

In the High Court of Judicature for Rajasthan

Jaipur Bench

**

1-Civil Writ Petition No.2331/2009

Shri Ganganagar Cricket Asson & Anr **Versus**
Secy, Deptt. Of Sports & Youth Affairs & Ors.

And

2-Civil Writ Petition No.2334/2009

Kota Cricket Association & Anr **Versus**
Secy, Deptt. Of Sports & Youth Affairs & Ors.

Date of Order :: 27/02/09

Hon'ble Mr. Justice Ajay Rastogi

Dr. Abhishek Manu Singhvi, with
Sarva Shri AK Gupta, Ankur Chawla, Rahul Pratap,
Abhishek Singh, Sarvesh Singh, for petitioners
Mr. GS Bapna Advocate General with
Mr. Veyankatesh Garg, Assistant for Caveator respondent No.1.
Mr. Alok Sharma for Caveator respondent No.2 & 4.

Both the instant petitions have been filed by Sri Ganganagar & Kota District Cricket Associations with one of office-bearers with multifarious common grievance; hence are being disposed of by present order. Prayers made in the petition are reproduced ad infra:

A. to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus directing the Res.1 to dispose the appeal or atleast interim application within a period of 3 weeks and;

B. To issue an appropriate writ or direction thereby keeping in abeyance the order dated 30thJanuary, 2009 passed by the learned Registrar in abeyance till the interim application in appeal is pending adjudication before Res.1 is finally decided; and

C. direct the respondents to act in compliance of order dated 20/02/2009 and 11/02/05 passed in Civil Appeal No.1206 of 2005 as also other pleadings disposed off vide order dated 20/02/2009; and

D. direct the respondents to act in accordance with Article 144 of the Constitution of India and abide by and comply each and every orders passed by the Hon'ble Superior courts especially the Hon'ble Supreme Court of India in the instant case and more specifically the order dated 11/02/2005 and 20/02/2009 passed by the Hon'ble Apex Court.

E. To issue any other appropriate writ, order or direction as your Lordship may deem fit in the facts and circumstances of the case."

It is relevant to mention that earlier, Sri Ganganagar Cricket Association filed CWP-1634/2009 assailing order dt.30/01/09 passed by Registrar, Co-operative Societies in exercise of powers U/s 8 (3) of Rajasthan Sports (Registration, Recognition & Regulation of Associations) Act, 2005 ("the **Act**"), on a complaint made by four members of Cricket Association, and registered Constitution submitted by Shri Deva Ram Choudhary on 28/01/05. However, after hearing the parties, writ petition was disposed of with the observations that in view of statutory remedy of appeal available to writ petitioners U/s 35 of the Act against order of

Registrar Co-operative Societies, writ petition was not maintainable and at the same time, it was further observed that if such appeal is preferred latest by 16/02/09, order dt.30/01/09 of Registrar Co-operative Societies shall be kept in abeyance for two weeks and relevant observations ad infra:

"Counsel for petitioner, on instructions, submits that the Association would prefer appeal latest by 16/02/09 before appellate authority; if that be so, this Court considers it proper to keep order impugned dt.30/01/09 (Ann.P.29) in abeyance for a period of two weeks and it is expected from appellate authority to dispose of the appeal expeditiously in accordance with law; and in the meanwhile, respondent No.1 may make ad hoc arrangements for the interest of the Association."

It was informed to this Court that against order of Registrar Co-operative Societies dt.30/01/09, appeal was preferred to the Secretary, Sports & Youth, Government of Rajasthan and as per order sheet dt.25/02/09 placed before this Court, final order on appeal was reserved for pronouncement on 26/02/09; however, Counsel for petitioners sought time to examine written submissions furnished by opposite side and the matter was posted to 27/02/09 for submission of rejoinder to the submissions made by respondent No.4 in appeal; and

what latter development if taken place on 27/02/09 was not informed to this Court by either of parties.

At the same time, dispute was also raised before Apex Court and while disposing of SLP(C) No.4318/2009 vide order dt.20/02/09, Apex Court appointed Mr. Justice NM Kasliwal (retired Judge, Supreme Court) as Chairman/Observer to conduct election scheduled to be held on 22/02/09. Apex Court observed ad infra:

"After hearing the parties, we are of the view that **the election could be held on 01/03/2009 as per the steps already initiated by the Association.** If any person has already submitted nomination, the same shall be accepted as valid if found so. If any person who is entitled to file nomination is at liberty to do so within a period of three days and the validity of the same is to be considered by the Chairman/Observer Mr. Justice NM Kasliwal. The Chairman/Observer would be at liberty to appoint any other person as assistant, if he so deems fit. The further process of election can be conducted as per directions of Mr. Justice Kasliwal. All procedure for election shall be conducted as per the order passed by this Court on 11/02/2005."

As per direction (supra), election was to be held on 01/03/09 and process of election was initiated by Chairman/Observer Mr. Justice NM Kasliwal and

any person, if entitled to file nomination was given liberty to do so within three days subject to validity to be considered by Chairman/observer.

By instant petitions, petitioners are seeking further directions in the form of mandamus against appellate authority to dispose of pending appeal and the order of Registrar Co-Operative Societies dt.30/01/09 which was kept in abeyance in earlier petition (CWP-1634/09) may be continued till appeal is decided by appellate authority; and at the same time, further directions have been sought for compliance of order of Apex Court dt.20/02/09 in SLP(C)-4318/09.

Dr. Abhishek Manu Singhvi, learned Counsel for petitioner submits that order of Registrar, Co-operative Societies dt.30/01/09 was kept in abeyance by this Court for a period of two weeks while disposing of CWP-1634/09 vide order dt. 11/02/09 granting opportunity to prefer appeal by 16/02/09 and respondents are misinterpreting this Court's order dt.11/02/09 about expiry of two weeks computing from the date of order, itself consequently, as per their interpretation, new constitution duly approved vide order dt.30/01/09 has come into force - in pursuance whereof, elections will have to take place on scheduled date 01/03/08; and that apart, appellate authority

has also not taken any cognizance whereof which may cause great prejudice to them.

Counsel further submits that this Court may clarify the order dt.11/02/09 of this Court and the order of Registrar, Co-operative Societies may be kept in abeyance till disposal of pending appeal and the appellate authority may be further directed to comply with order of Apex Court dt.20/02/09.

Per contra, Shri GS Bapna, learned Advocate General and Shri Alok Sharma, appearing for the respondents (caveator) jointly submit that the appeal is pending adjudication before appellate authority where petitioners are taking adjournments for one reason or the other as is evident from order sheet dt.25/02/09 and once election schedule has been published and Mr. Justice NM Kasliwal, Chairman/Observer appointed by Apex Court vide order dt.20/02/09 in SLP-4318/09 to conduct election, no further orders could be passed in instant petitions. Counsel further submits that no further orders have been passed by Registrar, Co-operative Societies or by the appellate authority and their apprehension is without any basis.

I have considered contentions of Counsel for the parties and with their assistance,

examined material on record. As regards order of Registrar, Co-operative Societies, earlier CWP-1634/09 was preferred by petitioners which was disposed of by this Court vide order dt.11/02/09 with the direction to prefer appeal and appropriate order was passed as quoted (supra). Once appeal is pending before appellate authority and as per order-sheet dt.25/02/09, written submissions were exchanged, arguments were also concluded, rather petitioners' Counsel sought adjournment before appellate authority before pronouncement of order to submit rejoinder to written submissions, it would not be proper for this Court to pass any further orders as it would certainly affect inter-se rights of parties. If at all, petitioners have any grievance, certainly they could have made application before appellate authority for necessary orders. Hence this Court refrains from expressing any opinion on merits pending appeal before appellate authority.

As regards apprehension shown by Counsel for petitioners about alleged misinterpretation by appellate authority or by respondents in respect of keeping order dt.30/01/09 of Registrar Co-operative Societies in abeyance for two weeks being expired, and consequently, election may take place in terms of new constitution approved vide

order dt.30/01/09, suffice it to say that it is their mere apprehension - in support whereof, there is no material available on record by which it could be so inferred; and that apart, once election schedule has been notified and the Chairman/Observer to conduct election has been appointed under directions of Apex Court vide order dt.20/02/09 in SLP(C) No.4318/09 (supra), it would be open for petitioners to approach the Chairman/Observer, *ibid*, and it is not for this Court to make clarifications as sought for in instant petitions.

Consequently, writ petitions fail and are hereby dismissed. No order as to costs.

(Ajay Rastogi), J.