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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Reserved on: 5<sup>th</sup> July, 2018*

*Pronounced on: 3<sup>rd</sup> August, 2018*

+ W.P.(C) 4601/2013 & CM No.14524/2017

MAHIPAL SINGH & ORS

..... Petitioners

Through : Mr. B.S. Nagar, Adv. with  
Mr. Abhinav Goyal, Ms. Mahamaya  
Chatterjee and Ms. Shivani Vij, Advs.  
Mr. Gautam Narayan, *amicus curiae*

versus

UNION OF INDIA & ORS

..... Respondents

Through : Mr. Dev P. Bhardwaj, CGSC for  
R-1/UOI with Ms. Anubha Bhardwaj, Adv.  
Mr. S.K. Dubey and Mr. Rajmangal Kumar,  
Advs. for R-3 to 5  
Mr. Ruchir Mishra and Mr. Mukesh Kumar  
Tiwari, Advs. for IOA

**CORAM:-**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR JUSTICE C. HARI SHANKAR**

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**(JUDGMENT)**

**C. HARI SHANKAR, J.**

1. Embittered at what they perceive to be the hegemonic control exercised by Respondent No. 4, and his wife Respondent No. 5, over the Amateur Kabaddi Federation of India (AKFI) and its affairs, the petitioners, who claim to have earned gold medals for the nation in the international Kabaddi arena, have invoked the extraordinary jurisdiction of this court, under Article 226 of the Constitution of India, by means of the present writ petition, filed in public interest.

The writ petition exhorts this court to (i) quash the amendments effected, at the instance of Respondent No. 4 in the Memorandum of Association and Constitution (hereinafter referred to as “MOA”) of the AKFI, whereby Respondent No. 5 has been enabled to be nominated as the President of the AKFI, (ii) quash the elections, to the various posts of Office Bearers of the AKFI, held on 19<sup>th</sup> May, 2013, (iii) appoint a Returning Officer for conducting fresh elections of the AKFI, in accordance with the pre-amended MOA, (iv) cancel the affiliation of the AKFI, as granted by the Ministry of Youth Affairs and Sports (hereinafter referred to as “the Ministry”), (v) direct inquiries into the affairs of the AKFI through an independent investigating agency, as well as conduct an audit into its accounts, and (vi) appoint an *ad hoc* committee, comprising of eminent sports persons, to oversee the day-to-day functioning of the AKFI.

### **The Facts**

2. A brief factual background is necessary.
3. The AKFI was founded in 1973, and was registered, under the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350 Fasli, on 8<sup>th</sup> September, 1975.
4. The Constitution of the AKFI is contained in its Memorandum of Association (‘MOA’). Clauses 3 and 9 of Chapter II of the MOA may, in the context of the present controversy, be reproduced as under:

“3. Membership of the Society:

*The membership is open to all State Kabaddi Associations, having governing bodies for Kabaddi game, Union Territories in India having specific governing bodies for the Kabaddi game, All India Institutions and Vocational Organisation of All India nature including Indian P&T, Services Sports Control Board, Indian Railways, Central Secretariat and such other all India Organisations that may be affiliated as Members subject to the Rules and Regulations hereinafter contained on payment of Annual Membership Fee and other fee as may be determined by the General Council.”*

“9. General Body:-

*General Body shall mean and include the office bearers and members.*

5. Chapter III of the MOA dealt with membership, admission and registration. Clause 13 in Chapter III was a repetition of Clause 3 in Chapter II. Clauses 14, 18, 19, 21 and 27, which are of relevance, read thus:

“14. Authority:-

*A Member Organisation shall be represented only by its President, Secretary or representative(s) who must be a Member of the Association and his their letter of authority duly signed by the Secretary of the Association/Institution they represent must be submitted to the Honorary General Secretary prior to the commencement of the Meet.*

18. General Council:-

*The General Counsel of the Federation shall consist of President, Chairman, Honorary General Secretary, Treasurer, two representatives of each Member unit. **The President need not be a representative of any Member Organisation.** The other office bearers and Members of Federation continued to hold the officer and represent the Member organisation they belong until such time as the representation is not withdrawn.*

19. Office bearers:-

1. *The President*
2. *Vice Presidents (4)*
3. *Honorary General Secretary*
4. *Honorary Joint Secretaries (3)*
5. *Honorary Treasurer.*

***The office bearers shall be elected for a term of three years at the Annual General Meeting to be held at the time of National Championship of the year following the date of expiry of the term. They shall continue to hold office until the succeeding members are elected.***

Note:-

*i) **No person can be an office bearer of the Federation if he has already served consecutively two terms provided also that for the 2<sup>nd</sup> term he shall have been elected with two thirds majority of the total members of the General Council.***

*ii) **No person who is already an office bearer of other National sports Organisation holding office of either President, Secretary (or corresponding office), Honorary Treasurer shall be eligible at the same time to hold any office of either President,***

*Honorary General Secretary or Treasurer of the Federation.*

21. *Executive Committee:-*

*The Executive Committee of the Federation shall consist of:*

- 1) *The President and other office bearers,*
- 2) *One representative from each other Member unit.*

*The terms of office of the members of the Executive Committee shall be co-extensive with the term of office-bearers and they shall be elected every three years at the Annual general Meeting of the General Council held at the time of National Championship following the date of expiry of the term.”*

6. In 1984, Respondent No. 4 was elected as President of the AKFI. Without a single election being held, thereafter, till 2013, Respondent No. 4 continued, as President of the AKFI, till 19<sup>th</sup> May, 2013, on which date his Presidency came to an end, only to “devolve”, however, on his wife, Respondent No. 5, who was not only a complete stranger to all the member Units of the AKFI, but was-and is- a practising gynaecologist. On the date of pronouncement of this judgement, Respondent No. 5 has already had two terms as President of the AKFI; and, the petitioners assure us, she would have several more, unless we choose to interfere in the matter.

**The Ministry's Circular dated 20<sup>th</sup> September, 1975**

7. In view of growing criticism, in Parliament, press and elsewhere of the low standard of organized sports and games, which adversely impacted the image of the country abroad, in international meetings and tournaments, and in order to initiate expeditious necessary remedial action, the matter was considered, by the Government of India in consultation with the All India Council of Sports, and certain norms/guidelines were issued, which were circulated *vide* Circular dated 20<sup>th</sup> September, 1975 (hereinafter referred to as “the 1975 Guidelines”), issued by the Ministry to the IOA and all National Sports Federations. Paras 3 to 6 of the said Circular merit reproduction, *in extenso*, thus:

*“3. 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 organizations dealing with sports and games which fulfill the following conditions:-***

*(i) **An office bearer of a National Federation / Association may hold office as such 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 two terms or 8 years:***

*Provided that in the event of election for the second term, an office bearer who has completed one term shall only be deemed to have been elected if he/she secures a majority of not less than two third of the members of the national*

*Federation/Association concerned. In the event of failure to obtain such majority, the concerned office bearer shall be deemed to have lost the election. The office would thereafter be filled by election under the normal procedure from amongst candidates other than the office bearer seeking re-election.*

**Explanation 1:** *For the purpose 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 the provisions of this clause shall not apply to the post of Treasurer if, under the constitution of National Federation/Association, the Treasurer does not possess the right to vote in any of its meetings, and his duties and responsibilities shall be confined only to the management of the finances of the Federation/Association; however, he shall not be eligible to seek election to the office of the President or Secretary/Secretary-General or Vice President after having held the office of the Treasurer consecutively for eight years, till the expiry of a period of at least four years from the date on which he last vacated the office of the Treasurer.*

**Explanation 2**

*(i) No person who has already held the office of the President or Secretary/Secretary General or both in a National Federation/Association consecutively for two terms or eight years shall be eligible to seek re-election to any of the said offices or Vice President or Treasurer till the*

***expiry of a period of at least four years from the date on which he last vacated his office.***

*(ii) The National Federation/Association may, if they wish, apply the provisions of clause 1 to the offices of Vice President, Treasurer (not being an office bearer) and members of important Organisations such as their executive committee, selection committee, etc.*

*(iii) No office bearer of a National Federation/Association shall be eligible to be the office bearer, simultaneously, of any other National Sports Federation/Association, excepting the Indian Olympic Association.*

*(iv) That the annual accounts of the organisation have been properly maintained and regularly audited and that the various business meetings as required under its constitution have been duly held.*

*(v) That each national Sports Federation/Association, in its particular field of specialisation, has been appointing or would appoint a National Coach who possesses a valid coaching diploma. Prior approval of the All India Council of Sports would be necessary if the person already appointed or proposed to be appointed as National Coach does not possess requisite coaching qualifications.*

*(vi) That the National Sports Federations/Associations, in their respective fields of specialisation, have been holding or would hold, where feasible, not less than two competitions annually for specified age groups at the Junior and Sub-junior levels; these competitions should be organized through Inter-Block and Inter-District competitions in each State, leading to the competition at the National level.*

*(vii) That the membership of the National Sports Federations/Associations, within their particular fields of specialisation, is confined to the corresponding State and other special units affiliated to the National Sports Federations/Associations, and that where any of the National Sports Federations/Associations grants membership to individual clubs or individual persons, such membership does not confer on such members the right to vote in any of the Federations/Associations meetings.*

*4. The guidelines, as enumerated above, have been finalised after careful consideration of the points raised by the Indian Olympic Association, National Sports Federations/ Associations, consequent on issue of this Ministry's earlier letter No. F.11-4/74-YS 1(2) dated 9th April, 1974, and on the basis of the advice of the All India Council of Sports. The views expressed by these organisations have been accommodated to the fullest extent possible, consistent with the purpose for which the guidelines are prescribed.*

*5. However, at the request of the IOA, Government have agreed, as a special case to give time to the IOA and the concerned National Sports Federations to change their respective constitutions, finalise fresh elections where necessary and take all other consequential action to fully and finally implement the guidelines before the dates indicated below:*

*(i) National Sports Federations/Associations – 1.12.1975*

*(ii) Indian Olympic Association – 31.1.1976*

*6. The IOA/National Sports Federations/Associations are now requested to confirm immediately, but not later than 15.10.1975, that the guidelines as stipulated in this letter, are acceptable to them, and that necessary action to implement the "Guidelines" has been initiated. Details*

*of the arrangements made with regard to the amendment of the constitutions and holding of fresh elections may also please be intimated. ”*

**Narinder Batra v. U.O.I.**

8. The above Circular dated 20<sup>th</sup> September, 1975 was revised *vide* letter dated 16<sup>th</sup> July, 1977, and thereafter, further, *vide* letter dated 14<sup>th</sup> August, 2001 (hereinafter referred to as “the 2001 Guidelines”), consequent to suggestions received from IOA and the various NSFs with the approval of the Department of Expenditure, Ministry of Finance. However, the prescriptions regarding the post of Office Bearer in the NSFs, as contained in the aforementioned Circular dated 20<sup>th</sup> September, 1975, remained unchanged in the 2001 Guidelines.

9. Aggrieved at the non-enforcement of the aforementioned Circular dated 20<sup>th</sup> September, 1975, ***WP(C) 7868/2005 (Narinder Batra v. U.O.I.)*** was filed, in this Court, seeking issuance of a mandamus to ensure compliance therewith. The said writ petition was decided, on 2<sup>nd</sup> March, 2009, by one of us (Gita Mittal, J.), sitting singly, the judgment being reported, subsequently, in ***ILR (2009) IV Del 280***. The sustainability, and enforceability, in law, of guidelines, issued by the Central Government, to regulate the functioning of National Sports Federations (of which the AKFI is one) was examined in the said decision. The writ petition, in fact, sought enforcement of the said guidelines, which already stood issued, and mandated adherence, therewith, in order for the NSFs to be entitled to recognition by the Central Government as well as to dispensation of

financial assistance from it. Mr. K.P.S. Gill, Respondent No. 3 in the said writ petition, had been elected President of the Indian Hockey Federation in 1994, and had continued to hold the said post in all elections ever since, so that, by the time of pronouncement of judgement by this Court, he had already held the post for more than 11 years. Mr. K. Jothikumaran, Respondent No. 4 in the said writ petition, similarly, had been holding the post of Hony. Secretary General for three consecutive terms, since his election thereto in 1994. This, the petitioner in the said case had asserted, violated Clause 3.5 of the 1975 Guidelines (*supra*).

10. Noticing the fact that the Indian Hockey Federation regulated the sport of hockey for the entire country, this court, in paras 215 to 219 of the judgment, held thus:

*“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.”*

*(Emphasis supplied)*

**Circulars dated 15<sup>th</sup> May, 2010 and 17<sup>th</sup> May, 2010**

11. Consequent upon the above judgement of this court in *Narinder Batra (supra)*, the Ministry proceeded to issue, in quick succession, two circulars, circulated to the Indian Olympic Association and all recognised NSFs (which would include the AKFI), the first dated 1<sup>st</sup> May, 2010 and the second dated 17<sup>th</sup> May, 2010. In view of the clarification, contained in the judgement of this Court in *Narinder Batra (supra)*, the Circular dated 1<sup>st</sup> May, 2010 postulated, in paras 9 to 11, as under:

*“9. Accordingly, after taking into account the entire facts and circumstances of the case, and the views expressed by the Hon’ble Courts and Parliament, and the prevailing public opinion on the matter, and with a view to encouraging professional management, good governance, transparency, accountability, democratic elections, etc. in NSFs, including IOA, the competent authority after satisfying himself **has set aside the orders keeping the tenure clause in abeyance** with immediate effect subject to the following modifications in the existing tenure limit provisions referred to in letter dated 20<sup>th</sup> September, 1975 mentioned in Para 1 above:*

*i The President of any recognized National Sports Federation, including the Indian Olympic Association can hold the officer for a maximum period of twelve years with or without break.*

*ii The Secretary (or by whatever other designation such as Secretary General or General Secretary by which he is referred to) and the Treasurer of any recognized National Sports Federation, including the Indian Olympic Association, may serve a maximum of two successive terms of four years each after which a minimum cooling off period of four years will apply to seek fresh election to either post.*

*iii The President, the Secretary and the Treasurer of any recognized National Sports Federation, including the Indian Olympic Association, shall cease to hold that post on attaining the age of 70 years.*

*iv The other provisions in respect of the tenure limit as contained in the letter of 1975 mentioned above shall remain as it is.*

*v The above dispensation will come into operation with immediate effect.*

*vi The conditions (i) to (v) above will be subject to the proviso that it shall not disturb the current tenure of any member, provided, he/she has been properly elected to the post. In other words, the tenure condition will become operative for all future elections as they may be conducted in future in their normal course.*

*10. Compliance to the abovementioned 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. and to derive the authority to perform the public functions of selecting and deputing the national teams for participation in recognized continental and world level international sports competitions which involve representation of member countries, and to represent the country in international associations, events, meets, conferences, etc.*

**11. This letter shall now form an integral part of the guidelines/regulations applicable to NSFs, including IOA.”**

*(Emphasis supplied)*

12. The subsequent Circular, dated 17<sup>th</sup> May, 2010, relied on the recommendations made at the Seminar of the International Olympics Committee (IOC), held in February 2008, on ‘Basic Universal Principles of Good Governance of the Olympics and Sport Movement’, which were further endorsed at the XIII Olympic Congress, held in October, 2009. It was noticed that the consensus, that emerged at both fora, was that good governance was essential, if the sports movement in the country desired to justify, and claim, autonomy. At the Congress, it was resolved that all members of the Olympic Movement should adopt, *as their minimum standards*, the ‘Basic Universal Principles of Good Governance of the Olympic and Sports Movement’, as proposed by the IOC. Para 5 of the letter noted that the following were among the main principles, enunciated in the said Movement:

“

- *Elections to sports bodies should be governed by clear, transparent, and fair rules (which in our view, should include, a clean electoral roll, known to the public in advance; and independent returning officer; and secret ballot)*

- *Adequate procedural regulations must exist to ensure that there is no conflict of interests*
- *The terms of office, should be of limited duration, in order to allow, renewal of office bearers on a regular basis; and give access to new candidates*
- *Cooperation, coordination and consultation with government to preserve autonomy”*  
(Emphasis supplied)

The Circular went on to note that the 1975 Guidelines, as modified on 1<sup>st</sup> May, 2010, were fully in accordance with the recommendations of the IOC and the Olympic Congress, and that *the maximum tenure limit for President had been liberalised from 8 years to 12 years, to bring the guidelines in alignment with the norms adopted by the IOC in 1999, which represented the best international practices.*

13. Paras 8 and 9 of the Circular dated 17<sup>th</sup> May, 2010, read thus:

*“It is noted that a large number of NOCs, IFs, and their associated bodies have already adopted all or many of the good governance principles stated above. It is, therefore, the earnest expectation of the Government of India, that the IOA and the NSFs, will follow the recommendations of the IOC and the Olympic Congress on good governance, and will comply with the guidelines prescribed by the Government of India, which are in alignment with the principles endorsed by the IOC and the Olympic Congress.*

9. *The Government hopes, that the IOA and their associates, will not disappoint the country, by falling short of what is rightfully expected of them. They should keep in mind, the observations made by the Hon’ble Delhi High Court in CWP 7868 of 2005, that the*

Government guidelines to national sporting bodies are legal, valid and enforceable; and not in violation of the Olympic Charter. They should also take note of the sentiments expressed by Members of Parliament, from all Parties, in the Rajya Sabha debate on 22.04.2010, supporting the age and tenure limits. Above all, they should take note, of the aspirations and expectations of the people of India, who want their national sports bodies to be at the forefront of good governance in the Olympic and Sports Movement, in the 21<sup>st</sup> century.”

### **The National Sports Development Code and the “Model Election Guidelines”**

14. On 31<sup>st</sup> January, 2011, the Ministry notified the National Sports Development Code of India, 2011 (hereinafter referred to as “the NSCI”). The preamble, to the NSCI, read thus:

*“The adoption of good governance practices by National Sports Federations (NSFs), including the Indian Olympic Association (IOA), is essential for healthy sports development of the country. Toward this end, the Government had issued comprehensive guidelines in 1975, 1988, 1997 and 2001. Post 2001 also several major initiatives were taken by the Government such as declaration of NSFs failing of government grant as public authorities under the Right to Information Act, 2005, introduction of annual recognition for National Sports Federations, implementation of age and tenure limits in respect of office bearers of National Sports Federations, notification of NADA Anti-Doping Rules, introduction of guidelines for prevention of AIDS fraud in sports, prevention of the sexual harassment in sports, and the holding of fair and transparent elections in National Sports Federations. With a view to bringing together all orders/notifications/instructions/circulars issued post 2001 guidelines and the 2001 guidelines, these are now amalgamated with necessary modifications, into one comprehensive Code entitled “National Sports Development Code of India (NSCI),*

2011”, which is hereby notified in supersession of all earlier instructions on the subject matter. The NSCI 2011 shall come into force with immediate effect.”

(Emphasis supplied)

15. Para 1 of the NSCI set out its “Statement of Purpose”, and sub-  
paras 1.5 and 1.6, thereunder, may be reproduced thus:

*“1.5 Accordingly, after the notification of the 2001 National Sports Policy the Government notified revised **Guidelines for Assistance to National Sports Federations (NSFs) in August 2001** and issued subsequent guidelines from time to time, which are legally binding on the National Olympic Committee (NOC), i.e., the Indian Olympic Association (IOA), and the National Sports Federations (NSFs) if they are desirous of regulating and controlling sports in India, all using the name of India representing India within or outside India, or availing themselves of various benefits and concessions, including financial benefits such as customs duty exemption or income tax exemption that are available to NSFs, including the NOC. Although these bodies may be registered in different states under the Societies Registration Act or the Companies Act, their authority to function as the NOC or NSF will be dependent on compliance with the government guidelines.*

*1.6 In the recent past Government has taken various steps to further improve the management of NSFs and sports in the country such as notification of the Anti-Doping Code; introduction of annual recognition of NSFs to ensure transparency and accountability of NSFs; **enforcement of age and tenure limit in respect of office bearers of NSFs**, including the Indian Olympic Association; bringing NSFs under the purview of Right to Information Act; **measures to ensure free, fair and transparent elections by the NSFs**; and measures to combat age fraud in sports; and guidelines for the prevention of sexual harassment of women in sports.”*

(Emphasis supplied)

16. Para 3.5 of the NSCI set out the “gist of new initiatives taken by Government in the recent past”, of which the very first was “restoring the limits on duration of tenure of office bearers of Indian Olympic Association and all recognised National Sports Federations”. Reference was made, in this regard, to “Annexure XIII” to the NSCI which, we may note, was the Circular dated 1<sup>st</sup> May, 2010, issued by the Ministry, to which reference has already been made hereinbefore. Para 3.6 of the NSCI went on to enumerate the sanctions that would visit any NSF which failed to comply with the Guidelines issued by the Government from time to time (which, needless to say, stood encapsulated in the NSCI). It read as under:

*“3.6 The National Sports Federations who have the recognition including the annual recognition of Government of India in the Ministry of Youth Affairs and Sports, enjoy various facilities/concessions provided by the Government of India. However, failure to comply with the Government Guidelines issued from time to time could result in one or more of the following consequences for the NSF concerned:-*

*1) Shall not be able to select the national teams and represent India in any international event or international forum. (Reference: entry 10 and 13 of Union List in the 7<sup>th</sup> Schedule of the Constitution of India and observation of Hon’ble High Court in the case referred to above)*

*2) Shall not be allowed to use the word “India” in its name since inclusion of the word “India” suggests the patronage of Government of India. (Reference: The Emblems and Names (Prevention of Improper Use) Act, 1950 which prohibits the use of India in the name of any entity*

*without prior approval of the Government, as it may suggest or be construed to suggest the patronage of the Government)*

**3) Shall lose its all India character and may not be able to regulate and control the concerned sports discipline in the country.** (Reference: Most of the NSFs are registered under the Societies Registration Act, 1860 or under the State Societies Registration Act which are operated in a particular State and as such without the recognition of Central Government, the NSF cannot operate beyond the boundaries of the State concerned where it is registered).

4) Shall not be able to avail itself of Customs Duty Exemption for import of sports goods, sports equipment, sports requisites as an NSF/Apex Body. (Reference: Department of Revenue's notification No/2010-Customs dated 19.10.2010 read with Notification No 146/94-Customs dated 13.07.1994 allows the custom duty exemption to NSF under a certificate issued by SAI; further Notification No 21/2002-Customs provides custom duty exemption for import of Requisites for games and sports for Apex body in relation to the concerned game or sport).

5) Shall not be able to avail itself of Income Tax exemptions under relevant provisions of the Act (e.g. as per the Section 80 (G) (2)(viii) (c) any sum paid by the assessee, being a company, in the previous year as donations to the Indian Olympic Association or to any other association of institutions established in India, as the Central Government may, having regard to the prescribed guidelines, by notification in the official Gazette specifying the speed of 4 (i) the development of infrastructure for sports and games; (ii) the sponsorship of sports and games; is exempted from tax).

6) *Shall not be able to avail itself of the special dispensation available to NSFs to remit funds towards sponsorship, prize money for activities abroad (Reference: FEMA (Current Transaction) Rules 2000– Schedule II section 9)*

7) *Participation in national and international events organised by NSFs that are not recognised by Government of India in the Ministry of Youth Affairs and Sports shall not be considered for appointment to government jobs under sports quota. (Ref: DOPT's orders)*

8) *The sports persons of the unrecognised NSFs may not be able to get admissions under sports quota in schools and colleges.*

9) *The sports persons participating in national championships organised by NSFs not recognised by Government of India in the Ministry of Youth Affairs and Sports shall not be entitled for railway concession or other concessions granted for this purpose.”*

17. Clause (b) of para 6.1 of the NSCI delineates the duties and responsibilities of NSFs, in these words:

*“NSFs are fully responsible and accountable for the overall management, direction, control, regulation, promotion, development and sponsorship of the discipline for which they are recognised by the concerned International Federation. They are expected to discharge these responsibilities in consonance with the principles laid down in the Olympic charter or in the charter of the Indian Olympic Association or the relevant International Federation, as the case may be **while being compliant with Government guidelines applicable to NSFs.**”*

*(Emphasis supplied)*

18. Para 8 of the NSCI dealt with recognition of NSFs, and set out the purpose, thereof, in sub-para 8.1, as *“to ensure that NSFs maintain” certain basic standards, norms and procedures with regard to their internal functioning, which conform to the high principles and objectives laid down by the concerned International Federation, and which are also in complete consonance with the principles laid down in the Olympic Charter or in the Constitution of the Indian Olympic Association while being compliant with Government guidelines applicable to NSFs.*” Sub- para 8.2 noted that, from December, 2009, a new system of annual recognition was notified for NSFs.

19. NSFs seeking recognition were required, by para 8.3, to apply *“as per Guidelines given in Annexure-II”*. These Guidelines, titled *“Guidelines For Recognition of National Sports Federations”* (hereinafter referred to as *“the 2011 Guidelines”*) clearly stated, in Clause 1.6, that they were being issued, *“with a view to codify the requirements for granting recognition at the discretion of the Government to National level Federations”*. *“Recognition”* was defined, in Clause 2.2 of the said Guidelines, as meaning *“recognition of the leadership of the Federation in the development of a particular sport in the country”*. Clause 3.5 stipulated that *the tenure of office-bearers “shall be in accordance with the Government Orders issued under letter No 11-4/74-SP.I dated 20<sup>th</sup> September, 1975 read with Annexure-XIII”*.

20. Para 8.3 of the NSCI went on to clarify that, while considering the proposals for recognition, the Ministry would be guided by certain

specified criteria, of which criteria (ix) and (x) were “*fair, transparent and democratic elections*” and “*compliance with age and tenure limit guidelines*”.

21. Para 9 of the NSCI dealt with the “conditions of eligibility”, for NSFs to be eligible for financial assistance and sponsorship, as well as recognition by the Government, and sub- para 9.3, there under, mandatorily required national sporting organisations to meet 13 specified criteria/provisions, “to be eligible for assistance and continuing the recognition of Government”. Criteria i to iv, and xiii, which are relevant for the purposes of the present adjudication, read thus:

*i. Follow proper, democratic and healthy management practices which provide for greater accountability and transparency at all levels.*

*ii. Maintain the recognition of the International Federation, Asian Federation and IOA wherever applicable.*

*iii. Adhere to Limits on duration of tenure of office bearers of Indian Olympic Association and all recognised National Sports Federations as notified vide letter No F.8-17/2009-SP-III dated 01.05.2010. (Annexure-XIII)*

*iv. Follow Guidelines on Good governance in the context of ‘Basic Universal Principle of Good Governance of Olympic and Sports Movement’ as issued vide Letter No 8-17/2009-SP-III dated 17.05.2010. (Annexure-XIV)*

*xiii. Hold the elections as per Model election guidelines. (Annexure-XXXVII)*

*(Emphasis supplied)*

22. We may now note certain salient features of the “Model Election Guidelines”, which, by virtue of their having been incorporated, by reference, therein, are also part of the NSCI, constituting Annexure-XXXVII thereto. Interestingly, Clause 1(1) of the said Guidelines also accords, to them, the moniker ‘Election Bye-laws’. These Guidelines, we may note, are in the form of “model Guidelines”, to be adopted by each concerned NSF; for this purpose, the name of the NSFs, at all places in the said Guidelines, is left blank. As our discussion hereinafter would reveal, the AKFI, too, adopted these Guidelines, but with certain significant alterations, the effect of which we would examine later in this judgement. The following clauses of the “model Guidelines” are significant:

(i) Clause 2 stipulates that the Managing Committee of the NSF would consist of the following seven Office Bearers, in addition to five executive members:

- (a) President – 1
- (b) Vice-Residence – 2
- (c) General Secretary – 1
- (d) Treasurer – 1 and
- (e) Joint Secretaries – 2.

(ii) Clause 3 (2) requires elections, to the Managing Committee of the NSF to be held at the Annual General Council Meeting (AGM), “*in accordance with the procedure prescribed hereinafter, from amongst the representatives of*

*the Permanent Member States/Union Territories/Boards/  
Institutions.”*

(iii) The Nomination Paper for election to the various posts of Office Bearer, as contained in Form 2 annexed to the Model Election Guidelines, is in the following format:

**“NOMINATION PAPER FOR  
ELECTION**

AS \_\_\_\_\_ (NAME OF  
THE POST)

To  
(Name and address of returning officer)  
The Returning Officer for above Election

We nominate  
Shri/Smt./Ms. \_\_\_\_\_  
\_\_\_\_\_ (name &  
address), whose name is entered at Sl. No. \_\_\_\_\_ in the  
Electoral College list for the above mentioned post.

2. Our particulars are given below:-

	<i>Name of Candidate</i>	<i>Name of Member State/Union Territory/ Board/Insti-tute</i>	<i>Sl. No. In the electoral College list</i>	<i>Signature</i>
<i>Proposer</i>				
<i>Seconder</i>				

*I, the candidate above named, do hereby give my assent to my nomination for the above post.*

*Name of the Candidate* \_\_\_\_\_  
*Name of Member State/Union Territory/ Board/*  
*Institution* \_\_\_\_\_

***Sl. No. In the electoral College list*** \_\_\_\_\_

*Signature* \_\_\_\_\_

*Place:*

*Date:”*

It is apparent, from the above model Nomination Paper, that the candidates for the posts of Office Bearers are required to be from one or the other Member State, Union Territory, Board or Institution, figuring in the Electoral College list.

(iv) This is also apparent from Form 3 to the Model Election Guidelines, which is a tabular list of nominated candidates, which, too, requires the Serial Number of the candidate, in the Electoral College list, to be entered.

(v) Form 4, which is the tabulated list of validly nominated candidates, consists of four columns, of which Columns 3 and 4 are headed “*Name of Member States/Union Territory/Board/Institution*” and “*Sl. No. in Electoral College list*”. The same details are contained in Form 6, which is the “*List of Contesting Candidates*”.

It is clear, from a conjoint reading of the “*Model Election Guidelines*”, read with the Annexures/Appendices thereto, that the

Model Election Guidelines do not contemplate a person, who is not a member of any of the State Federations, Union Territories, Boards or Institutions and is not, therefore, in the Electoral College list, as being eligible to contest elections, for any of the posts of Office Bearers in an NSF.

**Amendment of AKFI's MOA**

23. On 29<sup>th</sup> December, 2011, notice was sent, by the General Secretary of the AKFI to all its affiliated units, to the effect that a Special General Body Meeting of the AKFI would be held on 7<sup>th</sup> January, 2012, to amend the constitution (i.e. the MOA) of the AKFI as unanimously approved in the General Council Meeting of the 29<sup>th</sup> December, 2011. The proposed amended MOA, was attached to the said notice.

24. In the Special General Body Meeting held on 7<sup>th</sup> January, 2012 and chaired by Respondent No. 4, the revised MOA was approved and adopted. Clause 7 of the amended MOA set out the names, offices and occupations of the Members, constituting the Governing Body of the MOA, which consisted of Respondent No. 4 as President, one Chairman, five Vice Presidents, one General Secretary, one Treasurer and five Joint Secretaries. While, for the purposes of the present controversy, other clauses of the amended MOA were substantially similar to those of the pre-amended MOA, the following four significant changes were effected therein:

(i) Clause 8.9 of the amended MOA defined ‘Office Bearer’ in the following terms:

*“ ‘Office Bearer’ will mean and include the following:*

<i>President</i>	<i>1</i>
<i><b>Life President</b></i>	<i><b>1</b></i>
<i>Chairman</i>	<i>1</i>
<i>Vice Presidents</i>	<i>5</i>
<i>General Secretary</i>	<i>1</i>
<i>Treasurer</i>	<i>1</i>
<i>Joint Secretaries</i>	<i>5</i>
<i>CEO</i>	<i>1</i>
<i>Assistant Secretary</i>	<i>1”</i>

(ii) Clause 15.2 which, though titled “Tenure”, also prescribed the eligibility, of any person, to seek election to the post of President/Secretary, stipulated thus:

*“**Tenure** – For the post of President/Secretary any person of the Assembly **or any outsider** is eligible to seek election subject to getting his nomination papers duly proposed and seconded by any of the federations affiliated units.”*

*(Emphasis supplied)*

(iii) Clause 15.8 went on to stipulate, as under, with respect to “Life Presidents”:

*“**Life Presidents** – At the General Assembly of the AKFI, the House may nominate one person who has rendered unique and distinguished services for the cause of Kabaddi in the country as Life President. **Life President will hold the office during the lifetime.** The life President will be invited to the General Assembly meeting of the AKFI. **The Life Presidents will, have no right to cast his vote at the Annual General or Special General Meetings of the AKFI but will have the***

*right to represent AKFI at all or any International Forum like AKF, IKF, IOA, OCA, IOC etc. Life President once nominated cannot and will not be removed by any means except his own resignation from the post.”*

*(Emphasis supplied)*

(iv) The role, and function, of the “Life President”, in the AKFI, was described, in Clause 17.2 of the amended MOA, in the following words:

*“Life President(s) – Will be the friend, Philosopher and guide to the Federation. The Life Residents will have no right to cast his vote at the Annual General or Special General Meetings of the AKFI but will have the right to represent AKFI at all any International Forum like AKF, IKF, IOA, OCA, IOC etc., subject to approval of General Assembly.”*

*(Emphasis supplied)*

25. A conspicuous change, in the matter of eligibility of persons to seek election as President/Secretary of AKFI, was, therefore, effected, by adding the words “*or any outsider*”. The petitioners would contend that these words were added only so as to enable the election of Respondent No. 5 as President of the AKFI as, owing to his having crossed the age of 70 and having remained President of the AKFI for more than three terms, things had got hot under the collar for Respondent No. 4. Even so, according to the petitioners, Respondent No. 4, while handing over the reins of the AKFI to his wife, ensured that his pre-eminence remained undisturbed, by creating, for himself, a post of “*Life President*”, having himself appointed thereto, and

permitting himself, as Life President, to represent the AKFI at all international sports fora.

### **ELECTIONS OF 2013**

26. On 26<sup>th</sup> April, 2013, the General Secretary, AKFI, issued a notice to the Office Bearers and affiliated units of the AKFI, to the effect that the General Body Meeting of the AKFI would be held on 19<sup>th</sup> May, 2013. The said notice intimated, *inter alia*, as under:

*“As per the provisions of Sports Code Electoral College will be prepared before the elections hence each member unit is requested to send the names of their authorized representatives who will attend the meeting on behalf of their unit. The authorization letter should jointly be signed by President and Secretary of the unit. The names should reach on or before 04.05.2013.*

*East State is entitled to nominate 2 persons, each U.T is entitled to nominate one person and each board or institution is also entitled to nominated one person.”*

*(Emphasis supplied)*

The notice, therefore, clearly stated that *the elections would take place in accordance with the NSCI and that the Electoral College would be prepared as stipulated therein*. Each member unit, i.e. each State Federation, Union Territory, Board or Institution, was required to send the names of its authorized representatives who would attend the meeting. Each State was entitled to nominate two persons, each Union Territory to nominate one person and each Board or Institution to nominate one person.

27. On 28<sup>th</sup> April, 2013, the Returning Officer, appointed for conducting the elections, issued the “Notification Of Elections”, fixing the schedule for the elections of Office Bearers of the AKFI, in a tabular form. Note 2, below the said table, read thus:

*“By way of clarifications the following important provisions of Sports Code are reproduced:-a) The nomination of a candidate for election as Officer Bearers shall be made as per enclosed format. [Form-2]”*

It is essential, at this point, to reproduce Forms 2, 3, and 4, appended to the aforementioned Notification of Elections dated 20<sup>th</sup> April, 2013, thus:

**[Form-2]**

***Nomination Paper for Election as*** -----  
-----

*(Name of the post)*

**To:** *Justice K.S. Rathore  
Returning Officer,  
Amateur Kabaddi Federation of India,  
338-339 Chandan Vill, Nemi Sagar Colony,  
Queen’s Road Vaishali Nagar,  
Jaipur – 302 021*

*We nominate Mr. / Ms.*-----

-----*(name & Address)*-----  
-----  
-----  
-----

*Whose name is entered at S. No.*-----  
***(Mandatory for all posts except for President and Secretary) in the Electoral College list for the above mentioned post.***

Our Particulars are given below:

	Name	Name of the Member State/U.T/Board of Institution	S. No. In the electoral College list	Signature
<b>Proposer</b>				
<b>Secunder</b>				

I, the candidate above named, do hereby give my assent to my nomination for the above post.

Name of the Candidate:-----

Name of the Member State/U.T/Board or Institution:-----

(Mandatory for all posts except for President and Secretary)

Signature -----

Place:

Date:

### Form-3 List of Nominated Candidates

Name of the post	Name, Sl No. In Electoral College list and address of Candidate	Name, Sl. No. In electoral College List of Proposer	Name, Sl, No. In Electoral College List of Secunder
President	Dr. Mridul Bhadauria, (NA), 2, Aakansha Ajmer Road, Jaipur, 302 021	Mr. K. E. Prabhakar (01)	Mr. K. Jagadishwar yadav (20)
Chairman	Mr. K.E. Prabhakar, (01), 43/118, N.R. Peta, Kurnool-518004, A.P.	Mr. Jagadishwar yadav (20)	Mr. Janardan Singh Gehlot (41)
Vice President No.1	Mr. Bhubeneshwer Kalita, (03), House No.20 Mahatma Gandhi Path Christian Basti, Guwahati 781 005	Mr. M. Sudhir Kumar (27)	Mr. Gnaneshwar Mudiraj Kasani (19)
Vice President No.2	Mr. M. Hanumanthe Gowda, (25), #140 Nagashetty Halli main Raod Bovi Colony Anjaheya Temple Banglore-94	Mr. Ram Bisal Sahoo (07)	Mr. Kuldeep Singh Dalal (16)

Vice President No.3	Mr. J. P. Agarwal, (47), F-823 Rajajipuram Lucknow – 226017	Mr. Niranjana Singh (10)	Mr. A. Saffiulla (44)
Vice President No.4	Mr. Vijay Prakash. (15), H. No.2126 Sector13, Bhiwani, Haryana	Mr. Ramesh Diwadekar (32)	Mr. Mohammad Yousuf (48)
Vice President No.5	Mr. Kishor Patil, (31), 8 Maya Nagar, N2 CIDCO Aurangabad, Maharashtra	Mr. Dinesh Patel (13)	Mr. Solai M Raja (43)
General Secretary	Mr. Dinesh Patel, (13), Sai Sadan Near Celfore Tower, Anand Vatika, AT & PO Kharel, NH-8, Taluka Gandevi, District Navsari-396430, Gujarat	Mr. S. S. Lakkad (30)	Mr. Kumar Vijay (05)
Treasurer	Mr. Gnaneshwar Mudiraj kasani, (19), 7-1-414/17/B, Shrinivasa Colony East, Ameerpet, Hyderabad – 500 038	Mr. Niranjana Singh (10)	Mr. Vijay Kumar (28)
Joint Secretary No.1	Mr. Niranjana Singh, (10), 22/1, Shanti Bhawan, Sarita Vihar, Madanpur Mod, Delhi-110076	Mr. Solai M Raja (43)	Mr. J. P. Agarwal (47)
Joint Secretary No.2	Mr. Kuldeep Gupta, (22), 101 Mohalla Pratapgarh, Near City Chowk, Jammu Tawi-180001	Mr. Janardan Singh Gehlot (41)	Mr. Govind Narayan Sharma (42)
Joint Secretary No.3	Mr. Kumar Vijay, (05), Kasimpura House Vivek Vihar, Hanuman Nagar, Kankar Bagh Patna 800 020	Mr. K. Vijay Kumar (28)	Mr. Niranjana Singh (10)
Joint Secretary No.4	Mr. S. S. Lakkad, (30), Q. No. E-17 Abhinav Bye Pass Road, Bhopal-462 021	Mr. K. Jagadishwar yadav (20)	Mr. K. E. Prabhakar (01)
Joint Secretary No.5	Mr. A. Saffiulla, (44), 1-1257, Mummoorrhya Nagar, K. City Palayam, Tripur-641608, Tamilnadu	Mr. J. P. Agarwal (47)	Mr. Niranjana Singh (10)

Date: 09.05.2013

Place: Jaipur

Signature of Returning Officer  
(Justice K. S. Rathore)

### Form-4

#### List of Validly Nominated Candidates

<i>Name of the post</i>	<i>Name of Candidate</i>	<i>Name of Member State/U.T./Board or Institution</i>	<i>Sl. No. In Electoral College list</i>
<b>President</b>	<b>Dr. Mridul Bhadauria</b>	NA	NA
<i>Chairman</i>	<i>Mr. K.E. Prabhakar</i>	<i>Andhra kabaddi Association</i>	<i>1</i>
<i>Vice President No.1</i>	<i>Mr. Bhubeneshwer Kalita</i>	<i>All Assam Kabaddi Association</i>	<i>3</i>
<i>Vice President No.2</i>	<i>Mr. M. Hanumanthe Gowda</i>	<i>Karnataka Rajya Kabaddi Association</i>	<i>25</i>
<i>Vice President No.3</i>	<i>Mr. J. P. Agarwal</i>	<i>U.P. State Kabaddi Association</i>	<i>47</i>
<i>Vice President No.4</i>	<i>Mr. Vijay Prakash</i>	<i>Haryana State Kabaddi Association</i>	<i>15</i>
<i>Vice President No.5</i>	<i>Mr. Kishor Patil</i>	<i>Maharashtra State kabaddi Association</i>	<i>31</i>
<i>General Secretary</i>	<i>Mr. Dinesh Patel</i>	<i>Gujarat kabaddi Association</i>	<i>13</i>
<i>Treasurer</i>	<i>Mr Gnaneshwar Mudiraj kasani</i>	<i>Hyderabad Kabaddi Association</i>	<i>19</i>
<i>Joint Secretary No.1</i>	<i>Mr. Niranjana Singh</i>	<i>Delhi State Kabaddi Association</i>	<i>10</i>
<i>Joint Secretary No.2</i>	<i>Mr. Kuldeep Guupta</i>	<i>J&amp;K Amateur kabaddi Association</i>	<i>22</i>
<i>Joint Secretary No.3</i>	<i>Mr. Kumar Vijay</i>	<i>Bihar State kabaddi Association</i>	<i>5</i>
<i>Joint Secretary No.4</i>	<i>Mr. S. S. Lakkad</i>	<i>M. P. Amateur kabaddi Association</i>	<i>30</i>
<i>Joint Secretary No.5</i>	<i>Mr. A. Saffiulla</i>	<i>Tamilnadu Amateur Kabaddi Association</i>	<i>44</i>

*Date: 10.05.2013*

*Place: Jaipur*

*Signature of Returning Officer  
(Justice K. S. Rathore)''*

28. It is startlingly apparent, from a comparison of Forms 2, 3 and 4, as notified for the elections to the posts of Office Bearers of the AKFI in 2013, with the Forms appended to the Model Election Guidelines forming part of the NSCI (*supra*) that the entries, as contained in the forms appended to the Model Election Guidelines, have been tweaked by Respondent Nos. 4 and 5. Though the heading of the second column in Form 3 continues to remain “Name, Serial Number in Electoral College List and Address of Candidate”, against the post of President, the letters “NA” (meaning ‘Not Applicable’) have been entered against the “Sl. No. in the Electoral College List”, obviously because Respondent No. 5 was not a Member of any electoral college. Similarly, in Form 4, too, against the post of President, the name of Respondent No. 5, Dr. Mridula Bhaduria has been entered, and, below the heads, “Name of Member States /Union Territory/ Board/ Institution” and “Sl. No. in Electoral College List” the acronym “NA” has been entered.

29. The most conspicuous alteration in the Forms as issued for the 2013 Elections, as compared to the Forms appended to the Model Election Guidelines is to be found in Form 2, which is the nomination paper, nominating the candidate concerned. Though Form 2, as appended to the Model Election Guidelines, requires the “name of the member states/ Union Territories/ Boards or Institutions” to which the candidate seeking nomination to be entered, Form 2, as notified in the 2013 Election for Office Bearers of the AKFI, contained a parenthesized caveat, below the said entry, reading, “mandatory for all posts *except for President and Secretary.*”

30. The petitioners would contend that the Forms used in the elections for the posts of Office Bearers in the AKFI in 2013 had deliberately been tweaked so as to accommodate Respondent No. 5, as she was not a member of any State Federation, Union territory, Board or Institution and was, therefore, a rank outsider, who, in fact, has nothing to do with the sport of Kabaddi, being a practicing obstetrician /gynecologist. According to the petitioners, in order to continue his dynastic rule, as it were, Respondent No. 4, when he found it impossible to continue as President of the AKFI (having crossed the age of 70 and having remained President for over 12 years at a stretch), altered the MOA and manipulated the Forms appended to the Model Election Guidelines, so that his wife, i.e. Respondent No. 5, who was a total stranger to the sport of Kabaddi, became eligible to be elected as President of the AKFI, thereby enabling him to continue to exercise *de facto* control over the AKFI.

31. The elections for the post of Office Bearers in the AKFI, were, as notified vide the Notification dated 20<sup>th</sup> April, 2013 *supra*, conducted, and the results thereof declared on 19<sup>th</sup> May, 2013. The said Declaration of Results read as under:

<i>Name of the Post</i>	<i>Name(s) of Elected Candidate(s)</i>
<i>President</i>	<i>Dr. Mridula Bhadauria</i>
<i>Chairman</i>	<i>Mr. K.E. Prabhakar</i>
<i>Vice President No.1</i>	<i>Mr. Bhubeneshwer Kalita</i>
<i>Vice President No.2</i>	<i>Mr. M. Hanumanthe Gowda</i>
<i>Vice President No.3</i>	<i>Mr. J. P. Agarwal</i>

<i>Vice President No.4</i>	<i>Mr. Vijay Prakash</i>
<i>Vice President No.5</i>	<i>Mr. Kishor Patil</i>
<i>General Secretary</i>	<i>Mr. Dinesh Patel</i>
<i>Treasurer</i>	<i>Mr Gnaneshwar Mudiraj kasani</i>
<i>Joint Secretary No.1</i>	<i>Mr. Niranjan Singh</i>
<i>Joint Secretary No.2</i>	<i>Mr. Kuldeepm Guupta</i>
<i>Joint Secretary No.3</i>	<i>Mr. Kumar Vijay</i>
<i>Joint Secretary No.4</i>	<i>Mr. S. S. Lakkad</i>
<i>Joint Secretary No.5</i>	<i>Mr. A. Saffiulla</i>

32. With the declaration of the above mentioned results, the tenure of Respondent No. 4 as President of the AKFI, which had commenced in 1984, came, at long, lingering last, to an end, and his wife, Respondent No. 5, took over as the President of AKFI.

### **The Challenge**

33. Incensed by the above developments, the petitioners, who claim to be Kabaddi players of international renown, have, as also already noted hereinabove, have moved this court by means of the present writ petition, urging the prayers already set out in para 1 (*supra*). We may note that, after filing of counter affidavit, in the present case, by Union of India, the Ministry, on 4<sup>th</sup> February, 2015, wrote to the Sports Authority of India (SAI), intimating that the recognition granted to the AKFI stood renewed. On 1<sup>st</sup> April, 2014, notice was again issued, by the General Secretary of the AKFI, to all member units, intimating

that the Annual General Body Meeting, for holding of elections to the posts of Office Bearers in the AKFI, would be held on 23<sup>rd</sup> April, 2017. Prior thereto, on 14<sup>th</sup> April, 2017, the list of nominated candidates was circulated, indicating only one candidate nominated for each post of office bearer. This was followed by notice dated 23<sup>rd</sup> April, 2017, in which each of the said candidates was declared elected. Respondent No. 5 Dr. Mridula Bhadauria was again elected as the President of the AKFI, and, on comparison of the list of elected candidates to the various posts of Office Bearers with the list of elected candidates consequent to the earlier election of 2013, it would be seen that all the candidates, except Mr. J.P. Agarwal, were elected once again.

34. In view of the serious nature of the allegations involved in the case, and their all-India ramifications, we thought it appropriate to request Mr. Gautam Narayan, Additional Central Government Standing Counsel of Govt. of NCT of Delhi, to assist us as *amicus curiae*.

35. Apart from the submissions of Mr. Gautam Narayan, learned *amicus curiae*, we heard detailed submissions of Mr. B.S. Nagar, learned counsel for the Petitioner, Mr. S.K. Dubey, learned counsel for Respondent Nos. 3 to 5, as well as Mr. Dev P. Bharadwaj, learned Central Government Standing Counsel appearing for the Union of India.

### **Rival Submissions**

36. Mr. Gautam Narayan first sought to place reliance on the provisions of the NSCI which, he submitted, were binding, as held by this Court in *Indian Olympic Association v. UOI, 2014 SCC Online Del 2967*. He also relied, in this context, on the judgement in *Narender Batra (supra)* which, though it was rendered prior to the introduction of the NSCI, upheld, nevertheless, the authority of the Government to regulate NSFs and their activities, and held the provisions of the Guidelines issued by the Government in this regard to be enforceable. Mr. Narayan placed reliance on Clauses 3.5, 3.6 and 9.3 of the NSCI. He pointed out that, in Clause 3.5, restoration of the limits on duration of the tenure of office bearers of all recognized NSFs was cited as one of the new initiatives taken by the Government in the recent past. He also highlighted the consequences, clearly set out in Clause 3.6 of the NSCI, of non compliance, by any NSF with the Guidelines issued by the Government. Even so, he submitted, the Ministry had not withdrawn the recognition of AKFI; rather it was renewed on 4<sup>th</sup> February, 2015. Clause 9.3 of the NSCI was also pressed into service, by Mr. Narayan, to the extent the said Clause clarified that, in order to be eligible for assistance and continuing government recognition, national sporting organisations were required to follow proper, democratic and healthy management practices, providing for greater accountability and transparency, and to adhere to the limits relating to duration of tenure of Office Bearers, as notified *vide* the Ministry's Circular dated 1<sup>st</sup> May, 2010 (*supra*). Adverting to the said Circular, Mr. Narayan pointed out that the President of any recognized NSF was, entitled to hold office for a maximum period of

12 years, and had also to cease to hold office on attaining the age of 70. Compliance with the conditions in the NSCI, Mr. Narayan pointed out, was mandatory in order for any NSF to receive government recognition, or to be eligible to receive any financial or other assistance from the Government, or to select and depute national teams for participation in recognized continental and international sports competitions.

37. Mr. Narayan pointed out that the vires of the NSCI stood upheld in *Indian Olympic Association (supra)*. He also relied on the judgement of the Supreme Court in *Board of Control for Cricketers in India v. Cricket Association of Bihar, (2016) 8 SCC 535*. He also as well as on the judgements of this Court in *Rahul Mehra v. UOI, 2017 SCC Online Del 9747* (hereinafter referred to as “*Rahul Mehra-I*”) and *Rahul Mehra v. UOI, 2017 SCC Online Del 11391* (hereinafter referred to as “*Rahul Mehra-II*”).

38. Mr. Narayan next relied on the Model Election Guidelines, which, he pointed out, were incorporated, by reference, into the NSCI. He pointed out that NSFs seeking recognition by the Government were required to apply as per the said Guidelines, which were annexed as Annexure-II to the NSCI. The NSCI itself contemplated that, while considering such applications, considerations of fair, transparent and democratic elections, as well as compliance with the stipulations regarding age and tenure limit, as contained in the Guidelines, would be specifically borne in mind.

39. Mr. Narayan drew our attention to the manner in which the Model Election Guidelines had been illegally altered while adopting them in the 2013 Elections of the AKFI. He referred, in this context, to Clause 2 of the Model Election Guidelines, which contemplated only seven Office Bearers in the Managing Committee of any NSF, and did not include any post of “Life President”. He took us through the various Forms appended to the said Guidelines, as well as Clause 9.3 (xiii) of the NSCI which incorporated, by reference, the Model Election Guidelines and made their compliance mandatory for any NSF which sought governmental recognition or financial accommodation and other facilities from the Government.

40. Mr. Narayan thereafter highlighted how the stipulations in the said Forms as appended to the Model Election Guidelines had been tweaked, while adopting them in the 2013 Elections to the AKFI, pointing out how, in Form 2, a caveat, to the effect that, for the posts of President and Secretary, the candidate was not required to be the member of any State Federation/Union Territory/Board/Institution, had been inserted. He also brought, to our attention, the fact that, in the tables contained in Form 3 and Form 4, against the heads “name of member State/U.T./Board/or Institution” and “Sr. No. in Electoral College list”, the letters “NA” had been entered against the names of Respondent No. 5, as the candidate for the post of President of the AKFI. By resorting to such subterfuge, Mr. Narayan would contend, Respondent No. 4, who had become ineligible to contest, or be elected, any further, as President, having crossed the age of 70 and having remained President for over 12 years, had, by amending the

MOA and tweaking the stipulations contained in the Forms appended to the Model Election Guidelines, ensured that, if he could not, his wife would be the President of AKFI, thereby enabling him to retain *de facto* control over the organisation.

41. Mr. Narayan also attacked the introduction, in the amended MOA, of the post of “Life President”. He pointed out that the NSCI did not contemplate any such post of “Life President”, in any NSF. Rather, he submitted, no post, with unlimited tenure, could exist in any NSF, in view of the stipulated tenure limit prescribed in every Guideline issued by the Government to regulate the NSFs, in the NSCI. The whole exercise of creation of the post of “Life President”, Mr. Narayan, would submit that, was *mala fide* through and through, and was yet another example of the manipulations practiced by Respondent No. 4.

42. Mr. Narayan also attacked the insertion of the words, “or any outsider” in Clause 15.2 of the MOA, while amending it, and submitted that the insertion of these words was targeted at enabling Respondent No. 5 to seek election as President. He compared the said stipulation, as contained in Clause 15.2 of the amended MOA, with Clause 19 of the pre-amended MOA, which did not contain the words “*or any outsider*”.

43. Mr. Narayan specifically drew our attention to the pleadings, contained in the two counter-affidavits filed by the Union of India, in which it had been acknowledged that the assumption of the post of

President of the AKFI, by Respondent No. 4, was not “as per the spirit of the NSCI”. He, however, seriously criticized the averment, contained in the second counter-affidavit of the Union of India, to the effect that there was no provision in the NSCI, barring outsiders, who were not members of any Electoral College, to contest elections for any post of office bearers in an NSF, even while reluctantly acknowledging that “normally” such elections were to be contested by candidates who were members of the voting units of the NSFs.

44. Mr. Narayan further pointed out that the proposer and seconder of the name of Respondent No. 4 as “Life President” of the AKFI were also themselves officers who had held office as President for over twelve years.

45. Thus, Mr. Narayan contended, the petitioner was fully justified in alleging that Respondent No. 4 was running the AKFI as his personal fiefdom, and all actions taken by him were thoroughly vitiated on facts as well as on law.

46. Responding to Mr. Narayan’s submissions, Mr. S. C. Dubey, even while acknowledging the binding nature of the NSCI, sought to submit that the NSCI only prescribed tenure and age of office bearers of the NSFs, and nothing else. Eligibility to be elected as an office bearer, he submitted, had to be determined on the basis of the MOA, and not on the basis of the NSCI. In any event, in Mr. Dubey’s submission, the NSCI and the MOA were required to be harmoniously read. Mr. Dubey argued that there was no prohibition, in the pre-

amended MOA, to the creation of a post of “Life-President”. The creation of the said post, in Mr. Dubey’s submission, did not infract the NSCI in any manner, as the NSCI, too, did not proscribe creation of such a post by any NSF. In any event, Mr. Dubey submits, Respondent No. 4 has, since, relinquished the post of Life President, so that the challenge to his holding the said post had been rendered academic. Further, Mr. Dubey informs us, the post of “Life President” was deleted, from Clause 8.9 of the amended MOA, by a General Body Meeting of the AKFI, *held on 2<sup>nd</sup> July, 2018*.

47. Adverting to the Circular, dated 1<sup>st</sup> May, 2010, issued by the Ministry, Mr. Dubey draws our attention to clause (vi) in Para 9 thereof (which already stands reproduced hereinabove), which clarified that conditions (i) to (v) would be subject to the proviso *that it would not disturb the current tenure of any member, provided he/she has been properly elected to the post*. The said clause went on to stipulate that *“the tenure condition will become operative for all future elections as they may be conducted in future in the normal course.”* Premised on this clause, Mr. Dubey would seek to contend that the reliance, on the circular dated 1<sup>st</sup> May, 2010 *supra* was thoroughly misplaced.

48. Regarding the election of Respondent No. 5 as President of the AKFI, Mr. Dubey emphasised the fact that Respondent No. 5 had not been “nominated” to the said post, but had been elected by a duly democratic process, in accordance with the applicable provisions, as contained in the MOA of the AKFI, as well as in the NSCI. He

highlighted, in his arguments, the specific stipulation, contained in Clause 18 of Chapter II of the pre-amended MOA, to the effect that “the President need not be a representative of any Member organisation”. This stipulation, in Mr. Dubey’s submission, completely demolishes the challenge, by the petitioners, as also voiced by Mr. Gautam Narayan as *amicus curiae*, to the election of Respondent No. 5 as President of the AKFI, on the ground that she was not a Member of any State Federation, Union Territory, Board or Institution. He also submitted that Respondent No. 5 could not be regarded as ineligible to contest for the post of President of the AKFI merely because she was the wife of Respondent No. 4. Her status as the wife of Respondent No. 4 did not, he submitted, disqualify her for being considered for the post of President of the AKFI, under the MOA. He relied, in this regard, on the averment, contained in the written submissions filed on behalf of Respondent No. 1, to the effect that the NSCI did not define the eligibility criteria, regarding past experience, expertise, etc, for candidates contesting election for any post, and that these would be determined as per the bye-laws or Constitution of the concerned NSF.

49. Mr. Dubey disputed the contention, of Mr. Narayan, that the words “or any outsider” had been inserted in Clause 15.2 of the amended MOA, only to make Respondent No. 5 eligible to contest for the post of President of the AKFI. In Mr. Dubey’s submission, the pre-amended MOA did not contain any prohibition against an outsider being elected as President of the AKFI; rather, in his submission, the stipulation, in Clause 18 thereof, to the effect that the President need

not be a representative of any Member organisation, expressly enabled any outsider to be appointed as President. Mr. Dubey also contended that the amendment of the MOA had been effected in accordance with Clause 27 of the pre-amended MOA.

50. The various Clauses in the Model Election Guidelines, and the forms appended thereto, in Mr. Dubey's submission, were not mandatory, but merely directory.

51. Re-emphasising the fact that, even as per the written submissions of Respondent No. 1, the NSCI did not prescribe the eligibility criteria for candidates contesting for any of the posts of office bearer in an NSF, Mr. Dubey drew our attention to the affidavit of Respondent No. 5, in which she has deposed as under:

*"I say that having acquired professional and administrative experience in my different capacities as mentioned above, I retired in the year 2010 from the Government job. I have also attended Sports Medicine Training in the year 1988 organised by the IOC Medicine Commission and Olympic Solidarity."*

It is not, therefore, as if Respondent No. 5 was a total stranger to the field of sports, contends Mr. Dubey. There was no proscription whatsoever, contends Mr. Dubey, to a gynaecologist being elected as the President of the AKFI and would press, into service to support this stand, our own judgement in *Energy Watchdog v. U.O.I., 2017 SCC OnlineDel 11422*.

52. Mr. Dubey also questions the maintainability of the present writ petition, submitting that the validity of an election, held according to

the applicable Rules, could not be questioned in a writ petition under Article 226 of the Constitution of India, but would have to be tested in an election petition formally instituted.

53. Mr. Dubey also places reliance on *Ambica Quarry Works v. State of Gujarat*, (1987) 1 SCC 213 and *Uttaranchal Road Transport Corporation v. Mansaram Nainwal*, (2006) 6 SCC 366, apart from our decision in *Energy Watchdog (supra)*.

### Analysis

54. The challenge, in the writ petition, is essentially directed at
- (i) the amendment of the MOA of the AKFI, as approved on 7<sup>th</sup> January, 2012, specifically
    - (a) clauses 8.9, 15.8 and 17.2 of the amended MOA, insofar as they introduced, in the MOA, the post of “Life President”, and
    - (b) Clause 15.2, to the extent it enables “any outsider” to seek election to the post of President/Secretary of the AKFI,
  - (ii) the appointment, of Respondent No. 4, as “Life President” of the AKFI, consequent to the result of the elections on 19<sup>th</sup> May, 2013,
  - (iii) the election and consequent appointment of Respondent No. 5 as President of the AKFI, on 19<sup>th</sup> May, 2013, and
  - (iv) the continuance and extension of the recognition, granted by the Central Government to the AKFI, despite the alleged

violation, by the AKFI of the stipulations contained in the NSCI.

55. According to the petitioners, the very continuance, of Respondent No. 5 as President of the AKFI, from 1984 till 19<sup>th</sup> May, 2013, was *ex facie* illegal. They submit that Respondent No. 5 had converted the AKFI into his personal fiefdom, as was manifest from the fact that, on his finding it impossible to get re-elected as President in 2013, he had the MOA of the AKFI amended to create a post of ‘Life President’, against which he could be appointed, and to enable “any outsider” to be elected as President, thereby paving the way, to the said post, for his wife, Respondent No. 5. Both these changes, as brought out in the amended MOA of the AKFI were, in the petitioners’ submission, completely illegal and contrary to the explicit mandate of the NSCI which, undisputedly, is binding on all NSFs. Besides the election of Respondent No. 4 as Life President and of Respondent No. 5 as President, of the AKFI, thereby standing vitiated, the violation, by the MOA of the AKFI of the stipulations contained in the NSCI, also imperiled the recognition, granted by the Government, to the AKFI, as well as its rights to financial assistance and other benefits provided by the Central Government. The petitioners, therefore, pray that the extension of recognition, granted by Respondent No. 1 to the AKFI, be withdrawn forthwith, and an impartial authority be appointed to administer the affairs of the AKFI.

56. We entirely agree with the petitioners, and with the submissions of Mr. Gautam Narayan.

57. The reasons are obvious.

58. A revisitation of the various guidelines, issued by the Central Government (Respondent No. 1) in respect of NSFs, reveals the following position:

(i) The Circular, dated 20<sup>th</sup> September, 1975 of the Ministry, clearly stipulated in respect of *all* office bearers of an NSF, that

(a) an Office Bearer of an NSF would have a term of four years, and would be eligible for re-election, for another term of four years, and

(b) no such office bearer would continue for more than two consecutive terms, or eight years, and

(c) a President of an NSF, who had held office for two consecutive terms, or eight years, could not contest, for re-election to the post, for another four years.

(ii) The “office bearers” of any NSF, according to the said Circular, would mean

(a) the President,

(b) the Secretary/Secretary-General, and

(c) the Treasurer.

(iii) Circular dated 20<sup>th</sup> September, 1975 was revised *vide* letter dated 16<sup>th</sup> July, 1977, and thereafter, further, *vide* letter dated 14<sup>th</sup> August, 2001 (hereinafter referred to as “the 2001

Guidelines”), consequent to suggestions received from IOA and the various NSFs with the approval of the Department of Expenditure, Ministry of Finance. However, the prescriptions regarding the post of Office Bearer in the NSFs, as contained in the aforementioned Circular dated 20<sup>th</sup> September, 1975, remained unchanged in the 2001 Guidelines, which were held, by this court, in *Narinder Batra (supra)*, to be enforceable and binding.

(iv) The tenure of eight years, prescribed for the post of President in the NSF, in the Guidelines of 20<sup>th</sup> September, 1975, was increased to twelve years in the Circular dated 1<sup>st</sup> May, 2010. The outer age for a person to continue as President in an NSF was retained as 70 years. However, a caveat was entered, in the Circular dated 1<sup>st</sup> May, 2010, to the effect that the conditions relating to upper age and tenure, as contained therein, would “not disturb the current tenure of any members”, who had been properly selected to the post, so that the tenure contained would become operative for future elections.

(v) Circular, dated 17<sup>th</sup> May, 2010, also issued by the Ministry, reiterated the “Basic Universal Principles of Good Governance of the Olympics and Sport Movement” which postulated, *inter alia*, that

(a) elections to sports bodies should be governed by clear, transparent and fair rules, including a clean electoral roll,

(b) the terms of office of office bearers of the NSF should be of limited duration, in order to

- (i) allow renewal of office bearers on a regular basis and
- (ii) give access to new candidates.

It was also noted, in the Circular, that the liberalisation of the tenure limit of President of the NSFs, from 8 years to 12 years, was in alignment with the norms of the IOC, and represented the best international practices. Para 9 of the Circular clarified, yet again, that its provisions, and the Guidelines contained therein, were “legal, valid and enforceable”.

(vi) The NSCI, notified on 31<sup>st</sup> January, 2011, stipulated, *inter alia*, that

(a) the Guidelines contained in the Circular dated 1<sup>st</sup> May, 2010 *supra* were binding on NSFs, if they were desirous of

- (i) regulating and controlling sports in India,
- (ii) using the name “India”,
- (iii) representing India within or outside India, or
- (iv) availing various benefits and concessions, including financial benefits, available to NSFs,

(b) failure to comply with the Guidelines could result in the concerned NSF, *inter alia*,

- (i) not being permitted to select national teams,
- (ii) *not being permitted to represent India in any international event or international forum*,

- (iii) not being allowed to use the word “India” in its name,
  - (iv) losing its all-India character and
  - (v) not being able to regulate and control the concerned sport in India, and
- (c) an NSF, in order to be eligible for recognition,, was required to
- (i) comply with the tenure limits prescribed in the letter dated 1<sup>st</sup> May, 2010 *supra*, which, for President, was a maximum of 12 years,
  - (ii) follow the guidelines contained in the ‘Basic Universal Principle of Good Governance of Olympic and Sports Movement’, as issued *vide* Circular dated 17<sup>th</sup> May, 2010 *supra* and
  - (iii) hold the elections, for the posts of the Office Bearers, as per the Model Election Guidelines.

(vii) That the NSCI binds, and cannot tolerate deviation at the hands of any NSF, stands conclusively held by the judgements of this Court in *Indian Olympic Association (supra)*, *Rahul Mehra-I (supra)* and *Rahul Mehra-II (supra)*, as well as, on principle, *Narinder Batra (supra)*. Non-compliance with the stipulations in the NSCI would, *ipso facto*, disentitle to the concerned NSF from any right to recognition, as well as from the facilities made available, by the Government, to NSFs, financial and otherwise.

(viii) The Model Election Guidelines, which formed part of the NSCI required the candidates to be members of one of the Member States/Union Territories/Boards/Institutions, which was one of the constituent units of the AKFI as well as to figure in the Electoral College list. The name of the member state/Union Territory/Board/Institution, as well as the Serial No, in the Electoral College list, of the concerned candidate, were required to be declared, while filling in the nomination paper for the election, and were also required to be specified in other forms relating thereto.

59. In the backdrop of the above noted legal requirements, we are, frankly, appalled at the manner in which every mandatory condition, and stipulation, was ignored, with impunity, by Respondent No. 4 and, vicariously, by Respondent No. 5 as well. Worse, we are informed that Respondent No. 6, the son of Respondent Nos. 4 and 5, has been “elected” as President of the Rajasthan State Kabaddi Federation (‘SKF’). There is wealth of merit in the submission, of the petitioners, that Respondent Nos. 4, 5 and 6 had, indeed, held the AKFI to ransom, and were treating it as their family enterprise, as if there were none else to further the sport of Kabaddi in the country.

60. Significantly despite our repeated queries, no information has been forthcoming regarding participation of either Respondent No. 4 or Respondent No.5 in the sport of Kabaddi, or for that matter, any game or sport.

61. Addressing, now, the 2013 amendment of the MOA of the AKFI. Significantly, this amendment was effected by the General Council, on 29<sup>th</sup> December, 2011, *which meeting, in turn, was chaired by Respondent No. 4 himself*. The provisions, in the amended MOA, with which the petitioners claim to be aggrieved, are Clauses 8.9, 15.2, 15.8 and 17.2 and, in our opinion, none of the said Clauses can sustain the scrutiny of law.

62. The Model Election Guidelines annexed to the NSCI and constituting a part thereof clearly set out the officers who would constitute Office Bearers of the NSF, and the post of “Life President” is not among them. Indeed, neither does the NSCI, nor do any of the Circulars issued prior thereto, contemplate a post of “Life President” in an NSF. While Clause 19 of its pre-amended MOA included, in the Office Bearers of the AKFI, only the President, Vice Presidents, Honorary General Secretary, Honorary Joint Secretaries and Honorary Treasurer, Clause 8.9 of the amended MOA of the AKFI included, among the Office Bearers, the “Life President”. This was, on the face of it, illegal, as the NSCI did not visualize any post of Life President at all, in an NSF, either as an Office Bearer, or otherwise.

63. In our opinion, as a beneficiary of the recognition conferred by the Government, the AKFI was bound by the stipulations contained in the NSCI, and other Cognate Guidelines issued by the Government, and had no authority to create posts *de hors*, and in excess of, those contemplated by the NSCI.

64. Apart from the fact that the AKFI, in its capacity as a NSF availing recognition from the Government, did not have any authority to create a post of “Life President”, where the NSCI did not contemplate the existence of any such post, Clause 15.8 compounded the illegality by providing that the Life President would hold office during his life entire time. This stipulation, again, directly infringed the tenure limits, specified in the NSCI which, as already noted hereinabove, were binding on all recognised NSFs, including the AKFI. The creation of such an immortal entity, blessed with the gift of “*ichhamrityu*” (death at will) was, we are certain, not even remotely within the imagination, not to say contemplation, of the framers of the NSCI.

65. Equally, the post of Life President itself being an illegally created post, there could be no question of the holder of the said post having any right to represent the AKFI at any international forum. The NSCI, as well as the Guidelines issued prior thereto, clearly permitted representation, by any NSF, in continental or international sports events in which India was a participant, only if the NSF complied with the stipulations prescribed therein, which included adherence to the age specifications and tenure limits specified, as well as conducting of elections in accordance with the Model Election Guidelines.

66. In any event, the very creation of the post of Life President being vitiated by law, there could be no question of granting any benefits to the holder of such an illegally created post. Though Mr.

Dubey asserted that no salary, or emoluments, were paid to Respondent No. 4, in his capacity as Life President, expenses would, no doubt, be incurred in allowing Respondent No. 4 to travel nationally and internationally, purportedly representing the country in sporting events. These expenses are defrayed out of public monies, and amount to thievery of the ordinary citizen by executive dispensation, which is completely unthinkable in law.

67. Clauses 8.9, 15.8 and 17.2 of the amended MOA of the AKFI are, therefore, declared to be completely illegal, and liable to be struck down.

68. Coming, now, to Clause 15.2, we are in agreement with the contention of Mr. Narayan that the clandestine insertion of words “or any outsider”, in the said Clause, is completely malafide, with a view to enable Respondent No. 5 to be elected as President of the AKFI. Mr. Dubey’s contention, in this regard, is that Clause 18 of the pre-amended MOA also permitted an outsider to be elected as President of the AKFI and that, therefore, the use of the words “or any outsider”, in the amended MOA, did not alter the legal position. We queried, of Mr. Dubey, as to why, if the legal position was as he contended it to be, the words “or any outsider” were added, at all, in Clause 18, while amending the MOA. To this, Mr. Dubey had no answer whatsoever. It is clear, on the face of it, that the addition of the words “or any outsider”, in Clause 15.2 of the amended MOA, was deliberate, and with a predetermined object in view.

69. We, nevertheless, proceed to examine the submission, of Mr. Dubey, to the effect that, even under the pre-amended MOA, Clause 18 permitted an outsider, who was a complete stranger to the game of Kabaddi and not a member of any of the State units, Union Territory, Board or Institution, to be elected as President of the AKFI. Mr. Dubey seeks to capitalise on the stipulation, in Clause 18 of the pre-amended MOA, to the effect that “the President need not be a representative of any Member Organisation”. This stipulation, Mr. Dubey would seek to contend, enabled any outsider to be appointed as President of the AKFI. We are unable to agree. Clause 18 states that the President need not be *a representative* of any Member Organisation, and not that the President need not be *a Member* of, or belong to, any Member Organisation. The use of the word “representative” cannot be ignored. Clause 14 of the pre-amended MOA clearly stipulated that “a Member Organisation *shall be represented* only by its President, Secretary or representative (s) who must be a Member of the Association...” In other words, each member unit of the AKFI, i.e. each State Federation, Union Territory, Board and Institution would be entitled to have its own representative in the AKFI. The situation may be analogised, somewhat, to the Bar Council of India, which includes representatives of each State Bar Council. The stipulation, in Clause 18 of the pre-amended MOA, on which Mr. Dubey relies, to the effect that the President need not be a representative of any Member Organisation, obviously intended to mean that *all members* of the Member Organisations of the AKFI were eligible to contest, and be elected as, President, and that this option was not limited only to the “Representatives” of the member

Units, within the meaning of Clause 14 of the pre-amended MOA. It cannot be extended to mean that a person who was a total stranger to every member Unit of the AKFI could contest for, and be elected as, President thereof. This entitlement was introduced, clearly, for the first time, in Clause 15.2 of the amended MOA and, as we have already opined hereinabove, introduced surreptitiously and deliberately. It was, in our view, obviously done only so as to enable Respondent No. 5 to be elected as President of the AKFI, thereby merely changing the character of the control, exercised over the AKFI by Respondent No. 4, from *de jure* to *de facto*.

70. This aspect stands underscored by the specific stipulations, in the Model Election Guidelines, forming part of the NSCI, which clearly contemplate that a candidate contesting for any of the posts in any NSF, is required to be a member of one of the State Units, Union Territories, Boards or Institutions and, consequently, a member of the Electoral College as well. Revealingly, as Respondent No. 5 was not a member of any of the State Kabaddi Federations, or of any Union Territory, Board or Institution, the appellation “NA” was entered, in the corresponding columns, in Forms 3 and 4, against the name of Respondent No. 5. In a move which smacks of brazen impertinence, Form-2, as stipulated in the Model Election Guidelines, was also manipulated and altered, while submitting the Form for the 2013 Elections of the AKFI, by *excepting* the posts of President and Secretary from the requirement of stipulating the name of the Member State/UT/Board/Institution, to which the candidate belonged. We confess that we are appalled at the temerity, of Respondent No. 4 – at

whose instance this manipulation was effected – to tamper with the mandatory Forms contained in the Model Election Guidelines appended to the NSCI in the face of the NSCI, and the mandatory requirements contained therein. To say the least, this completely vitiates the entire electoral exercise, conducted in 2013 for the post of President of the AKFI, as well as the election of Respondent No. 5 to the said post, therein.

71. Equally, and for the same reasons, stands vitiated the electoral exercise, conducted in 2015, as also the election of Respondent No. 5 is President of the AKFI, for a second term, therein.

72. Ironically, all Guidelines, including the NSCI, have exhorted the need to ensure “free, fair and transparent” elections in all NSFs. Freedom, fairness and transparency, we are constrained to observe, have been the first casualties in the present case - courtesy Respondent Nos. 4 and 5.

73. The judgments of this Court in **Rahul Mehra-I** and **Rahul Mehra-II** are also relevant in the above context. Rahul Mehra-I dealt with elections to the posts of Office Bearers of the Archery Association of India (AAI), which was de-recognised on 17<sup>th</sup> November, 2010. The Government of India contended, before this Court, that, unless and until the NSF, i.e. AAI in that case, complied with the provisions of the NSCI, including tenure and age restrictions of Office Bearers and holding of free and fair elections, the Government would not consider the grant of recognition to such a

Sports Federation. In the circumstances, on 17<sup>th</sup> September, 2012, this Court directed that recognition would be accorded by the Government, to the AAI, only if the elections of the AAI were held in accordance with the NSCI. As, despite this direction, the elections were not held as per the stipulations in the NSCI, this Court, *vide* subsequent order dated 15<sup>th</sup> October, 2012, directed fresh elections to be held, in accordance with the NSCI, and appointed a retired Judge of this Court as Returning Officer to oversee the conduct of the elections. This second directive, to conduct elections in accordance with the NSCI, was also disregarded by the AAI. In the circumstances, this Court disposed of the writ petition with the following directions:

*“20. In the circumstances, the Court deems it appropriate that the affairs of the Archery Association of India (AAI) be brought under the supervision of an Administrator till its Constitution is amended and elections are held in terms of this Court’s order dated 15.12.2016. The Court also deems it appropriate that for the present, the affairs and elections of AAI be conducted by a person of public eminence with significant experience in sports affairs and administration and elections. We are of opinion that Mr. S.Y. Quraishi, Former Chief Election Commissioner of India, who has also served as Secretary in the Ministry of Youth Affairs and Sports, Government of India would be a suitable person to be appointed as the Administrator-cum-Returning Officer for discharge of the following functions:*

*(i) To resolve the issue of disaffiliation of such members/units of AAI as on 15.12.2016, within a month from today by giving them two weeks’ notice and if their membership can be regularized in terms of the ‘unamended’ constitution, it shall be so regularized;*

(ii) *the Electoral College of the AAI shall be prepared and elections shall be held in six weeks thereafter. This elected body shall carry out the amendments to the Constitution to bring it in conformity with the National Sports Code.*

(iii) *Thereafter, a fresh round of elections, shall be carried out as per the amended Constitution and in terms of the National Sports Code, to ensure that age and tenure restrictions and due representation of the sports persons are strictly complied with. The entire exercise shall be carried out within a period of four months from today.*

(iv) *The AAI shall make available to the Administrator an appropriate office space and facilities for the discharge of the aforesaid directions and make available such staff and personnel as the Administrator may express the need for. Alternatively, the Administrator may appoint such personnel to assist him in the aforesaid matter and expense towards the same shall be borne by the AAI.*

(v) *Till the elections are conducted and results declared in consonance of the National Sports Code and in compliance with the preceding directions, the AAI shall not make any new financial commitments except with the prior approval of the Administrator. Routine expenses of AAI too shall be defrayed, with the due prior approval of the Administrator.”*

74. **Rahul Mehra-II** was concerned with the All India Football Federation (AIFF). Similar interlocutory directions, similar to those issued in **Rahul Mehra-I** had been issued by this court in the said case as well. As in the present case, this Court found, in **Rahul Mehra-II**, that the Electoral College of the AIFF was not in accordance with the

Model Election Guidelines, or with the NSCI. The writ petition was ultimately disposed of in the following terms:

*“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. This exercise should be carried out by a person who has experience in sports affairs, public administration and conduct of elections. Accordingly, this Court directs Mr. S.Y. Quraishi, Former Chief Election Commissioner of India, who has also served as Secretary in the Ministry of Youth Affairs and Sports, Government of India to be appointed as the Administrator-cum-Returning Officer for the conduct of the elections of the AIFF in the following manner:*

*(i) To resolve the issue of disaffiliation of members/units of AIFF as on 30<sup>th</sup> November, 2016 and to prepare the Electoral List, within a month by giving the concerned parties two weeks’ notice;*

*(ii) Elections shall be held in six weeks after the preparation of the Electoral college. This elected body shall carry out the requisite amendments to the AIFF Constitution to bring it in conformity with the National Sports Code.*

*(iii) Once the AIFF Constitution has been amended, a fresh round of elections shall be carried out in terms of the National Sports Code, to ensure that age and tenure restrictions along with the provision for due*

*representation of the sports-persons are strictly complied with.*

*(iv) The AIFF shall make available to the Administrator an appropriate office space and facilities for the discharge of the aforesaid directions and make available such staff and personnel as the Administrator may express the need for. Alternatively, the Administrator may appoint such personnel to assist him in the aforesaid matter and expenses towards the same shall be borne by the AIFF.*

*(v) Till the elections are conducted and results declared in consonance of the National Sports Code and in compliance with the preceding directions, the AIFF shall not make any new financial commitments except with the prior approval of the Administrator. Routine expenses of AIFF too shall be defrayed, only with the prior approval of the Administrator. The entire exercise will be completed within five months from the date the Administrator assumes charge;*

*(vi) However, to obviate any impediment in the conduct of any competitive tournament that may have been scheduled by the applicant, this order shall come into effect after two weeks from today.”*

75. Mr. Dubey sought to impress, on us, the fact that Respondent No. 5 had been elected by a democratic election process, and that, therefore, any judicial interdiction, therewith, would clearly be unwarranted. As we have found Respondent No. 5 to have been ineligible, in the first place, to contest for the post of President of the AKFI, her eligibility being dependent on the use of the words “or any outsider”, as contained in Clause 15.2 of the amended MOA, which, too, we have found to be completely illegal, no further examination, of this contention of Mr. Dubey, would be necessary. We may,

nevertheless, note the somewhat disturbing circumstance, revealed from a perusal of the list of nominated candidates, for various posts of Office Bearers in the AKFI, in the elections held in 2013 and 2015, that, apparently, only single candidates had been nominated, against each of the said posts, and all nominated candidates inevitably were elected against the posts. That apart, we find that the names of the successful candidates, elected as Office Bearers consequent on the 2013 and 2015 elections in the AKFI, were practically the same, except for the name of one JP Agarwal, who figures in the list of candidates elected in 2015, but is absent in the list of 2013. These facts, too, seriously undermine the legality, and legitimacy, of the elections held, for the posts of Office Bearers in the AKFI, both in 2013 as well as 2015.

76. In view of our reasoning hereinabove, the reliance, by Mr. Dubey, on our judgement in *Energy Watchdog (supra)*, is of no substantial significance. Though, in preference to the multitude of members of various State Federations, Boards and Institutions, who would be members of the AKFI by virtue of such membership, the choice of Respondent No. 5, who was neither a Kabaddi player, nor a member of any such unit, but was a practising gynaecologist/obstetrician, having nothing to do with the sport of Kabaddi – except, as the counter-affidavit filed by her would seek to aver, a “keen interest” in the sport – is difficult to digest, we have not chosen to declare her election as President of the AKFI as illegal on that ground, as our findings hereinabove disclose. We have not, therefore, proceeded to examine whether an obstetrician/gynaecologist

would, or would not, be fit, or even eligible, to be elected and appointed as President of the AKFI; ergo, our earlier judgement in *Energy Watchdog (supra)* does not impact our decision, this way or that.

### **Conclusion**

77. In view of the above discussion, we allow the present writ petition. Resultantly, Clauses 8.9, 15.22, 15.8 and 17.2 of the amended MOA of the AKFI, are struck down as illegal. The appointment of Respondent No. 4 as Life President of the AKFI, is also, consequently, declared illegal. Equally, the election and consequent appointment of Respondent No. 5, as President of the AKFI, on 19<sup>th</sup> May, 2013 and 23<sup>rd</sup> April, 2017, are also declared illegal, and are accordingly quashed and set aside.

78. Given the totally clandestine and surreptitious manner in which the provisions of the MOA were illegally amended, in order to enable Respondent No. 5 to contest for the post of President, we further direct that Respondent No. 5 render accounts of all financial benefits, which have enured to Respondent No. 5, as and in her capacity as President of the AKFI since the time of her appointment to the said post on 19<sup>th</sup> May, 2013 until date, and the same be recovered from her, forthwith.

79. Additionally, in view of the apparent anarchy, prevailing in the affairs of the AKFI, owing to the machinations of Respondents No. 4 and 5, we are of the opinion that it would be necessary, to preserve the

very existence of the AKFI, to entrust its control and affairs to an impartial Administrator. We, therefore, issue additionally, the following directions:

- (i) We appoint Shri Sanat Kaul, IAS (Retd.) as Administrator, who would, till further orders, take over control of the AKFI, and administer all its affairs. He shall stand substituted in place of the President of the AKFI, and shall be entitled to exercise all powers which existed, heretofore, in the President of the AKFI.
- (ii) The Administrator shall ensure that the Electoral College of the AKFI is prepared, and elections held, in accordance with the Model Election Guidelines, within three months thereof.
- (iii) The body so elected shall carry out the amendments to the MOA, to bring it in conformity with the NSCI.
- (iv) Once this is done, a fresh round of elections shall be carried out, as per the amended MOA and in terms of the NSCI, ensuring that all stipulations in the NSCI, including age and tenure restrictions, are strictly complied with.
- (v) The entire exercise shall be carried out within a period of six months from today.
- (vi) The AKFI shall make available to the Administrator an appropriate office space and facilities for the discharge of the aforesaid directions and make available such staff and personnel as the Administrator may express the need for. Alternatively, the Administrator may appoint such personnel to assist him in the aforesaid matter and expense towards the same shall be borne by the AKFI.

(vii) Till the elections are conducted and results declared in consonance of the NSCI and in compliance with the preceding directions, the AKFI shall not make any new financial commitments except with the prior approval of the Administrator. Routine expenses of AKFI too shall be defrayed, with the due prior approval of the Administrator.

(viii) The Administrator would submit a three-monthly report, to this Court, so as to enable this Court to be satisfied that the affairs of the AKFI are in order. The monthly remuneration of the Administrator is fixed at ₹ 1,00,000/- per month apart from miscellaneous expenses, tour and travel, secretarial assistance, etc., on actuals which would be disbursed, by the 5<sup>th</sup> of every month, by Respondent No. 1.

(ix) The Bank accounts and other assets of AKFI shall be handed, and dealt with, only by the Administrator, or such other person (s), whom he may choose to depute/appoint in this regard.

80. In fixing the remuneration of the Administrator, we have been guided by the remuneration fixed by the Supreme Court, in respect of payment to R.M. Lodha, J. and Mukul Mudgal, J., as Chairman of the Committee to oversee the affairs of the Board of Control for Cricket in India, which was ₹ 1 lakh per day.

81. We express our gratitude to Mr. Gautam Narayan, learned *amicus curiae*, who justified, fully, the confidence reposed by us, in him, and argued the matter with clinical precision and poise.

82. The writ petition is, allowed in the above terms. As we have directed recoveries to be effected from Respondent No. 5, we are not burdening the respondents with additional costs, though the facts of the present case would amply justify such imposition.

**C. HARI SHANKAR  
(JUDGE)**

**ACTING CHIEF JUSTICE**

**AUGUST 03, 2018**

rk/dsn

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