

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (C) No. 124 of 2018

The Manipur Hockey, bearing Regd. No.402/M/SR/2009 having its registered address at Imphal, represented by its President Shri Basudev Singh, aged about 58 years a resident of Thangal Bazar P.O Imphal & P.S. City, Imphal East District, Manipur.

... Petitioner

- Versus -

- 1.** The State of Manipur represented by the Principal Secretary (Co-Op.) Government of Manipur.
- 2.** The Deputy Secretary (Coop), Government of Manipur.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE KH. NOBIN SINGH

For the petitioner : Shri K. Roshan, Advocate

For the respondents : Shri Athouba Khaidem, Govt. Advocate

Date of Hearing : **14.08.2019.**

Date of Judgment & Order : **30-08-2019**

JUDGMENT & ORDER

[1] Heard Shri K. Roshan, learned Advocate appearing for the petitioner and Shri Kh. Athouba, learned Government Advocate for the respondents.

[2] By the instant writ petition, the petitioner has prayed for issuing a writ of certiorari or any other appropriate writs to quash and set-aside the order dated 22.01.2018 issued by the Registrar of Co-Operative Societies.

[3.1] Facts and circumstances as narrated in the writ petition, are that the Indian Olympic Association addressed a letter dated 01.06.2009 to all the Presidents/ Secretaries, State Olympic Associations directing them to insure affiliation of a single association and accordingly, the Manipur Olympic Association wrote a letter dated 27.06.2009 to President/ Secretary, the Manipur Hockey Association and the Manipur Women Hockey Association for a joint meeting to be held on 29.06.2009 at its office at Khuman Lampak. During the course of the meeting held on 29.06.2019, the Secretary, the Manipur Hockey Association told that an association of hockey for men and women was formed to which the Manipur Women Hockey Association did not agree and thereafter, the President, Manipur Olympic Association appealed to all the members for allowing it to constitute an ad-hoc committee to look after the affairs of hockey in Manipur in terms of the directions given by the Indian Olympic Association. The President, Manipur Olympic Association issued an order dated 29.06.2009 constituting an ad-hoc Committee to manage and administer the affairs of hockey, which will finalize the constitution of a hockey association and conduct the election of its office bearers. Thereafter, a circular dated 01.10.2009 was issued to the Clubs/ Organizations of the State of Manipur for holding a meeting to discuss the present scenario of hockey in the State and accordingly, a meeting was held on 06.10.2009 in which it was resolved to form "Manipur Hockey" consisting 21 executive members including 2 nominated members. Consequently, the General Secretary, Manipur Hockey submitted a letter

dated 17.10.2009 to the Registrar of Societies for its registration and at the same time, an application dated 17.10.2009 was also submitted to the President, Manipur Olympic Association for its recognition/ affiliation. Thereafter, the Manipur Hockey also submitted application to the President, Hockey India requesting for its recognition / affiliation of Manipur Hockey which was duly granted vide its letter dated 22.10.2009 with a request for it being registered under the provisions of the Societies Registration Act (hereinafter referred to as “**the Act**”).

[3.2] The Additional Registrar of Societies, Manipur issued an order dated 06.11.2009 for causing an enquiry into the proposal for registration of Manipur Hockey and after due process of law being followed, the Registrar of Societies, Manipur issued a letter dated 12.11.2009 notifying that the Manipur Hockey had been registered as a society and a certificate thereof was issued on the same day which was submitted to the Manipur Olympic Association. The Manipur Olympic Association which vide its letter dated 12.12.2009 recommended to the President, Hockey India for affiliation of Manipur Hockey and consequently, the General Secretary, Hockey India addressed a letter dated 10.01.2011 to the Director, Youth Affairs & Sports, Government of Manipur informing that Manipur Hockey had been recognized as a body of Hockey India in Manipur.

[3.3] In the meantime, to its shock and surprise, another body known as Hockey Manipur was registered as a Society in the year 2010 and on the strength of the said registration of Hockey Manipur, the erstwhile

Manipur Women Hockey Association submitted a representation dated 04.01.2010 requesting for quashing the registration of the Manipur Hockey but the respondents failed to take up any action and accordingly, a writ petition being WP(C) No.435 of 2010 was filed praying for cancellation of the registration of Manipur Hockey in which the stand taken by the State Government was that the registration of the Manipur Hockey was done legally. But surprisingly, the respondent No.1 issued an order dated 22.01.2018 directing the petitioners' association to change its name and alter its memorandum within 3 months from the date of receipt of the order and being aggrieved by it, the instant writ petition has been filed by the petitioners' association.

[4] An affidavit-in-opposition has been filed on behalf of the respondent No.1 & 2 wherein it has been stated that in terms of the letter dated 01-06-2009 of the Indian Olympic Association, the Manipur Olympic Association vide its letter dated 27-06-2009 informed the President/Secretary, Manipur Hockey Association and Manipur Women Hockey Association for a joint meeting for the formation of a single association. Both the associations agreed for merger and after completion of all formalities, they stood amalgamated into a single society. While following the lengthy process and taking advantage of the situation with the connivance of the President, the Manipur Olympic Association, an ad-hoc Committee was constituted which got the Manipur Hockey registered as a society which was recognized even before its registration. The order dated 22-01-2018 was issued after due application of mind and verifying the

relevant records and accordingly, the petitioners' association was directed to change its name in terms of the provisions of the Manipur Societies Registration Act. While the process of reconciliation was pending, the petitioners association submitted a representation dated 27-06-2017 for which summon dated 01-07-2017 was issued which came to be challenged in WP(C) No.562 of 2017. The registration of the Manipur Hockey was in violation of the provisions of the Act and therefore, there was nothing wrong in the order dated 22-01-2018 which was issued in accordance with law.

[5] During the course of hearing, Shri Athouba Khaidem, learned Government Advocate raised a preliminary issue as regards the maintainability of the writ petition on the ground of non-joinder of a necessary party and accordingly, with the consent of the parties, the matter was heard on that issue only and not on merit. It has been submitted by Shri K. Roshan, the learned Advocate appearing for the petitioners' association that since the order dated 22-01-2018 issued by the respondents is only under challenge, there is no need of any other person being arrayed as the private respondent and therefore, the question of non-joinder of a necessary party does not arise at all.

[6] In terms of the provisions of Order 1 Rule 9 CPC, non-joinder of a necessary party is fatal to a suit and the same reads as under:

“9. *Mis-joinder and non-joinder.* – No suit shall be defeated by reason of the mis-joinder or non-joinder of parties, and the Court

may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.:

[Provided that nothing in this rule shall apply to non-joinder of a necessary party.]”

[7] The concept of necessary and proper party has been examined and considered by the Hon’ble Supreme Court in a catena of decisions, one of which is the one rendered in **Poonam Vs. State of Uttar Pradesh & ors., (2016) 2 SCC 779**. After referring to its earlier decisions, the Hon’ble Supreme Court held:

“14. First, it is necessary to understand about the concept of necessary and proper party. A four-Judge Bench in Udit Narain Singh Malpaharia v. Board of Revenue has observed thus: (AIR p. 788, para 7)

“7. ... it would be convenient at the outset to ascertain who are necessary or proper parties in a proceeding. The law on the subject is well settled: it is enough if we state the principle. A necessary party is one without whom no order can be made effectively; a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding.”

20. In this context the authority in Sadananda Halo v. Momtaz Ali Sheikh is quite pertinent. The Division Bench referred to the decision in All India SC & ST Employees’ Assn. v. A. Arthur Jeen wherein this Court had addressed the necessity of joining the necessary candidates as parties. The Court referred to the principle of natural justice as enunciated in Canara Bank v.

Debasis Das. We may profitably reproduce the same: (Sadananda Halo case, SCC pp. 647-48, para 63)

“63. ... ‘Natural justice has been variously defined. It is another name for common sense justice. Rules of natural justice are not codified canons. But they are principles ingrained into the conscience of man. Natural justice is the administration of justice in a common sense liberal way. Justice is based substantially on natural ideals and human values. The administration of justice is to be freed from the narrow and restricted considerations which are usually associated with a formulated law involving linguistic technicalities and grammatical niceties. It is the substance of justice which has to determine its form. Principles of natural justice are those rules which have been laid down by the courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.’ (Debasis Das case²⁶, SCC pp. 560h-561a)”

And again: (Sadananda Halo case, p. 648, para 63)

“63. ... ‘Concept of natural justice has undergone a great deal of change in recent years. Rules of natural justice are not rules embodied always expressly in a statute or in rules framed thereunder. They may be implied from the nature of the duty to be performed under a statute. What particular rule of natural justice should be implied and what its context should be in a given case must depend to a great extent on the facts and circumstances of that case, the framework of the statute under which the enquiry is held. The old distinction between a judicial act and an administrative act has

withered away. The adherence to principles of natural justice as recognised by all civilised States is of supreme importance...’ (Debasis Das case, SCC p. 561e-f)”

21. *We have referred to the aforesaid passages as they state the basic principle behind the doctrine of natural justice, that is, no order should be passed behind the back of a person who is to be adversely affected by the order. The principle behind the proviso to Order 1 Rule 9 that the Code of Civil Procedure enjoins it and the said principle is also applicable to the writs. An unsuccessful candidate challenging the selection as far as the service jurisprudence is concerned is bound to make the selected candidates parties.*

30. *Thereafter the Court proceeded to summarise its conclusion and the relevant conclusion for the present purpose is reproduced below: (Prabodh Verma case, SCC pp. 288-89, para 50)*

“50. (1) *A High Court ought not to hear and dispose of a writ petition under Article 226 of the Constitution without the persons who would be vitally affected by its judgment being before it as respondents or at least some of them being before it as respondents in a representative capacity if their number is too large to join them as respondents individually, and, if the petitioners refuse to so join them, the High Court ought to dismiss the petition for non-joinder of necessary parties.*

(2) *The Allahabad High Court ought not to have proceeded to hear and dispose of Civil Miscellaneous Writ No. 9174 of 1978-U.P. Madhyamik Shikshak Sangh v. State of U.P.- without insisting upon the reserve pool teachers being made respondents to that writ petition or at least some of them being made respondents thereto in a representative*

capacity as the number of the reserve pool teachers was too large and, had the petitioners refused to do so, to dismiss that writ petition for non-joinder of necessary parties.”

- 51.** *In this context, reference to the judgment in Ramesh Hirachand Kundanmal v. Municipal Corpn. of Greater Bombay would be fruitful. The two-Judge Bench was dealing with the concept of dominus litis which relates to the plaintiff. The Court analysed the provision contained in Order 1 Rule 10 and various sub-rules. The subject-matter in the case pertained to a dispute between the petitioner and Respondent 1 which centred on the demolition and unauthorised construction by the competent authority under the Bombay Municipal Act. Respondent 2 was the lessee in possession of the service station. The Municipal Corporation had not issued any notice to the said respondent. It was contended before the Court that Respondent 2 was instrumental in the initiation of the proceeding by the Municipal Corporation against him. The Court addressed to the issue whether the said respondent is a necessary or proper party. In the said case, the appellant had instituted a case against the third respondent for declaration that she was the lawfully married wife of the third respondent who had entered context and admitted the claim. An application for impleadment was sought by Respondents 1 and 2 on the ground that they were respectively the wife and son of the third respondent and they were interested in denying the appellant’s status as wife and the children as the legitimate children of the third respondent. The trial court had allowed the application and the said order was confirmed by the High Court in its revisional jurisdiction.*
- 53.** *We have referred to the said decision in Ramesh Hirachand case in extenso as there is emphasis on curtailment of legal right. The question to be posed is whether there is curtailment or extinction*

of a legal right of the appellant. The writ petitioner before the High Court was trying to establish her right in an independent manner, that is, she has an independent legal right. It is extremely difficult to hold that she has an independent legal right. It was the first allottee who could have continued in law, if his licence would not have been cancelled. He was entitled in law to prosecute his cause of action and restore his legal right. Restoration of the legal right is pivotal and the prime mover. The eclipse being over, he has to come back to the same position. His right gets revived and that revival of the right cannot be dented by the third party.”

[8.1] As seen from the aforesaid decision of the Hon’ble Supreme Court, it is well settled that a necessary party is one without whom no order can be made effectively. In other words, in the event of any petition being filed without a necessary party being impleaded as a party respondent, such petition is liable to be dismissed by the Court. In the present case, it is not in dispute that prior to 2009-2010, there were two societies/ associations in respect of the management of the game of hockey in Manipur-one, the Manipur Hockey Association and two, the Manipur Women’s Hockey Association. The Indian Olympic Association appears to have taken a decision to affiliate/ recognize only one association in respect of a game/ sports of hockey in a State and accordingly, its President addressed a letter dated 01-06-2009 to the State Olympic Associations in that regard. On receipt of the said letter dated 01-06-2009, the Manipur Olympic Association wrote a letter dated 27-06-2009 to the said two associations for a meeting to be held on 29-06-2009 about the formation of one hockey association. According to the petitioners’ association, during

the course of the meeting held on 29-06-2009, the then Secretary, Manipur Hockey Association informed that an association of hockey for the men & women had been formed, to which the Secretary, Manipur Women's Hockey association did not agree raising an objection and therefore, an ad-hoc Committee was constituted. Thereafter, a circular dated 01-10-2009 was issued to all the clubs/ organizations for a meeting to be held on 06-10-2009 in which the members present resolved to form an association called "Manipur Hockey" which was subsequently registered as an association under the provisions of the Manipur Registration of Societies Act and was recognized by both the Manipur Olympic association as well as the Hockey India. In the meantime, another association by the name of "Hockey Manipur" was registered under the provisions of the Manipur Registration of Societies Act, probably by amalgamating the earlier two hockey associations-one, for men and two, for women. That is how the controversy between these two associations namely 'Manipur Hockey' and 'Hockey Manipur' arose. In the instant writ petition, this Court is not concerned with the issue as to which one of the said associations shall continue to be recognized and shall be allowed to represent the State in respect of the game of hockey.

[8.2] It so happened that the erstwhile Manipur Women's Hockey Association submitted a representation dated 04-01-2010 for quashing the registration of the petitioners' association as the Manipur Hockey and since the official respondents failed to take appropriate action, a writ petition being WP(C) No.435 of 2010 came to be filed praying for cancellation of

the registration of the petitioners' association, which was disposed of on 17-03-2016 by this Court with the direction that the said representation dated 04-01-2010 should be disposed of as soon as possible, preferably within a period of three months therefrom by issuing a speaking order in respect thereof. What happened to the said representation is not known to this Court, as there is no material on record in that regard. But the Hockey Manipur appears to have submitted a representation dated 27-06-2017 to the Principal Secretary, Cooperation, Government of Manipur praying for cancellation of the registration of the petitioners' association. On receipt of the said representation, summon dated 01-07-2017 was issued directing the petitioners' association to appear before it. A writ petition being WP(C) No.562 of 2017 was filed by the petitioners' association questioning the summon on the ground that there is no provision in the Act for cancellation of registration. This Court vide its order dated 19-12-2017 allowed it setting aside the said summon. Thereafter the impugned order was issued directing the petitioners' association to change its name on the ground that the registration of the petitioners' association was in violation of Section 10 of the Act, while the registration of the erstwhile two associations were in existence. This Court while issuing notice in the present writ petition on 27-11-2018, made it open to the Registrar to find out an amicable solution and to submit a report after considering the views of the parties. The Registrar vide its letter dated 14-01-2019 addressed to the Addl. Advocate General, expressed its opinion that re-conciliation at that juncture looked non-feasible.

[8.3] In view of the above, the instant writ petition was taken up for consideration on the issue relating to its maintainability as stated hereinabove. From the materials on record, it is seen that the impugned order dated 22-01-2018 was issued by the respondents pursuant to the process being initiated on the representation submitted by the Hockey Manipur. Even the erstwhile Manipur Women's Hockey Association, being aggrieved by the registration of the petitioners' association, did approach the authority concerned for cancellation of the registration as seen from the preceding para. Moreover, as directed by the Indian Olympic Association, since only association in respect of the game of hockey is to be affiliated/ recognized for the State of Manipur, the controversy between the Manipur Hockey and the Hockey Manipur is required to be resolved at any costs by an appropriate forum. Both the Manipur Hockey and the Hockey Manipur cannot be allowed to function simultaneously for the game of hockey in the State for the reason that to do so will create a confusion in the mind of the general public and on top of that, it will be contrary to the decision of the Indian Olympic Association which is the apex body in relation to games and sports in the country. It is further seen that any order passed by this Court in the present case will have a bearing on the interest of the Hockey Manipur which submitted the aforesaid representation on the basis of which the State Government started taking action and therefore, the Hockey Manipur is a necessary party. One aspect to be noted is that the Hockey Manipur moved an application for impleadment, in the present case, as the private respondent, which was later withdrawn by it.

Therefore, it cannot be said that the Hockey Manipur is not aware of the pendency of the writ petition but since the fact remains that it is not arrayed as a party respondent herein, no order can be passed effectively by this Court in its absence.

[9] For the reasons stated hereinabove, this Court is of the view that the instant writ petition has no substance for the reason of non-joinder of a necessary party and is accordingly dismissed as not maintainable. It is, however, open to the petitioners' association to approach any appropriate forum including this Court, for redressal of its grievances in accordance with law.

JUDGE

FR / NFR

A. Surjit

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