

**Objections to the Nominations sent by Bihar State Kabaddi Association (BSKA) for
the Electoral College of AKFI**

ORDER

Bihar State Kabaddi Association (BSKA), an affiliated State Association of AKFI, sent names of its two representatives for "Electoral College" namely Mr. Kumar Vijay Singh Honorary Secretary and Mr. Sanjay Sinha, Vice President of Association. Against these two nominations, objections were filled by Ms. Smita Kumari, a former Captain of Bihar Kabaddi, which were received on the E-mail of AKFI and by post also. In substance, the objections were to the effect that the President Mr. Anjani Kumar Singh and Secretary Mr. Kumar Vijay Singh were holding post of Office Bearers over and above 20 years. Their occupying posts were in breach and violation of Sports Code. She further alleged that two ladies Anuradha Kumari and Smita Kumari who were not Kabaddi players were given certificates at the time of 34th National Games held in Jharkhand in 2011. She also alleged that there were various other irregularities in the functioning of BSKA.

Notice of these objections was sent to BSKA and hearing of the objections from both the parties was held on 22.11.2018. Objector Smita Kumari appeared in person. Secretary Kumar Vijay Singh along with his advocate made submissions to counter the objections. Effective hearing was given to both sides. Written submissions have been filed by the parties in support of their objections.

While inviting nominations from affiliated units for the Electoral College, each State/UT Association was asked to provide its status Report: i.e. as to when last election of the Office Bearers of the State Body was held; for how many terms the Office Bearers were in the post, what was the age of the Office Bearers and if any court case was pending involving the Association. . Said information was called to examine as to what extent the State Associations were in compliance with Sports Code.

BSKA by its letter dated 04.10.2018 sent by its Secretary Kumar Vijay Singh revealed that last election of BSKA was held on 10.09.2017. The Secretary and President of the Association were holding posts for 5 terms since 1998 till date. As regards age of the Office Bearers, the President Shri Anjani Kumar Singh is stated to be 61 years with his date of birth as 05.02.1958. Secretary Vijay Kumar Singh is 13.11.1956 born and is now 62 years. Treasurer Shri Jaganath Singh is 68 years old as his date of birth is 01.01.1951. It is further stated that there is no pending case in a court of law concerning the Association.

It has come on record that Smita Kumari objector had filed a Writ Petition No. 18556 of 2018 in the High Court of Judicature at Patna. The said petition was disposed off by the Hon'ble High Court vide order dated 17.09.2018. The petitioner Smita Kumari was permitted to approach the Administrator and raise grievances with respect to the administration and management of Bihar Kabaddi Association. Subsequent to that, objector Smita Kumari has approached us. Perusal of the Writ Petition reveals that the petitioner Smita Kumari had taken all these objections in her writ petition too.

During arguments it was not disputed that both the Office Bearers Kumar Vijay Singh Honorary Secretary and Mr. Anjani Kumar Singh President of the Association are in office since 1998. It is also not disputed that both Anuradha Kumari and Smita Kumari were granted certificates for their participation in 34th National Games held in Jharkhand in 2011. It is admitted that Anuradha Kumari is the daughter of Kumar Vijay Singh, the present Honorary Secretary and Samita Kumari is wife of Rajiv Kumar Singh, Team Manager. Mr. Kumar Vijay Singh during arguments undertook that his daughter Anuradha Kumari will not claim any benefit / job on the basis of the said certificate and she has already given a writing to that effect in the concerned Department. The allegations regarding issuance of certificates to both Anuradha and Smita Kumari though they were not Kabaddi players, are serious and need investigation. These allegations shall be enquired into by seeking explanation from Anuradha Kumari and Smita Kumari in a separate inquiry to be conducted by Shri. J.R Aryan, Advisor to the Administrator. These allegations however have no concern with the names sent by the Association for preparation of Electoral College.

So far as elections of the BSKA are concerned, these were admittedly held on 10.09.2017 in the presence of Rajesh Kumar Observer AKFI, Sayed Emtiaz Hussain, Observer Bihar Olympic Association and Sanjay Kumar Observer, Art Culture and Youth Department, Government of Bihar. The petitioner / Objector did not question their elections before court of law anytime. No reasonable explanation has been offered by the Objector as to why the elections held in 2017 were not challenged by her 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.

To deal with the aspect that the Office Bearers namely Kumar Vijay Singh Honorary Secretary and Mr. Anjani Kumar Singh President BSKA are holding post since 1998 and that was in breach of the Sports Code, it may be observed that while deciding objections in

respect of other affiliated State Bodies in the matter of formation of the “Electoral College”, while considering the point of violation of Sports Code, it has been held and observed as under:

“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 Order Bihar State Kabaddi Association Page 3 of 7*

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 Treasure 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.”

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 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 Order Bihar State Kabaddi Association Page 5 of 7

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 Bihar State Kabaddi Association 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 after the completion of the 30th Sub-Junior National Championship (Boys And Girls). 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 of AKFI has been constituted for a limited purpose that the Elected Body of AKFI will amend the MOA of AKFI so as to bring it inconformity with Sports Code. Accordingly names received from BSKA for Electoral College are accepted as such for the limited purpose of first round of AKFI in terms and 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 parties for compliance and be put on the website of AKFI.

Date: 21.01.2019

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Administrator

AKFI