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**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

M.C.(W.P.(C)) No. 142 of 2020
(Ref:- W.P. (C) No. 385 of 2020)

The Gymnastic Federation of India (GFI) represented by its President namely, Sudhir Mital (67), S/o late Shri Gyaneshwar Prasad Mital, residing at No. C4/2, Ground Floor, SDA, New Delhi-110016.

... Applicant

-Versus-

1. The Union of India represented by the Secretary, Ministry of Youth Affairs and Sports, Department of Sports, Shastri Bhawan, New Delhi-110001.
2. The Under Secretary to the Government of India, Ministry of Youth Affairs and Sports, Department of Sports, Shastri Bhawan, New Delhi-110001.
3. The Secretary General, Indian Olympic Association, Olympic Bhawan, B-29, Qutub Institutional Area, New Delhi-110016.
4. Shri Dr. S. Shantikumar Singh, aged about 62 years, S/o (L) S. Tombi Singh, a resident of Chingamakha Yanglem Leikai, P.O & P.S. Singjamei, Imphal West District, Manipur- 795008.

... Opposite Parties

-AND-

IN THE MATTER OF:

W.P. (C) No. 385 of 2020

Shri Dr. S. Shantikumar Singh, aged about 62 years, S/o (L) S. Tombi Singh, a resident of Chingamakha Yanglem Leikai, P.O. & P.S. Singjamei, Imphal West District, Manipur- 795008.

... Petitioner

-Versus-

1. The Union of India represented by the Secretary, Ministry of Youth Affairs and Sports, Department of Sports, Shastri Bhawan, New Delhi-110001.

2. The Under Secretary to the Government of India, Ministry of Youth Affairs and Sports, Department of Sports, Shastri Bhawan, New Delhi-110001.

.... Respondents

3. The Secretary General, Indian Olympic Association, Olympic Bhawan, B-29, Qutub Institutional Area, New Delhi-110016.

... Proforma Respondent

B E F O R E

HON'BLE MR. JUSTICE KH. NOBIN SINGH

| | |
|--------------------------|---|
| For the applicant | :: Shri Th. Ibohal, Sr. Advocate. |
| For the respondents | :: Shri I. Lalitkumar, Sr. Advocate; Shri Ruchi Mishra, Advocate; Shri Ajoy Pebam, Advocate & Shri W. Darakishwor, Sr. PCCG. |
| Date of Hearing | :: 20-11-2020 |
| Date of Judgment & Order | :: 26-11-2020 |

JUDGMENT & ORDER

[1] Heard Shri Th. Ibohal, learned Senior Advocate appearing for the applicant; Shri I. Lalitkumar, learned Senior Advocate appearing for the respondent No. 4/ petitioner; Shri Ruchi Mishra and Shri Ajoy Pebam, learned Advocates appearing for the respondent No.3 and Shri W. Darakishwor, learned Senior PCCG appearing for the Union of India.

[2] This is an application filed by the applicant namely, the Gymnastic Federation of India (hereinafter referred to as "**the GFI**") through its President praying for its impleadment as respondent No.4 in the writ petition on the inter-alia grounds that although the applicant is a necessary party, it has not been impleaded as party respondent in the writ petition and that unless the applicant is impleaded as a party respondent,

its interest will suffer an irreparable loss. It has further been stated by the applicant that the impleadment of the applicant as party respondent in the writ petition will not prejudice the case of the respondent No.4/petitioner and rather, it will help this Hon'ble Court in deciding and determining the issue involved herein.

[3.1] A reply affidavit has been filed by the respondent No.4/ petitioner raising an objection as to the maintainability of the application stating that the application cannot be filed by the GFI through its President in view of Rule 31(b) of the Gymnastic Federation of India Constitution which provides that the GFI may sue or be sued in the name of the General Secretary. It has further been stated that the respondent No.4/petitioner is still serving as the General Secretary of the GFI and therefore, the GFI cannot be impleaded as a party respondent through its President. Since the respondent No.4/petitioner has no grievance against the GFI, the applicant is not a necessary party. In other words, no relief has been prayed for by the respondent No.4/petitioner against the applicant and moreover, the applicant has no locus standi to contest the writ petition as per its own constitution. The respondent No.4/petitioner is aggrieved only by the actions of the Union of India. Out of the two impugned letters dated 27-04-2020 and 06-07-2020 issued by the Union of India, the last one was addressed to the GFI through its President but the address given therein is that of the respondent No.4/petitioner which shows that the expression **"the President"** appears to have been inadvertently used in place of the expression **'the General Secretary'**. It has also been stated that it is

settled position that an application cannot be made mechanically without showing any material as to how the applicant would assist the Court in the matter. The manner in which the applicant has approached this Court appears to be intended to delay the present proceedings and to deny the prayers of the respondent No.4/petitioner. The respondent No.4/petitioner being eligible and qualified in terms of the National Sports Development Code 2011, submitted his nomination papers for the post of the General Secretary in the election held in the year, 2019 which were accepted by the RO and no one was aggrieved by it. Therefore, the question of impleadment of the applicant as party respondent in the writ petition does not arise at all and if the applicant wishes to assist the Court, it could do so as an intervener.

[3.2] In the affidavit filed on behalf of the Union of India, it has been stated that it has no objection whatsoever if the GFI is impleaded as respondent No.4 in the writ petition, as the GFI is an appropriate/necessary party. It has also been stated that the Union of India refused to grant recognition, as the elections of the GFI were in violation of the provisions of the Sports Code. Since the GFI is directly concerned with the National Level Federation, the impugned letters were sent by it with directions to remove the irregularities in the elections.

[3.3] No separate reply affidavit has been filed on behalf of the respondent No.3 in the application but the affidavit filed on its behalf in the writ petition has been referred to and relied upon wherein it has been stated that the GFI is a registered Society and a National Sports

Federation and therefore, it is bound by the constitution of the Indian Olympic Association. When the elections of the GFI were held in the year, 2011, the respondent No.4/petitioner was elected as the Treasurer but the Ministry of Youth Affairs and Sports, Government of India did not accept it and consequently, the GFI was de-recognised. The de-recognition continued till 2015 when the elections of the GFI were held in the year, 2015, in accordance with the directions issued by the Hon'ble Delhi High Court, wherein the respondent No.4/petitioner was elected as the General Secretary but soon thereafter, the infighting amongst the office bearers ensued affecting the functioning of the GFI and leading to the appointment of Shri Ranjeet Vasava as the General Secretary by the President. The dispute was referred to the Dispute Commission of the IOA which gave its finding on 09-12-2018 to the effect that none of the office bearers had authority over the governance of the GFI. The then President of GFI preferred an appeal before the Appellate Tribunal which vide its decision dated 19-08-2019 issued various directions including the one directing that the elections of the FGI be held. After the election process being initiated, the elections of the GFI were held on 05-11-2019, for which the respondent No.4/petitioner did submit his nomination to which objection was raised. The Returning Officer, while accepting the nomination of the respondent No.4/petitioner, recorded its finding that since the elections held in the year, 2011 and 2015, were not accepted by the Sports Ministry, Government of India, the respondent No.4/petitioner was not hit by the provisions of National Sports Development Code, 2011. Since this finding

was not challenged by anyone, it had attained its finality. Therefore, it is the Union of India which has refused to recognise the GFI, it may not be tenable for it to question the election of the respondent No.4/petitioner as the General Secretary of the GFI in the year, 2019. Moreover, the expression “**two successive terms**” referred to in the National Sports Code may only mean the successive terms in the same post and not on different post.

[4] In the rejoinder affidavit of the applicant, it has been stated that the writ petition has been filed by the respondent No.4/petitioner in his personal capacity and he cannot claim to have filed it as the General Secretary of the GFI without informing the Executive committee/ General Body. In the facts and circumstances of the present case, the instant application can be filed by the applicant through its President because the GFI in its general body meeting held on 26-07-2020, took a decision to authorise the President to contest the writ petition.

[5] When the matter is taken up for consideration, it has been submitted by Shri Th. Ibohal, Senior Advocate appearing for the applicant that the applicant is a necessary party and that the impleadment of the applicant will not prejudice the case of the respondent No.4/petitioner. In support of his contention, he has relied upon the decision rendered by the Allahabad High Court in **Agra Province Zamindar Association Vs. Prem Mohan Verma, AIR 1950 Allahabad 447**. Combating his submission, it has been submitted by Shri I. Lalitkumar, Senior Advocate appearing for the respondent No.4/ petitioner that the applicant is not a necessary party

at all for the reason that no relief has been claimed against it. The application itself is not maintainable because as per Rules 31(b) of the GFI constitution, the GFI cannot be represented by the President in the proceedings before the Court. If the applicant wishes to assist the Court, it can be permitted by this Court as an intervener. Reliance has been placed by him in the decisions rendered by the Hon'ble Supreme Court in **A. Janardhana Vs. Union of India, (1983) 3 SCC 601** and **State of Himachal Pradesh & anr Vs. Kailash Chand Mahajan & ors, 1992 Suppl. (2) SCC 351**. It has been submitted by Shri Ruchi Mishra and Shri Ajay Pebam, the learned advocates appearing for the respondent No.3 that the applicant is only a proper party and not a necessary party. The present dispute has arisen between the respondent No.4/petitioner and the Government of India in view of the impugned letters directing the removal of the respondent No.4/petitioner from being the General Secretary of the GFI. In terms of Rule 31(b), the GFI cannot be made a party through its President. It has further been submitted by them that this Court cannot be made a forum for agitating their internal disputes which have already been resolved by the Appellate Tribunal.

[6] What does the expression “**necessary party**” mean ? Order 1 Rule 9 of the Code of Civil Procedure provides that no suit shall be defeated by reason of the mis-joinder or non-joinder of parties and the Court may in every case suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it. A proviso thereto has been inserted by an amendment of the CPC which provides

that nothing in this rule shall apply to non-joinder of a necessary party. The principle enshrined therein appears to suggest that the impleadment of a necessary party is mandatory and in case of non-joinder of necessary party, the plaintiff may not be entitled to for the relief sought for by him. However, the expression “**necessary party**” is not defined in the Code of Civil Procedure. In **A. Janardhan** case (supra) relied upon by the counsel appearing for the respondent No.4/petitioner, it has been held by the Hon’ble Supreme Court that the necessary parties to be impleaded are those against whom the relief is sought and in whose absence no effective decision can be rendered by the Court. The said decision has been referred to by the Hon’ble Supreme Court in **Kailash Chand Mahajan** case (supra). In **Prabodh Verma Vs. State of UP, (1984) 4 SCC 251**, the Hon’ble Supreme Court laid down the law as under:

“28. The real question before us, therefore, is the correctness of the decision of the High Court in the Sangh case. Before we address ourselves to this question, we would like to point out that the writ petition filed by the Sangh suffered from two serious, though not incurable, defects. The first defect was that of non-joinder of necessary parties. The only respondents to the Sangh’s petition were the State of Uttar Pradesh and its concerned officers. Those who were vitally concerned, namely, the reserve pool teachers, were not made parties – not even by joining some of them in a representative capacity, considering that their number was too large for all of them to be joined individually as respondents. The matter, therefore, came to be decided in their absence. A High Court ought not to decide a writ petition under Article 226 of the Constitution without the person who would be vitally affected by its judgment being before it as respondents or

at least by some of them being before it as respondents in a representative capacity if their number is too large, and, therefore, the Allahabad High Court ought not to have proceeded to hear and dispose of the Sangh's writ petition without insisting upon the reserve pool teachers being made respondents to that writ petition, or at least some of them being made respondents in a representative capacity, and had the petitioners refused to do so, ought to have dismissed that petition for non-joinder of necessary parties.

Similarly, the Hon'ble Supreme Court in **Ramrao Vs. All India Backward Class Bank Employees Welfare Association, (2004) 2 SCC 76**, held as under:

“27. It is true that the order or promotion was in question in Writ Petition No. 1551 of 1990 at the instance of one Ashok but even in the said writ petition the promotees were not impleaded as parties. As in the case of the Association, even in writ petition filed by Ashok, the order of dereservation passed by the Union of India or NABARD or the sponsor Bank had not been questioned. Admittedly, the Union of India or NABARD were not parties in the said writ petitions. An order issued against a person without impleading him as a party and, thus, without giving him an opportunity or hearing must be held to be bad in law. The appellants herein, keeping in view the fact that by reason of the impugned direction, the orders of promotion effected in their favour had been directed to be withdrawn, indisputably, were necessary parties. In their absence, therefore, the writ petition could not have been effectively adjudicated upon. In absence of the “promotees” as parties, therefore, it was no permissible for the High Court to issue the directions by reason of the impugned judgment.

From the above decisions, it appears that the expression “**necessary party**” cannot be given a definite meaning and it shall depend upon the facts and circumstances of each. But in short, a necessary party is the person who ought to be joined as party to a case and in whose absence an effective order cannot be passed by the Court.

[7] It is not in dispute that the GFI is a Society registered under the provisions of the Societies Registration Act, 1860 and is affiliated to the Olympic Association of India. It is a National sports Federation regulating, promoting and developing the sports of gymnastic in the country. The National Sports Development Code, 2011 came to be issued by the Government of India laying down the guidelines. When the elections of the GFI were held in the year, 2011, the respondent No.4/petitioner was elected as the Treasurer but the Ministry of Youth Affairs and Sports did not accept it and the GFI was de-recognised. The de-recognition continued till 2015 when the elections of GFI were held in the year, 2015, in accordance with the directions issued by the Hon'ble Delhi High Court, wherein the respondent No.4/petitioner was elected as the General Secretary. In short, the elections held in the year, 2011 and 2015, were not accepted by the Sports Ministry with the result that the elections of the GFI were held in the year, 2019 after the disputes being resolved by the Appellate Tribunal. Nobody appears to have questioned the said elections held in the year, 2019 before the appropriate forum and after the said elections having been held, the GFI applied for recognition to the Government of India. In reply to the said application, the Government of

India wrote the impugned letters which are being challenged by the respondent No.4/petitioner. During the pendency of the writ petition, the present application has been filed by the applicant for its impleadment as the respondent to contest it. Considering the submissions of the learned counsels appearing for the parties and the materials on record, this Court is of the view that the GFI being an institution, will not be affected at all by any order passed by this Court in the writ petition for the reason that no right or for that matter, any benefit has been conferred upon it by the impugned letters. If the writ petition happens to be allowed by this Court, the impugned letters will have to be quashed and set aside and consequently, the Government of India will have to consider the application for recognition of the GFI. In the event of the writ petition being dismissed by this Court, the GFI will have an opportunity to elect a new Secretary General in accordance with law. Either way, the GFI being a registered Society, will not suffer any injury or loss. Therefore, having considered the peculiar facts and circumstances of the present case, this Court is of the opinion that the GFI cannot be said to be a necessary party but in view of the submission made by the learned counsel appearing for the respondent No.4/petitioner, the applicant may be permitted to assist the Court as an intervener, if so advised. The facts and circumstances of the case decided by the Allahabad High Court in **Agra Province Zamindar Association** (supra), the decision of which has been relied upon by the learned counsel appearing for the applicant, are not identical to that of the present case and therefore, the same will have no application at all. Moreover, this Court

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is not bound by the decision of any other High Court in the country except its persuasive value.

[8] For the reasons as sated hereinabove, the present application stands rejected as devoid of any merit. However, the applicant is permitted to assist the Court as an intervener if desired, for which appropriate action will have taken by it, in accordance with law, for that purpose.

JUDGE

FR/NFR

Devananda