

**PRESENT BEFORE JUSTICE G KRISHNA MOHAN REDDY /
OMBUDSMAN / ETHICS OFFICER
ANDRA CRICKET ASSOCIATION (ACA) (R 1)**

**IN
CASE NO. 04/21**

BETWEEN:

- 1) Dr. Siva Kumar,
President East Godavari District Cricket Association and**
- 2) East Godavari District Cricket Association**

**Complainant/
Petitioners
(Petitioners)**

AND

- 1) Secretary, ACA and**
- 2) The Boys and Girls Cricket Association East Godavari**

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Respondents

This case coming upon before me and having been stood over for consideration till today and having gone through the petition and the counters filed and upon hearing the arguments of Sri N Mohan Das, learned Counsel for the petitioners, Sri Batchu Rajesh, learned Counsel for the 2nd Respondent and Sri MD Rafi Kidvai, learned Legal Adviser for the 1st Respondent this Authority of Ombudsman doth hereby on this day i.e. the 05th day of December 2021 pass the following

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ORDER

1. The 2nd Respondent was added as party to the proceedings by virtue of Order dated 15/09/2021 in IA 09 / 2021. As objection was raised regarding non adding of the 2nd Petitioner as necessary party, it was also added as party and later amended petition was filed accordingly.
2. In this Case questioned mainly the suspension of East Godavari Cricket Association (EDCA) i.e. the 2nd Petitioner by the Executive Committee of the 1st Respondent association i.e. Andhra Cricket Association (ACA) on 03/05/2016 on the ground that there was no coordination between the members and administrators which would be detrimental to the game of cricket in the District which was known to produce the cricketers of highest calibre whereas that was confirmed by the General Body of ACA in a meeting held on 03/07/2021 and then a resolution dated 29/10/2016 was passed by the 1st Respondent which reads that in the case of East Godavari all the office bearers were not elected during 2014 due to technical reasons and vast majority of its office bearers had resigned, thereby created vacuum in the administration and recognised another association by name Boys and Girls Cricket Association, East Godavari (R2). Later petition was filed to receive additional grounds with a request to declare the 2nd Petitioner as the permanent member of ACA holding the resolutions dated 03/05/2016 and 29/10/2016 as illegal and invalid which was also allowed and additional grounds were received.
3. The claim of the Petitioners is as follows: The 2nd Petitioner was formed in the year 1975 and was registered as a public association under the Public Societies Registration Act with No 28 of 1975 with the object of organising and promoting cricket in the District of East Godavari. It became the permanent member of the Respondent No 1 under article 3 (c) of its



Rules. Lastly the East Godavari District Cricket Association Committee was elected on 02/08/15 for a term of 4 years. According to the Petitioners the allegations on the basis of which the suspension was made are false and ACA got no jurisdiction to make the suspension and it was actuated by mala fides and purely on political reasons without underlying any defects or lacunae in the functioning of the Association and without follow up action like issuance of notice and enquiry. Further by virtue of Rule 6(c) of the Bye-Laws and Rules and Regulations of ACA (Rules) the suspension should not be in force beyond 60 days. Every endeavour should have been made to complete necessary enquiry within 45 days and not later than 60 days from the date of the decision of the Executive Committee. By virtue of Rule 6(f) of the Rules the Executive Committee should have the power to suspend any affiliated body or any member of any District Association only on merits and subject to confirmation by the General Body at the next special meeting which procedures were not followed by the 1st Respondent. It is further pleaded by him that by virtue of the Judgement of the Supreme Court dated 02/01/2017 in Civil Appeal No 4235/14 the office bearers in the State Association affiliated to the BCCI who stood disqualified in accordance with the directions of the Supreme Court would forthwith demit and cease to hold the office by reason of which elections had to be held for the posts which stood vacated by the directions of the Supreme Court. Ultimately it is pleaded to declare the suspension of the Applicant as illegal and lift the suspension and allow to continue it as the permanent member of ACA.

4. Further for the parties filed written submissions or Written arguments and for the 2nd Respondent filed additional arguments also.

5. Sri Md. Rafi Kidvai, learned Legal adviser of ACA has submitted while concurring with the pleas taken by the Petitioners that no corresponding



enquiry was conducted in the matter and has further represented that no report is available in the records of ACA in that context . He has claims as to how could a new body be allowed to apply for membership is not known.

6. On behalf of the 2nd Respondent it is contended as follows. That Association was formed under section 9 of the Societies Registration Act in the year 2016. Ever since its recognition by ACA it has been carrying out its activities accordingly contributing the annual membership fees to ACA. It had also participated in the elections held for the Apex body of ACA. ACA has been providing necessary financial assistance to it accordingly. These pleas are not disputed by the other parties, hence they are taken as true. It is further the contention of the 2nd Respondent as argued by his council that as laid in All India S.C. and S.T. Railway Employees Association, Zonal Office, Secunderabad vs E Venkateswarlu the Applicant if aggrieved has to approach concerned District Court under the Arbitration and Conciliation Act and this Authority got no jurisdiction to entertain the matter. Then it is contended that as per the Rules under the Societies Registration Act in force every association registered under the Societies Registration Act shall renew its registration for every three years, but the Petitioners failed to get their Association (EGDCA) renewed accordingly and hence failed to continue its legal personality to sue and be sued. It is also claimed that it became a defunct association and under section 18 of AP Societies Registration Act ceased to be a body corporate and will not be entitled to acquire, hold, and dispose of property and to enter into contracts, apart from instituting or defending suits etc. Further under Rule 3 (a) (ii) of the present Rules of ACA the 2nd Respondent is the full member of the 1st Respondent whereas the 2nd Petitioner is not. Further when the 2nd Petitioner is not a full member of ACA it has no power to maintain the application. It is further the contention of the 2nd Respondent that the applicant no 1 has not been the President of EGDCA

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at any point of time and hence he cannot sue or be sued on behalf of that Association in respect of which he has relied upon a decision reported in 2010 (5) ALT 189 (D.B.) Between: Forum for Sustainable Development, Hyderabad, rep. by its Advisor & Convenor of the Committee on Water Bodies & Wet Lands and another AND Union of India rep. by its Secretary to Government of India, Ministry of Environment and Forests, New Delhi and others.

7. In reply learned council for the Petitioners has argued that by virtue of the relevant Provisions of the Rules of ACA this authority has got jurisdiction to entertain the matter, that even though relevant provision of the Societies Registration Act provide for the renewal of the associations like that of the 2nd Petitioner there is no penal provision as to the consequences of such associations. further ample evidence has been placed before this authority to the effect that 2nd Petitioner has been continuously functioning and it is not a defunct association that evidence also has been placed before this authority to substantiate that the 1st Petitioner has been functioning as the President of the 2nd Petitioner and submitting the list of Office Bearers of the association is only a formality which does not take away the status of the 1st Petitioner as such.

8. For the Petitioners Ex A 1 to Ex A 6 are marked and for the 2nd Respondent Ex B 1 to B 4 are marked. On behalf of the 2nd Respondent 3rd party affidavits are also filed.

Ex A 1 is the resolution Dt. 03/05/2016, Ex A 2 is the Resolution Dt. 10/04/2016 and Ex A 3 is the Resolution Dt. 29/10/2016 all pertaining to the 1st Respondent, EX A 4 is the extract of High Court Order in WP No 7475/2021 which is

related to the dispute in question dismissing WP No 7475 of 2017 between the parties as withdrawn and not pressed. Ex A5 is the resolution of the 2nd Petitioner dated: 11.01.2020 authorising the 2nd Petitioner to file suit before the Ombudsman about the disaffiliation issue and Ex A6 is the original minutes book of the association.

Ex B 1 is the extract given by the Department of Registration and stamps that the 2nd Petitioner was renewed up-to 2011-2012, Ex B 2 is a copy or copies of proceedings in the said writ petition No. 7475 of 2017, Ex B3 is a copy of Registration Certificate of the 2nd Respondent, EX B 04 is bank account extract pertaining to the 2nd Respondent and Ex B5 is a copy of the Rules and Regulations of ACA.

9. Therefore the followings points are to be decided for the disposal of the case.

1. Whether this Authority got no jurisdiction to entertain the matter.
2. Whether the 2nd Petitioner is a defunct association and hence it has locus standi to file the petition.
3. Whether the 1st Petitioner got no locus standi to represent the 2nd Petitioner and
4. Whether the suspension of the 2nd Petitioner is legal / and how far it could sustain and in the absence of any enquiry or further action the suspension is to be lifted and as such the 2nd Petitioner is to be declared as the permanent member of ACA and it is to allowed to function accordingly

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10. Point No. 1. With regards to the question of jurisdiction in the case of All India S.C., S.T. Railway Employees Association ...represented by its Divisional Society filed seeking to declare the Respondents therein to order re-elections, by way of issuing Writ of Mandamus cancelling the elections of the Writ Petitioner held on 10/01/2003 holding to be null and void a question was raised about the competence to file the Writ Petition on which the High Court of Andhra Pradesh held, " As Per Section 23 of the Societies Registration Act 2001 disputes arising among the Committee or the members of the Society, in respect of any matter relating to the affairs of the Society, have to be decided either under the provisions of the Arbitration and Conciliation Act, 1996 or by a District Court concernedand when an alternative is open, the jurisdiction of this Court under article 226 of the Constitution cannot be invoked .

11. There is no dispute about the application of the relevant provisions enumerated above in the said circumstances. But so far as ACA / BCCI and its members etc are concerned the Apex Court while disposing of Civil appeal No. 4235 of 2014 between Board of Control for Cricket versus Cricket Association of Bihar & Others along with other appeals had approved Justice Lodha Committee (reforms) subject to some modifications by which provided alternative remedies for resolving similar disputes.

12. By virtue of Rule 44 of the Rules of ACA the Ombudsman got the power of adjudication of disputes covered by Rule 45 of the Rules. Under Clause 1(a) of the Rule 45 any disputes between or among the ACA, its members, APL franchisees, Zones and the Cricket Players' Association shall be automatically referred to the Ombudsman who has to dispose of the matter observing the principles of natural justice. As the dispute under consideration is the one between ACA and its member who alleges that quite arbitrarily it



was suspended by ACA and then ACA gave affiliation to the 2nd Respondent illegally the same falls under this provision unless it ceased to be its member.

13. The following points are to be considered in the present context with regards to the question of membership of ACA. By virtue of Rule 1 (A) (m) of the present Rules existing member of ACA is an association or other body corporate that was a member of the ACA immediately before the effective date. Rule 1 (A) (t) (i) provides that member is a full member, an associate member and patrons of ACA. Clause (t) (ii) provides that a full member is a district cricket association as enumerated in Rule 3 (a) (ii) of the Rules and so on. By virtue of Rule 3 (B) (ii) the effective date shall be the date on which these Rules come into effect. Rule 3 (a) (ii) (A) provides that full member shall include A) Each District which shall be represented by only one district cricket association recognised by the ACA. Under Rule 3 (a) (ii) (B) (8) given controlling bodies for cricket in various districts including the 2nd Respondent. By virtue of these provisions the 2nd Respondent claims that because the 2nd Petitioner is not the present member of ACA he got no locus standing to file the case.

14. With regards to the question as to whether a person who can refer such disputes should be a present member in *Ambati Ramaiah vs Govt. of AP* reported in 2012 (4) ALD 694, while dealing with a matter under sections 23 and 32 of AP Societies Registration Act 2001 regarding remedy for a member of ACA who faced suspension / expulsion itself it is held by the AP High Court with reference to the meaning of member as used in the said sections that it should include not only the present member but also the suspended or expelled member. The same analogy holds good here also.

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15. The dispute in question had or has been pending before the High Court or ACA since many years. Ex A4 provides evidence of the withdrawal of WP No. 7475/2012 on 08.10.2021 by the High Court of Andhra Pradesh. The present petition was filed before this authority prior to 19.03.2020 on which date it was returned on technical grounds whereas it was resubmitted later on the ground that even though they approached ACA for necessary action the later had not taken any measures with a request to take up the matter by this authority directly which representation was allowed vide common orders passed in the corresponding IA No. 3/21 and other petitions.

16. In view of Rule 3 (C) of the Rules where disputes are pending regarding the duly recognised association to represent a particular dispute, the district shall be represented by the recognised association, subject to any order of the court or resolution of ACA as the case may be. So, here whether the applicant is the member of ACA or not is subject to the final decision of one of the said authorities. When the Ombudsman is vested with the power of adjudication of the disputes between ACA and its members the word 'ACA' must mean to include the word 'Ombudsman' also for the purpose of resolving the dispute. What is important is when once a dispute is raised between ACA and its members, then only the Ombudsman will have the authority to resolve it under the Rule 45. Significantly here the dispute in question has been raised on the ground that ACA, quite arbitrarily and without following the principles of natural justice, had suspended the Petitioner and no consequential action, as required by law, has been taken by ACA till now. Thereby then the word ACA as used in the Sub Rule must mean only Ombudsman, appointed to resolve the disputes between ACA and its members. Therefore the word member used in the Clause 1 (a) of Rule 45 must mean to include such suspended or expelled member also till resolving the dispute through proper authority.



17. Further the Honourable Supreme Court while disposing of said appeals observed as follows: “24. In chapter seven, the committee has dealt with need for Ombudsman, Ethics and Electoral Officer. The Committee notes that several disputes that exists within BCCI are born out of years of apathy in governance and gross mismanagement. The Committee has found that the relationship between the associations, on one hand, and BCCI, on the other hand, has rarely been equitable and balanced, with the later exercising its hegemony over the former. The Committee has therefore recommended moderation of such relationships in an objective manner. The Committee has referred to the problem of disgruntlement and litigation in the States of Bihar.....The Committee has found that absence of suitable dispute resolution mechanism has compounded the situation. Even the arbitration system that has hitherto existed has been found to be insufficient and probably inappropriate when two equals are pitted against each other, especially with the State Associations remaining beholden to the Board for matches, grants, and revenues. In order to reduce the judicial role and the burdening of the courts and to expedite the dispute resolution, the Committee has recommended the appointment of a retired Judge of the Supreme Court or a former Chief Justice of a High Court as the Ombudsman of BCCI to be appointed once an year at the annual general body meeting to investigate any complaint received by him / her or Suo motto and resolve any disputes between the Board and any of the above entities or among themselves by following the principles of natural justice, production of evidence and fair hearing. So also, the Committee has recommended an Ethics Officer for monitoring adhering to the principles governing avoidance of conflict of interest. The Committee has recommended that Ethics Officer shall have powers inter alia of laying down of additional guidelines or bye-laws on Ethics, initiation of investigation or adjudicatory proceedings and the award



of warnings, fines, reprimands, suspensions or other action as may be recommended to BCCI”.

18. Since the Rules and Regulations of ACA(R1) have been the off shoots of the Rules and Regulations of BCCI the analogy made by the Supreme Court is applicable here also. The judgements or orders of the Constitutional Courts become law and are therefore to be implemented as long as they are in force. So certainly, this Authority of Ombudsman / Ethics Officer derives vast powers of adjudication as observed by the Supreme Court. Any difference in the framing of corresponding rules and regulations will not take away the impact of the body of the judgement or order. It is very clear from the decision of the Apex Court that the position of Ombudsman is kept above that of Arbitrator who has to deal with cases sent to him by appropriate court or authority only whereas the Ombudsman is given wide powers of adjudication of all the disputes covered by the Rule 45, either sent mandatorily or directly filed before him. Arbitrator cannot have jurisdiction to command allotment of cases which he can dispose of as per law whereas Ombudsman is given the authority to do so under the Rule 45. Further, the order of Ombudsman is made final and no where in the Rules is provided that any appeal lies against the orders of Ombudsman. When a particular Rule says that his orders are final, the same cannot be interfered with unless blatant violations of law or the principles of natural justice are made out.

19. When alternative remedy is provided, by virtue of the Reforms implemented by the Supreme Court, it is not proper to contend that the Petitioners have to approach only under the remedy provided under the Societies Registration Act. The decision of the High Court of Andhra Pradesh is in a different context or circumstance where the Reforms applied to ACA



or similar Reforms got nothing to do. Hence that decision is not applicable here.

20. Point No.2. with regards to the Locus Standi of the 2nd Petitioner Ex B1 clearly provides that it was last renewed by the Registration and Stamps Department for the year 2011-2012. However Ex A6 provides that the same has been functioning even after its suspension by ACA. It is not the case of either of the parties that the Registration of the 2nd Petitioner got cancelled, hence it is to be deemed that the same has been continuing. When once the Association was registered as per law with relevant number given and it continues to exist the question of renewal is a mere formality to be examined by the concerned authority. No authority is placed to the effect that the non renewal will have the effect of the cancellation of registration or declaration of the association as a defunct run. It is not in dispute that by the time the 2nd Petitioner was suspended the same was without such renewal, but still it was allowed to function by ACA. Thereby the non renewal of the association may not be sufficient to bar the 2nd Petitioner to approach this authority for the redressal of its grievance. Further when the questions involved are related to the question of suspension and follow up action only the subsequent event are not relevant. Hence it categorical that the 2nd Petitioner can file the petition questioning the suspension. However discretion is left to ACA to decide on common platform in relation to all such associations the question of renewal with regards to the question of their recognitions by it.

Accordingly this point is answered

21. Point No. 3. With regards to the Locus Standi of the 1st Petitioner to represent the 2nd Petitioner in the case of Forum for Sustainable Development considered the provisions of Sec 6 of the Societies Registration Act 1860



which reads “ Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, trustees, as shall be determined by the rules and regulations of the society. And, in default of such determination, in the name of such persons as shall be appointed by the governing body for the occasion”

Ex A6 amply provides that it has been maintained during the normal course of events and hence it is genuine one. It shows that the 1st Petitioner was a member of the association for a long time and page 248 of it provides that it was unanimously resolved on 31.08.2016 to co-opt the 1st Petitioner as the President of the association and then he was unanimously elected to that post. Further Ex A5 clearly provides that the 1st Petitioner was authorised to file this case as the President of the association. About filing various third party affidavits, it is not difficult to create such affidavits and in any case Ex A5 and Ex A6, proved to be authenticated documents prevail over those affidavits I do not find any irregularity in the present context. Hence the plea taken by the 2nd Respondent in the present context is dismissed as not tenable.

22. Point No 4. ACA has to work in accordance with its Bye-Laws and Rules and Regulations (Rules) formed with in the frame work of law. The Power of the 1st Respondent to suspend or disqualify the 2nd Petitioner was subject to the relevant provisions of its Rules only. By virtue of the established principles of law or principles of natural justice ACA had no power to take action against the 2nd Petitioner without giving him an opportunity of being heard and against law. It is important that Learned Legal Adviser of the 1st Respondent has represented before this Authority that no record with regards to the issuance of any prior notice to the 2nd Petitioner and giving the 2nd Respondent an opportunity to represent its case in the matter is available. Hence it is to be deemed that no such action or actions was or were taken. Further by virtue of Rule 6(c) of the Bye-Laws and Rules and

Regulations of ACA (Rules) the suspension should not be in force beyond 60 days. Every endeavour should have been made to complete necessary enquiry within 45 days and not later than 60 days from the date of the decision of the Executive Committee. By virtue of Rule 6(f) of the Rules the Executive Committee should have the power to suspend any affiliated body or any member of any District Association only on merits and subject to confirmation by the General Body at the next special meeting which procedures were not followed by the 1st Respondent. It is very unfortunate that just in consequence of the suspension made the Petitioners were kept out of the office for several years. It is also very unfortunate that the requisite follow up action including conducting of enquiry as contemplated by the provisions enumerated above have not been taken up till today. Without necessary enquiry the allegations made cannot be said to be true. The inaction of the authorities of ACA is quite arbitrary and it appears to be even vindictive.

Accordingly this point is answered in favour of the Petitioners and against the Respondents.

23. Hence for the forgoing reasons the suspension of the 2nd Petitioner is lifted and consequently the recognition of the 2nd Respondent as the full member of ACA is cancelled whereby it ceases to be the full member of ACA with immediate effect and the full membership of the 2nd Petitioner is restored and the 2nd Respondent should immediately handover all the things which should be transferred in consequence of this Order to the 2nd Petitioner. ACA has to complete necessary formalities in the matter taking the aid of the 2nd Petitioner, if necessary.



Typed to my dictation and corrected and pronounced by me in the official hall of this authority on this day i.e. 05th day of December of 2021.

SD. Justice G Krishna Mohan Reddy,
Ombudsman / Ethics Officer,
Andhra Cricket Association.