

**Objections to the Nominations sent by Madhya Pradesh Amateur Kabaddi
Association (in short MPAKA) for the Electoral College of AKFI**

ORDER

Madhya Pradesh Amateur Kabaddi Association (MPAKA), an affiliated State Association of AKFI sent names of its two representatives for Electoral College namely Mr. S.S. Lakkad, Honorary Secretary and Mr. Mahesh Joshi, President of the Association. Against these two names, objections were filed by Mr. Sadan Jat, a former Captain of MPAKA which were received on the e-mail of AKFI and by post also. In substance the objections were to the effect that the President Mahesh Joshi and Secretary S.S Lakkad were holding posts of Office Bearers since 2000. Both of them have crossed the age above 70 years. It is further alleged that the elections have not been conducted as per rules and regulations. They are occupying posts in breach and violation of Sports Code. He also alleged that there were various other irregularities in the functioning of MPAKA.

Notice of these objections was sent to MPAKA and hearing of the objections from both parties was held on 19.12.2018. Objector Mr. Sadan Jat appeared in person. Secretary S.S Lakkad along with his advocate Dinesh Upadhaya made submissions to counter the objections. Effective hearing was given to both the sides. Written submissions have been filed by the parties in support of their objections.

It has come on record that Mr. Sadan Jat has filed a Writ Petition bearing No. 26130/18 before the Hon'ble High Court of Madhya Pradesh. The said Writ Petition is still pending and an interim order dated 02.11.2018 has been passed in the said petition which reads as under:

Jabalpur, Dated: 02.11.2018

Shri V.K. Shrivastava, learned counsel for the petitioner.

Heard on the question of admission and interim relief.

Issue notice to the respondent on payment of process fee within three working days by registered AD returnable within four weeks.

Considering the fact and circumstances of the case, it is directed that decision if any, taken regarding election of the Association, shall be subject to leave of this court.

List after four weeks.

Certified copy as per rules.

Judge

In the Writ Petition, the Objector has taken almost all the objections taken in the present application. Apparently the matter is sub-judice before the Hon'ble High Court.

While inviting names of representatives from affiliated State / UT Kabaddi Associations, each Association was asked to provide its status explaining as to when last election of its Office Bearers were held; when and for how many terms its Office Bearers were holding the post; age of the Office Bearers and if any court case was pending involving Association. Said information was called to examine as to what extent the State Associations were in compliance with Sports Code.

Information provided by Madhya Pradesh Amateur Kabaddi Association is that last election of the Association was held on 24.09.2017. The President was elected for first time in this election but then his date of birth is 02.04.1939 and thus his age calculates to around 80 years now. Secretary is in the post since 2004 and his date of birth is 29.07.1947 and thus he is also now 70 years plus.

The Objector was earlier one of the Office Bearers of AKFI for sufficient duration. During that period he being one of the Office Bearers of AKFI never challenged the activities of AKFI. It is informed by Mr. Dinesh Upadhyaya Advocate that Mr. Sadan Jat is now a member of parallel body New Kabaddi Federation of India (NKFI) for the last around 1 year. This fact has not been denied by the Objector. It is further urged by Mr. Dinesh Upadhaya advocate that the Writ Petition filed by the petitioner is being contested by the Association. The Objector has concealed material facts in the said Writ Petition and an applicable under Section 340 CRPC has been filed against him in the said proceedings.

During arguments, it was disputed that both the Office Bearers Mr. S.S Lakkad Honorary Secretary and Mr. Mahesh Joshi, President of Association are in office since 1998. The Association has placed on record the proceedings whereby last elections were held on 26.09.2017 in accordance with rules and regulations. The said elections were conducted in the presence of Observer J.N. Sharma AKFI and Mr. J.P. Saxena, Madhya Pradesh Olympic Organisation, It has been affiliated with AKFI. The Objector did not challenge the said election anytime before any court of law. No reason or explanation has been offered by the Objector as to why the elections held in 2017 were not challenged by him on any specific ground. The Office Bearers elected in the said election are performing various Kabaddi related activities since then. On that count, elections of both the President and Secretary can't be doubted and their names for Electoral College are to be considered, particularly, (Order Madhya Pradesh Amateur Kabaddi Association Page 2 of 6)

when the Hon'ble High Court of Madhya Pradesh has not granted any stay to the petitioner / objector in this regard.

Apparently both President and Secretary are in their respective posts in violation of the Sports Code. Both the Office Bearers have crossed 70 years age and Sports Code 2011 provides that no Office Bearers of NSF shall be eligible to hold any post beyond 70 years of age. Secretary Mr. S.S Lakkad is holding post since 2004 and his continuation is post beyond two terms, each 4 years, is also violation of Sports Code. It has already been observed and held by deciding objections in other State Association matters that National Sports Federations are bound to implement and follow the guidelines issued by Government governing the sport concerning that NSF. In this regard judgment passed by Hon'ble Delhi High Court in Rahul Mehra case has been relied upon. As regard legal status of guidelines issued by the Government it came to be held and observed:

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 posses 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.

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.”

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.

Accordingly the objections are decided to the effect that MPAKA will amend its constitution to make it in compliance with Sports Code and then to hold elections of its Office Bearers in compliance with Model Election Guidelines in terms of Hon’ble Delhi High Court Judgment, preferably within one month. The elections be conducted under the supervision of retired High Court judge or retired district judge as per rules.

In the present situation, the Electoral College for the election of Office Bearers has been constituted for a limited purpose that the Electoral Body of AKFI will amend the MOA of AKFI so as to bring in conformity with Sports Code in terms of the judgment of the

Hon'ble Delhi High Court. Accordingly names received from MPAKA for Electoral College are accepted as such for the limited purpose and first round of elections of AKFI in terms of judgement of Hon'ble Delhi High Court.

Objections are disposed of in terms of the 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 the AKFI.

22.01.2019

Administrator
AKFI