 20 and 12 years respectively. Their occupying posts was in breach and violation of Sports Code implemented by the Government of Andhra Pradesh vide its letter No. SAAP/A&SS, T/651/2018 dated 02.07.2018, and addressed to all Secretaries, State Sports and Games Associations, Andhra Pradesh. There were criminal cases involving moral turpitude against Mr. V. Veeralankaiah. Objections also raised an issue that out of 13 affiliated districts of the State Association, 9 were not eligible to the affiliation as they were also not in accordance with the Sports Code.

Notice of these objections by Mr. K.P Rao was sent to the Andhra Kabaddi Association and hearing on these objections from both the parties was held on 22.12.2018 wherein objector Mr. K.P Rao appeared in person and was assisted by his advocate Mr. A. Ushi Reddy. The Secretary Mr. V. Veeralankaiah and the President Mr. K.E Prabhakar, Andhra Kabaddi Association appeared in person and made submissions to counter the objections. Effective hearing was given to both sides. During submissions; Mr. K.P Rao submitted a written compilation in support of his objections. Mr. V. Veeralankaiah also submitted written submissions and hearing concluded. Both the parties were granted further 15 days time for filing / sending any further material / documents in support of their arguments.

Mr. K.P Rao made emphasis on the point that National Sports Code has been made applicable to all National Sports Federations as was clear from letter dated 04.05.2018

written by Minister of State, Youth Affairs & Sports, Government of India. The NSCI specified that President of a NSF could hold office for 3 terms with or without break. Secretary and treasurer could hold office for two consecutive terms after which a cooling off of 4 years is required before re-election. All the office Bearers will demit office on attaining 70 years of age. The Code stipulated that non compliance of the guidelines will entail suspension / withdrawal of recognition of the NSFS and consequently the NSFs would become ineligible to receive financial or other assistance under various schemes of the Government.

Mr. K.P Rao further referred to a letter dated 23.08.2018 issued by Sports Authority of Andhra Pradesh addressed to Secretaries of all State Sports and Games Associations of Andhra Pradesh that all these Associations in the state shall implement the Sports Code. He further referred to another letter dated 02.07.2018 written by Sports Authority of Andhra Pradesh addressed to Secretaries of all State Sports and Games Associations that Government has since applied provisions of NSCI to State Level Sports Associations, non compliance of guidelines will entail suspension / withdrawal of the recognition of the State Sports and Games Association. Specific reference to the Sports Code on the point of the term of the Office Bearers is made in this letter to the effect that the President can hold office for 3 terms with or without break and Secretary and Treasurer can hold office for 2 consecutive terms after which a cooling off of 4 years is required before re-election and that all Office Bearers will demit office on attaining age of 70 years. Mr. Rao submitted that his objection on the point that President Mr. K.E Prabhakar and Secretary Mr. V. Veeralankaiah were continuing in their respective office of the Andhra Kabaddi Association for more than 20 & 12 years has remained uncontroverted, their election to the respective post is liable to be held bad being in breach and violation of the Sports Code.

Submissions in counter on the above referred point from Andhra Kabaddi Association, made by Mr. V. Veeralankaiah is that Sports Authority of Andhra Pradesh has held meeting of all Secretaries of the State Sports Association on the issue of implementation of Sports Code wherein the secretaries submitted that Government should implement the Sports Code taking into account the "Tenure" from the date of bifurcation of Andhra Pradesh i.e 02.06.2014 and Sports Authority of Andhra Pradesh agreed to refer the matter to the State Government and till instructions were received from the Government, Sports Code cannot be implemented. Accordingly Mr. V. Veeralankaiah submitted that Sports Code would not apply to them as on the date.

A consideration has been given to both sides submissions on the above point.

### **Legal status of guidelines issued by the Government**

In the year 1975 the Government of India, Ministry of Sports in consultation with the All India Council of Sports issued certain guidelines and circular dated 20.09.1975 was issued to all Sports Federations. Para 3 of the circular provided as under:-

The Government of India have carefully considered the matter, in consultation with the All India Council of Sports and have decided, in the interest of promotion of Sports and Games, that Government's financial and other assistance shall be extended only to those National Organisations dealing with Sports and Games which full fill the following conditions.

I. An Office Bearer of a National Federation may hold office for one term of 4 years and may be eligible for re-election for a like term or period.

II. No Such Office Bearer shall hold office consecutively for more than 2 terms or 8 years -----

Explanation 1: For the purposes of this clause the expression "Office Bearer" means

(a) The President

(b) The Secretary / Secretary General or any corresponding Office

(c) The Treasurer (Provided that if treasurer did not possess right to vote than provisions of the clause will not apply

The term of the President stipulated in the said circular was modified by circulars dated 15.05.2010 and 17.05.2010 and it provided that:

The President of any recognised National Sports Federation including the Indian Olympic Association can hold the office for a maximum period of 12 years with or without break.

Clause 10 of these circulars of 2010 further provided that compliance to the directions shall be mandatory to receive Government Recognition and thereby to become eligible to receive financial as well as other forms of assistance from Government of India such as Railway Concession, Income Tax Exemption, Custom Duty Exemption etc. etc.

The sustainability and enforceability in law of the guidelines issued by the Government to regulate the functioning of National Sports Federation came up for consideration before the Delhi High Court in a case Narinder Batra V/s UOI in a writ

petition (C) 7868 / 2005. Hon'ble Court held that guidelines issued by the Government were validly issued and were binding for the purpose for which they were issued. The Court held in Para 215 to 219 of the judgment as below:

*215. The guidelines framed by the Government enable the National Sports Federations recognised thereunder to derive substantial financial assistance and other facilities from the Government. Apart from purchase of valuable equipment, this assistance includes training/coaching camps; assistance for organisation and participation in national and international competitions and training abroad; appointment, availability and expenditure on foreign coaches for training of sports person, assistance of the Sports Authority of India as well as facilities at the state owned sports set ups. To enable meaningful utilisation of its assistance, the Government has framed guidelines for recognition of national sports federations.*

*216. As part of its initiative, the Ministry of Youth Affairs and Sports operates a number of independent schemes alongwith the Sports Authority of India which are apart from the financial grants to the national federations. These schemes have a direct bearing on the promotion and development of sports in the country and include (i) Exchange of Physical Education Teachers etc(CEPs); (ii) Rural Sports programme, (iii) National Championships for Women, (iv) Grants for Creation of Sports infrastructure, (v) Grants to Universities and Colleges, (vi) Assistance for synthetic surfaces and (vii) Scholarships for training abroad. The Government has recognised that the National Sports Federations are primarily responsible for judicious selection of sports persons for participation in major international events based on merit and with the objective of enhancing national prestige and bringing glory to the world. Such federation is also required to be concerned with the development and encouragement of the sport in the country.*

*217. The Apex Court has not prohibited the High Court in exercise of its jurisdiction under Article 226 from issuing a mandamus requiring the Government from ensuring compliance with the guidelines or conditions which it has fixed for grant of recognition and affiliation. The absolute prohibition urged by the respondents to the maintainability of the writ petition seeking directions on a complaint of breach of statutory guidelines certainly is not legally tenable is hereby rejected.*

*218. The Government of India is dispensing not only financial assistance but also providing other facilities in terms of the guidelines; has recognised national level federations; framed priorities in sports and has effected dispensation of state largesse based thereon.*

*219. In view of the principles laid down by the Apex Court in the aforementioned judicial pronouncements, there can be no dispute that the Government is entitled to frame the guidelines for dispensation of its largesse which will take the nature of financial assistance; assistance in the nature of expert coaches, national level facilities etc. Certainly, the Government is entitled to notify and evolve a procedure for dispensation of the financing assistance which runs into crores of rupees as well as guidelines for recognition of the national sports federation and cannot permit the same to be disbursed arbitrarily without any clear directives in this behalf. The guidelines issued by the Government and modified from time to*



***time have been therefore validly issued and are binding for the purpose for which they have been issued.”***

Enforceability of Sports Code to the NSF was again examined and approved and affirmed in Rahul Mehra I and Rahul Mehra II cases by Delhi High Court. Case of Rahul Mehra I concerned elections of the Archery Association of India (AAI), a National Sports Federation. AAI was derecognized by the Government and the Government of India raised contention before court that unless and until AAI complied with the provisions of NSCI, including tenure & age restrictions of Office Bearers and holding of free and fair elections, the Government would not consider the grant of recognition to such Sports Federation. In the circumstances Code directed that recognition would be accorded by the Government to AAI only if the elections of AAI were held in accordance with NSCI. Since directions issued by the Court were not being complied, court disposed of the writ by appointing an Administrator to take over the affairs of AAI till its constitution was amended and elections were held in terms of Court’s order.

In Rahul Mehra II case the Electoral College of All India Football Federation (AIFF) was in a challenge before the court on the ground that it was not in accordance with Model Election Guidelines or with NSCI. Hon’ble Delhi High Court held

*“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.”*

Since election of Office Bearers of AKFI held in 2013 was challenged on ground that President Mrs. Mridul Bhadauria was elected in violation and breach of the MOA of AKFI as well in violation of the National Sports Code and Model Election Guide Lines, Hon’ble Delhi Court by judgment dated 03.08.2018 passed in the WPC 4601/2013 held that AKFI was bound by the stipulations contained in the NSCI and other Cognate Guidelines issued by the Government and accordingly election of Mrs. Mridul Bhadauria, being an outsider and not being a member of any affiliated unit,

being in violation of the Model Election Guidelines was set aside. The Court observed that Model Election Guidelines, forming part of the NSCI, clearly contemplated that a candidate contesting for any of the posts in any NSF, was required to be a member of one of the State Units / Union Territory.

It is now clear by above referred judgments by the High Court that National Sports Federations are bound to implement and follow the Guidelines issued by the Government governing the Sport concerning that NSF.

Clause 30 of the MOA of AKFI provides that all the affiliated member units will abide by the Constitution of the AKFI.

Considering the situation that AKFI has to amend its constitution as measure of good governance of its affairs and to bring it in conformity with Sports Code and when its annual recognition by the Government of India would be on a test of its being compliant with National Sports Code, then State / UTs Associations which are affiliate bodies of AKFI also must act towards objective of good governance and thereby Sports Code compliant, in particular the tenure and age limit that will guide their functioning for fair and transparent representative nature of their elected representatives. State Governments if seek to govern Sports in a State, guided by the Sports Code would be contributing to the cause if proceed further to implement the Sports Code. State of Andhra Pradesh has taken a step in the direction. Till such State laws for the Sports bodies are legislated, AKFI considers appropriate to implement Sports Code, at least on the point of 'Tenure & Age limit' for the Office Bearers of its affiliated unit / associate so as to make those Office Bearers effective and true representatives of this body.

Probably keeping in view the need for good governance and transparency in the functioning of Sports Federations in the State of Andhra Pradesh the Sports Authority of Andhra Pradesh has issued a circular dated 02.07.2018 addressed to all Secretaries, State Sports and Games Associations AP that they will follow and implement the Guidelines which are reproduction of the relevant clauses of National Sports Development Code of India in the matter of elections of its Office Bearers. Clause IV relevant on the issue is reproduced as below:

IV. President, Secretary and Treasurer are Office Bearers as per Sports Code. No Office Bearer of a State Sports and Games Association shall hold office

simultaneously in any other state Sports and Game Association excepting the Indian Olympic Association. The age and tenure restrictions for President, Secretary and Treasurer are as follows:

(A) President can hold Office for three terms with or without break

(B) Secretary and Treasurer can hold office for two consecutive terms after which a cooling off of 4 years is required before re-election

(C) All the three will demit office on attaining 70 years of age.

Clause 2 of the circular provides that Government has since applied the provisions of NSDCI to the state level Sports Associations, non compliance of the guidelines entail suspension / withdrawal of recognition of the SS&GA, consequent to which SS&GA become ineligible to receive financial and other assistance under various schemes of the Government. It is felt that efforts of good Government and ethical practices are defeated unless the affiliated unit of SS&GA are also compliant with such provisions.

The secretary Andhra Kabaddi Association Mr. V. Veeralankaiah sought to seek exemption from National Sports Code for the Office Bearers of AKA on a plea that NSC should be considered applicable to AKA only from the date when State of Andhra Pradesh was bifurcated and separate State of Telengana was created in the year 2014. The said argument has no force as the Sports Code is to be applicable to the Sports Body in the State and has nothing to do with the bifurcation of the State. Admittedly the President and the Secretary of AKF are holding post exceeding their respective tenure as per National Sports Guidelines and now made applicable by the Andhra Pradesh Government also to the Sports bodies in the State. Faced with a situation described above, Secretary Mr. V. Veeralankaiah as well the President Mr. K.E Prabhakar Rao submitted during arguments that the Andhra Kabaddi Association will be holding elections for its Office Bearers very soon so as to comply with the Sports Code and if necessary to carry out amendment in its constitution so as to make it in compliance with Sports Code and model Election Guidelines.

**Accordingly the objections are decided to the effect that Andhra Kabaddi Association shall hold elections of its Office Bearers, preferably within next One month time, if required it shall amend its constitution to make it in compliance with Sports Code and Model Election Guidelines in terms of Hon'ble Delhi High**

**Court Judgment. The elections be conducted under the supervision of retired High Court judge or retired district judge as per rules.**

In the present situation however the "Electoral College" for the election of Office Bearers has been constituted for a limited purpose that the elected body of AKFI will amend the MOA of AKFI so as to bring it in conformity with Sports Code. Accordingly names received from AKA for "Electoral College" are accepted as such for the limited purpose for first round of elections of AKFI.

Objections are disposed off in terms of hearing given to both sides and observations made above.

Copy of the order be sent by e-mail to both the parties for compliance and be put on the website of AKFI.

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Administrator  
AKFI

17.01.2019