

**Objections to the Nominations sent by Tamilnadu State Amateur Kabaddi  
Association (in short TNAKA) for the Electoral College of AKFI**

**ORDER**

Tamil Nadu Amateur Kabaddi Association, in short (TNAKA) is a body registered under the State Societies Registration Act, in the year 2010 and is engaged in Promotion and Development of Kabaddi game, even prior to year 2010. The Association is Affiliated body of AKFI thus is entitled to send names of its two representatives to participate in the election of Office Bearers of AKFI after being included in the “Electoral College” of AKFI. Since election of Office Bearers of AKFI are to be held, like all other Affiliated Associations, TNAKA sent names of its President Mr. Solai M Raja and its General Secretary Mr. A. Saffiulla as its representatives to form part of the “Electoral College”.

While publishing “Electoral College” list on AKFI website in September 2018 Objections were invited from stake holders against names of the “Electoral College”. In the case of TNAKA objections / complaint was filed by Mr. A.C Thangavel which was sent by post and was received on 22.10.2018. Another complaint supplementing the contentions was also received by post on 26.12.2018, sent by Mr. Thangavel.

In substance the contentions raised in Objections are:

1. TNAKA is a public authority but it acts arbitrarily, dictatorially, in complete violation of rules and bye laws of the Association.
2. Its 32 District Units are not registered under the Societies Registration Act which helps Association to function capriciously. Non-registration of Units enables Association to elect its Office Bearers by fictitious Kabaddi Teams.
3. Many of the Office Bearers of District Units are even above 70 years of age and thus they are in posts in contravention of the Sports Code.

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4. Some of the Office Bearers of TNAKA, being in State / Central Government Services, are holding posts beyond a stipulated 4 years term. Some examples like  
1. Mr. K. Ravi, Port Trust Chennai, Secretary Kanjipuram District  
2. Mr. R. Anandham, PTO Thiruvannamalai, Secretary Thiruvannamalai District,  
3. Mr. Nagarjan T.N.P.L. Pugaloor Paper Mill, Treasurer Karoor District etc. etc. are cited.
5. Mr. A. Saffiulla contested 2018 State Association Election for 3<sup>rd</sup> term which was in contravention of the Sports Code and thus his election was liable to be ignored
6. There were financial irregularities in the functioning of TNAKA because its District Units were unregistered bodies.

It is contended that elections of the State Association held on 26<sup>th</sup> May 2018 were in gross violation of the Sports Code directives, Observer appointed by AKFI for the election ought not to have been part of such election. Likewise a representative from Sports Council also should not have participated in that election. The nominations sent by the Association in such circumstances were liable to be ignored. It is contended further that bye laws of TNAKA failing to provide the "Term and Tenure" of Office Bearers were in violation of the Sports Code, Objector also referred to a letter dated 04.05.2018 addressed by Mr. Rajyavardhan Singh Rathore, Central Sports Minister of India, to all Chief Ministers, requesting that "Office Bearers Tenure and Term and age limit" found mentioned in National Sports Code be followed by all Sports Bodies. It is further submitted that Objector had filed PIL # 16690/2017 in Madras High Court and Hon'ble court was pleased to direct that complaint be lodged with Department of Sports. In these circumstance, it is submitted, that National Sports Code be made applicable to the State Association as well to its District units and appropriate orders be passed.

Association on being informed about objections appeared through Secretary Mr. Saffiula with his advocate Mr. Guna Seelan and they opposed and countered each and every averment of the objector and during arguments heard on 29.12.2018 they submitted written arguments also. Objector A.C Thangavel with Mr. D. Natarajan appeared in person to press his objections.

It was argued from Association side that the controversy about District units of the TNAKA being unregistered bodies, was taken up by Mr. Thangavel by filing Writ Petition, W.P. No.16690 of 2017 in Madras High Court and that litigation was as a result of intra-fight between the President and Secretary Mr. Thangavel of Erode District Kabaddi Association. Writ Petition was dismissed by Hon'ble Court on 11.06.2018 after careful consideration of material submitted from both sides but then Mr. Thangavel was given a liberty to give a representation to TNAKA for considering framing of rules to regulate membership of TNAKA. No Such representation has been made by Mr. Thangavel so far.

As regards "Tenure" of Office Bearers, it was governed by provisions of Tamil Nadu Societies Registration Act, 1975 Sections 3 and 4 provide for Registration and Compulsory Registration wherein sub-section 3 of section 4 states that "Nothing in this section shall apply to any Society which has for its object the Promotion of religion, athletics or sports (including indoor games)". Section 15(4) provided for term of the Members of the Committee. Sub-section 6 as originally restricted "Tenure" of Committee Members for 6 years (2 terms), providing eligibility of reappointment after lapse of 1 term of 3 years, has now been omitted by Amendment Act of 2000 and thereby Office Bearers could continue in the post under the Tamil Nadu Society Registration Act. It is further submitted that Mr. P. Vijaya Kumar of Erode District had also filed W.P. No. 11245 of 2018 in Madras High Court and averments and reliefs were verbatim. It was however withdrawn on (Order Tamil Nadu Amateur Kabaddi Association)

**16.07.2018. All the allegations raised in objection were factually wrong and legally unsustainable and the sole object was to perpetuate their own status as Office Bearers, ignoring the harm being done to Kabaddi Game TNAKA was performing its duties very strictly in accordance with its rules and bye-laws as well the statutory provisions. It has been getting its accounts audited and all that material was submitted before Hon'ble High Court of Madras in W.P. No. 16690 of 2017. With these submissions objections filed by Mr. Thangavel were sought to be rejected. A careful consideration has been given to both sides submissions.**

**TNAKA while forwarding names of its representatives for Electoral rule of AKFI had also provided its status report as was asked for. That report dated 04.10.2018 reveals that last election of Tamil Nadu Amateur Kabaddi Association was held on 26.05.2018. The President and the General Secretary both had completed two terms, as they were occupying posts since 2010. Age of President Mr. Solai M. Raja is 52 years as his date of birth is 15.09.1966. Age of General Secretary Mr. A. Saffiula is 53 years as his date of birth is 15.10.1965. Age of the Treasurer Mr. A. Shan Mugam is 54 years as his date of birth is 29.04.1964. Only one court case involving TNAKA was pending in Madras High Court, W.P. (C) No. 12577 of 2018 but there was no interim stay in the matter.**

**During hearing on objections, Association submitted a photocopy of letter dated 08.06.2018 written by Tamil Nadu State Olympic Association, issued by its President N. Ramachandran to Mr. A. Saffiula that new Office Bearers of the Association were elected and the body was congratulated. Mr. J.M. Farnando had been appointed observer by Tamil Nadu State Olympic Association for the election of TNAKA held on 26.05.2018. A report recorded by observer was submitted to the effect that 61 Members representing 31 Districts attended the General Body Meeting. Mr. Dinesh Patil, General Secretary AKFI**

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also attended the meeting as observer from AKFI. The election agenda was taken up by Mr. K. S Durai Pandian, former Additional Public Prosecutor High Court of Madras. Mr. Solai M. Raja was elected as a President for the term 2018-2022 unanimously. The other Committee Member were also elected by the House unanimously. List of those other Office Bearers including General Secretary Mr. A. Saffiula was attached with the report. These documents could not be controverted by the Objector during hearing. It can thereby prima-facie be accepted that elections of TNAKA was held on 26.05.2018 and Office Bearers were elected in a General Body Meeting attended by representatives from 31 Districts. Presence of observers from State Olympic Association and from AKFI further supports the sanctity of the elections.

Objector pressed his points that District units of the Association were unregistered bodies which provided opportunity for introduction of favourable representatives for the election to TNAKA. Association filed copy of Madras High Court judgment dated 11.06.2018 passed in W.P.No. 16690 of 2017 whereby same objection raised by Mr. Thangavel was dismissed by Hon'ble Court.

It may be observed however that Writ Petition was dismissed but then allegations of irregularities and/or malpractices by reason of absence of regulations regulating unregistered Kabaddi Associations, it was for the State Kabaddi Association to frame rules and regulations to regulate its affiliated Associations.

The record shows that the President and General Secretary of TNAKA namely Mr. Solai M. Raja and Mr. A. Saffiula have completed their respective two terms in the post and when elected again in May 2018, they entered in 3<sup>rd</sup> Term. Sports Code restricts two terms for the Secretary of a Sports Body and can be eligible for further term in the post

only after a cooling off period of 4 years. Election of Mr. A. Saffiula as Secretary of TNAKA in May 2018 is prima-facie in violation of the Sports Code guidelines.

Similar objections, in particular implementation of the directives and guidelines of the National Sports Code to the Sports Bodies at State Level, has been examined in other matters and it has been observed and held as below:

*“Question then arises the enforceability of the Sports Code in terms of various Guidelines on the subject issued by Government of India at different point of time since 1975 and finally those guidelines codified in the National Sports Development Code 2011. Emphasis on compliance of these Guidelines has always been the object of Good Governance of the Sports Bodies, transparency in their functioning and promotion and development of their respective sports. Similar situation as about importance of these Guidelines and their enforceability as held by Hon’ble Delhi High Court in various judgements arose and was examined while considering identical Objection in other matters. In one such matter of Delhi State Kabaddi Association it has been observed and held as follows:*

*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”.*

The aspect of “Tenure and Term” limit in the Sports Code was also examined and it was observed and held as below:

*“Good Governance of Sports Bodies in context of ‘Basic Universal Principles of Good Governance of Olympic and Sports Movement’ was also then taken into consideration and some of the core principles of the Basic Universal Principles of Good Governance of Olympic and Sports Movement’ were considered for its being followed by the NSFs. These core principles are:*

- 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".***

**Legal salinity and enforceability of the Guidelines has been examined by Hon'ble High Court of Delhi in various judgements and in the matter of Delhi State Kabaddi Association it came to be observed and held:**

***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***

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*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".*

The Sports Code has to be a Guideline in the functioning of State Associations also.

As orders have been passed in other matters, similar order is passed in the present case also.

Accordingly the objections are decided to the effect that Tamil Nadu Amateur Kabaddi Association (TNAKA) will amend its Constitution to make it compliant of Sports Code and then 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.

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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 TNAKA for "Electoral College" are accepted as such for the limited purpose for first round of elections of AKFI in terms of judgement of Hon'ble Delhi High Court.

Objections are disposed of accordingly.

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

24.01.2019

Administrator

AKFI