

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

Case No. 2/21

BETWEEN:

1) Guntur District Cricket Association (GDCA)

Represented by its Secretary, M. Venkateswara Rao

Applicant /

Petitioner

AND

1) Andhra Cricket Association (ACA), represented by its Secretary and

2) Men and Women Cricket Association, represented by its Secretary

P. Sarath Kumar

— Respondents

This case coming on before me and having stood over for consideration till today and upon examining the pleadings or written submission of the parties and hearing the arguments of Shri. MSPV Ramana Murthy Learned Counsel for the Petitioner and Shri Md. Rafi Khidvai Learned Counsel for the 1st Respondent and Shri. Md. Sultan Sirajuddin Learned Counsel for the 2nd Respondent this Authority doth hereby pass the following

ORDER

1. Originally the Petition was filed against the Secretary, ACA and the Secretary Men and Women Cricket Association and by virtue of Order dated



06/11/2021 in Memo No 01 of 2021 those names were replaced by the Respondents, presently on record.

2. In the petition sought to direct the 1st Respondent to remove the 2nd Respondent from the roles of the State body i.e. the 1st Respondent and to declare the Petitioner as the permanent body of the 1st Respondent admitting Sri M Venkateswara Rao as the Secretary and M.S.P.V. Ramana Murthy as a member of the petitioner on the following grounds

The Petitioner was in the State body till 2012. By issuing show Cause notices to the said Secretary and M.S.P.V. Ramana Murthy in the Executive Body meetings of ACA held on 08/04/2012 and 24/12/2012 they were suspended and unceremoniously appointed an ad hoc committee to oversee the corresponding cricket activities. But no follow up action as contemplated under the Bye-Laws and Rules and Regulations of ACA (Rules) was taken up regarding conducting of necessary enquiry and taking final decision on that basis. According to the Petitioner such action was taken as its Secretary had filed SOP 645/2011 questioning the election of the then Secretary Sri Ganga Raju and President, Sri D.V. Subba Rao of the 1st Respondent. Further having lifted the ad hoc committee appointed a new splinter group, consisting of five clubs of GDCA who were the followers of Sri Ganga Raju getting them registered as Men and Women Cricket Association i.e. the 2nd Respondent without following the requisite norms.

3. On behalf of the 1st Respondent filed written arguments in which it is pleaded that having suspended GDCA the 1st Respondent had not chosen to de recognise it. Further the relevant provisions of Rule 6 of the Rules were not followed regarding conducting necessary enquiry and passing final order on behalf of the 2nd Respondent filed written arguments the asserting that

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allegations made against the then Secretary of the 2nd Respondent are baseless that the suspension was ordered as required after calling for the explanations of M Venkateswara Rao and M.S.P.V Ramana Murthy and having noticed their irregularities and malfunctioning in GDCA and then only resolved to constitute a committee consisting of Sri J Narendra Nath, N Mohan Das, Vice President of ACA, V Umamaheswara Rao, N Prabhakar Rao Zonal Secretary of the 1st Respondent etc following necessary formalities to oversee the district cricket activities. It is specifically alleged that Sri M Venkateswara Rao , the Secretary and President of GDCA had illegally conducted rival cricket camps which created doubts in the minds of cricketers as to which of the camps was a real one. Further Sri M.S.P.V Ramana Murthy, treasurer of GDCA who was earlier Zonal Secretary, central Zone and active member of the Legal Sub Committee of the 1st Respondent being advocate conducted cases on behalf of the 1st Respondent and using that experience conducted cases against the 1st Respondent and its interest and in view of that the members of the 1st Respondent had unanimously resolved to take necessary action against them according to the 2nd Respondent following that necessary show cause notices were given calling them to give explanations as to why necessary action should not be taken and later they were suspended from the primary membership of GDCA. It is also specifically pleaded that no where the said persons have claimed that they gave explanations to the show cause notices as per the Rules and relevant provisions of the Societies Registration Act. It is pleaded that GDCA has not been in existence and as such no plea was made to renew it. It is further pleaded that the petition is barred by limitation further GDCA ought to have approached court of law for necessary relief. Hence it is pleaded that GDCA got no locus standee to file the case before the Ombudsman. Hence ultimately pleaded for the dismissal of the case.



To dispose of the case the following points are to be answered:

1. Whether this Authority got jurisdiction to entertain the case?
2. Whether the case is barred by limitation?
3. Whether the suspensions imposed against the two persons namely M Venkateswara Rao and M.S.P.V Ramana Murthy are as per law and liable to be set aside?
4. Whether the appointment of the ad hoc committee and later the 2nd Respondent as the full member of the 1st Respondent are illegal and liable to be set aside and the Petitioner is to be declared as the permanent member of the 1st Respondent admitting the said persons as its members?

For the Petitioner Ex A 1 to A 12 are marked. For the Respondents no documents are marked.

4. Point No. 1. With regards to the jurisdiction 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.

5. 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.



6. 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.

7. 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.

8. 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.

9. 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".

10. 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.

11. Point No. 2 with regards to the question of Limitation to file the case the counsel for the 2nd Respondent has vehemently argued that even though the suspension was imposed long time back the Petitioners did not approach Hon'ble Court, concerned till now hence the petition is barred by limitation. He has not filed any authority to the effect that suspension is a punishment, and the law of limitation is applicable here. According to him, suspension is a punishment On the other hand learned counsel for the Petitioners contends that passing of suspension is of administrative nature and it is not punishment and hence the question of limitation does not arise. In Union of India and another vs Ashok Kumar Agarwal while dealing with a case relating to departmental enquiry the Apex Court observed, " The scope of judicial review is limited in case of suspension for the reason that passing of suspension order is of an administrative nature and suspension is not a punishment. It's purpose is only to forbid the delinquent to work in the office and it is in the exclusive domain of the employer to revoke the suspension order. The Tribunal or court cannot function as an appellate authority over the decision taken by the disciplinary authority in these regards. " When the 1st Respondent had suspended the two persons on the ground of certain irregularities committed by them it is also of administrative nature and not a punishment and its purpose is only to forbid the two persons to work in their Association where as it is in the domain of the 1st Respondent to revoke it. Hence the question of approaching a tribunal or court concerned with to appeal against the order of suspension does not arise at all. Learned counsel for the 2nd Respondent has not countered this proposition.



12. Point No 3 - Learned counsels for the parties have argued as per their respective pleadings in this context. Ex A 1 is the minutes of the 1st Respondent dated 08/04/2012. Ex A 2 is its minutes dated 24/06/2012 which provides as follows : The letters sent by the parents of cricket players from Guntur , letter of Sri M Venkateswara Rao and other documents and the letters against Sri M Venkateswara Rao explained the irregularities and malfunctioning of GDCA and the constitution of a committee to oversee the cricket activities in Guntur district The Executive Committee held meetings twice which the Secretary GDCA attended, but did not adhere to the decisions of the Committee and conducted a parallel camp during May 2012. The representatives of the clubs from Guntur informed that GDCA never sent meeting notices of their Executive Committee though there was clear direction from the Executive Committee of ACA.....The house observed that GDCA violated the directions of the ACA in that regard in utter violations of the resolutions of the 1st Respondent and GDCA office bearers who are mostly from one club were not allowing other clubs to attend any meetings of GDCA. Hence it was found that GDCA was totally mismanaged, biased and unilateral. It further provides: Sri Venkateswara Rao explained his stand on the said letters that he was not prevented from conducting the summer camps and he admitted that he attended the meeting held by the Chairman Sri J Narendranath , but did not specify the reason in conducting the summer camp when he attended the Committee meetings on 29/04/2012 and 27/05/2012 It is clear that the President and Members of GDCA had been conducting rival camps and creating doubts in the minds of the cricketers as to which camp and for which selections they were to attend. In view of the attitude and activity of the members of GDCA the Members have unanimously opined to take appropriate action in that regard. After due deliberations the house resolved to suspend GDCA and the Secretary of ACA was authorised to constitute Ad hoc Committee to look into the administration of Guntur district cricket activities. Ex A 2 further provides that



Mr M.S.P.V. Ramana Murthy being the Treasurer and active Member of Legal Sub Committee being advocate and Zonal Secretary, Central Zone of ACA acted against the interest of ACA, taking advantage of his prior association, in case numbers 246/2010, 1330/2011, 144/2011 and 1232/2011 which could not be tolerated and thereby the house unanimously resolved to suspend him from the primary members of GDCA and issue show cause notice to him to enable him to offer his explanation and so on. Ex A 3 is a copy of reply dated 30/04/2012 given by the Secretary, M Venkateswara Rao in which denied the allegations found in Ex A 2 claiming specifically that he acted in the interest of GDCA and further alleging that ACA subjected the cricket activities of Guntur District to many hardships by way of not providing and stoppage of necessary funds to GDCA without assigning any reasons and so on.

Ex A 4, a copy of Executive Committee meeting of the 1st Respondent provides that the explanation of Sri M Venkateswara Rao was examined, but because the issues were of many fold it was resolved to constitute a Committee consisting of J Narendranath, N Mohan Das and others to formulate point wise issues and enquire in the matter and submit comprehensive report.

Ex A 5 is a copy of the Resolution and Ex A 6 is a copy of the minutes, both dated 8/8/2011 of the Executive Committee meeting of the 1st Respondent. I do not find necessary relevancy of these documents.

Ex A 7 is a copy of Certificate of Registration of GDCA dated 22/9/1978.

14. Serious allegations of irregularities and illegalities were made against the Petitioner and its then Secretary, Treasurer and Legal Adviser which the Secretary denied clearly as born out by the main documents enumerated. Without conducting enquiry in consequence of that it cannot be said and proved



that the allegations made are true. In other words only on the basis of necessary enquiry it can be decided whether the allegations are true or not. Similarly without conducting any enquiry it cannot be held that the suspension was made properly.

15. It is contented by the Learned counsel for the Petitioner relying upon the decision of Supreme Court vide Citation: 2015 Lawsuit (SC) 177 between Ajay Kumar Choudhary AND Union of India and another that the suspension of the Petitioner is injurious to its interest and must not be continued for unreasonably long period. In that case with reference to a departmental enquiry and suspension for unreasonable period it is observed and held by the Apex Court that an order of suspension should not be lightly passed that, protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that the suspended person who might have suffered the ignominy of insinuations, the scorn of society and the derision of his Department, has to endure this excruciation even before he is formally charged with some misdemeanour, indiscretion or offence that his torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is to determine his innocence or inquiry. These observation of the Apex Court hold good in the circumstances of the present case.

16. It is very unfortunate that the Petitioner was suspended many years ago and was kept out of the office without conducting necessary enquiry which is the basis of foundation to decide the question of the truthfulness of the allegations. It proves that the 1st Respondent acted quite arbitrarily and even vindictively for the reasons best known to its authorities.



For the reasons stated it is held that the suspension imposed against the petitioner is not legal and further is liable to be set aside.

17. Point No 4: it is contended on behalf of the Petitioner that by virtue of the then Rules of ACA necessary enquiry should have been completed within 45 days with further extension of 60 days, otherwise it is to be deemed that there was no extension of suspension by virtue of section 7 of AP Societies Registration Act

18. Rule 6 of the Rules deals with disciplinary actions. Clause (a) there under provides that if any Office -Bearer/Member of ACA shall willfully refuse or comply with any provisions of the Rules or shall be guilty of such conduct as the Executive Committee consider likely to endanger the harmony or affect the character, stability or interest of the Association, the Executive Committee shall issue a show cause notice calling for explanation and on filing the explanation has to place the explanation before the General Body of the Association which after hearing the Member may expel the member if two thirds of its Members , present vote in favour of that and it may also inflict lesser punishment as deems fit . Under Clause (b) there under pending the decision of the General Body the Executive Committee may place him under suspension . Under Clause (c) necessary enquiry shall be conducted within 45 days and not later than 60 days from the date of the decision of the Executive Committee recommending for the expulsion . . It seems that all these procedures were not followed. It is also not claimed by the Respondents that in fact those provisions were complied with. Quite surprisingly, on the other hand, learned Legal Adviser of the 1st Respondent has conceded that no consequential enquiry was held. It is unfortunate that the 1st Respondent suspended the two persons without following the requisite norms during the 1st part of 2012 and continued the suspension without any follow up action as per law. It is quite

arbitrary and even may be indictive. In view of section 7 of the Societies Registration Act it amounts to no suspension at all.

19. With regards to the final action it is argued by the Learned Counsel for the Petitioner that if the 1st Respondent is allowed to proceed with necessary enquiry at this stage consequently that will be very prejudicial which leads to injustice to the Petitioner in respect of which he has relied upon a decision reported in Citation: 2005 Lawsuit (SC) 1062 between PV Mahadevan and M D Tamil Nadu Housing Board.

20. In that case the Supreme Court while dealing with suspension of a government employee in department proceedings observed that allowing the employer to proceed further with the departmental proceedings after a long distance of time would be very prejudicial to the employee and that the protracted disciplinary enquiry against the employee should therefore be avoided not only in the interest of the employee but also in public interest.

21. In another decision reported in 1998 Lawsuit (SC) 430 between State of Andhra Pradesh and N Radhakishan, relied upon by the Learned Counsel for the Petitioner in the same context the Supreme court observed with regards to another departmental enquiry that there was unexplained delay in concluding the departmental enquiry in question and there was no explanation what so ever for the delay caused and the delinquent was not responsible for the delay and held that in those circumstances the correspondence charge memo was liable to be quashed. These decision of Supreme Court hold good in the circumstances of the case.



22. Therefore the Petitioner is entitled to the reliefs prayed for and also the relief that the 1st Respondent should not reopen the matter to continue the issue by way of ordering a fresh enquiry.

23. Hence for the forgoing reasons the suspension of the Petitioner is lifted and consequently the recognition of the 2nd Respondent as the full member of the 1st Respondent is cancelled whereby it ceases to be the full member of 1st Respondent with immediate effect and the full membership of the Petitioner is restored and the 2nd Respondent should immediately handover all the things which should be transferred in consequence of this Order to the Petitioner. The 1st Respondent has to complete necessary formalities in the matter taking the aid of the Petitioner, if necessary. In consequence of this any action initiated against Shri. M. Venkateswara Rao and Shri. MSPV Ramana Murthy stands set aside or dropped as the case may be, subject to their tenures or election periods as per the Lodha Committee Reforms as approved by the Apex Court.

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.