

\$~6

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8691/2020

RAHUL MEHRA Petitioner

Through: Petitioner in person along with Mr.
Chaitanya Gosain, Advocate.

versus

UNION OF INDIA Respondent

Through: Mr. Anil Soni, CGSC for UOI.
Mr. Aditya Vikaram Singh, Advocate
for NRAI.
Mr. Santosh Kumar Tripathi, ASC for
GNCTD.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

% **26.05.2022**

**W.P.(C) 8691/2020, CM APPL. 28033/2020, CM APPL. 28090/2020 CM
APPL. 32616/2020, CM APPL. 33548/2020, CM APPL. 33549/2020, CM
APPL. 757/2021, CM APPL. 2435/2021, CM APPL. 5435/2021, CM
APPL. 7815/2022 & CM APPL. 7816/2022**

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. Seasons may come and seasons may go but some entities remain recalcitrant to abide by the law of the land. Despite a passage of 57 years, many National Sports Federations ('NSFs') have not complied with the Government of India's National Sports Code, 2011 (Sports Code), the 1975 Circular, the 2001 Guidelines and the judgments of courts. Generations of youth have turned to middle age and into senior

citizens, without having had the benefit or availability of even minimum sports infrastructure or fair opportunities for participating or excelling in or enjoying the sports discipline of their choice. Compliance is to be ensured largely by the Government of India which grants recognition to sports bodies as NSF. Non-compliance, with the regime of law, is clearly against public interest.

2. In essence, this writ petition seeks compliance by NSFs with the Sports Code and orders passed by the courts. The petitioner says that despite more than a decade having gone by, many NSFs continue to breach the Sports Code and its strict mandates, while simultaneously they continue to enjoy governmental grants, concessions and recognition. There have been, however, notable instances when the Government of India has acted strictly against non-compliance by erring NSFs and the latter have promptly fallen in line.
3. On 08.01.2021 and 22.01.2021, this court had directed the respondent as under:-

“Order dated 08.01.2021

1. *On 06.11.2020, the Court had passed the following order:*

“CM APPL. 28034/2020 (for exemption)

Allowed, subject to all just exceptions.

W.P.(C) 8691/2020

1. The petitioner has filed the present petition praying inter alia for several reliefs against the respondent/Ministry of Youth Affairs and Sports, UOI including issuance of a writ in the nature of mandamus directing the respondent to grant recognition to NSFs only on their being

compliant with the National Sports Development Code of India, 2011 duly notified by UOI and mandatorily applicable to all NSFs. Strict adherence to the Code has been insisted upon by the UOI in various proceedings before this court as well as before the Supreme Court.

2. We are of the opinion that before hearing submissions on admission, Mr. Anil Soni, learned CGSC appearing for the Union of India be called upon to assist this court by indicating as to whether all the 41 NSFs referred to in para 8.32 of the writ petition are in compliance with the Sports Code, in terms of the letter dated 07.08.2020, addressed by the UOI to them, more specifically, in terms of the performa annexed to the said letter (Annexures K and M), placed at Annexure P-12.

3. Mr. Anil Soni, states that he will prepare a tabulated statement alongwith copies of the replies submitted by all the 41 NSFs, in terms of the letter dated 07.08.2020 issued by the Ministry and the latter's satisfaction apropos the requirements. The same be filed in the Registry initially for the perusal of this court. Thereafter, on directions to be issued, the said details shall be shared with the petitioner. Needful shall be done within two weeks.

4. List on 08.01.2021”

2. This order has not been complied with by the respondent. Instead, the respondent has filed a short affidavit, wherein it is stated that Mr. Anil Soni, Standing Counsel, did not have instructions as he appeared in the matter on the first date. It is stated that the submissions of Mr. Soni may not be treated as representation/stand of the respondent.

3. We reject this affidavit of the respondent for the reason

that in the aforesaid order, no submission of Mr. Soni as such, was recorded. The Court had proceeded to direct the respondent to file an affidavit with a tabulation indicating the status of compliance of the National Sports Development Code of India, 2011 by the 41 National Sports Federations (NSFs) to whom recognition is granted by the respondent. That information is still not forthcoming.

4. We are dismayed that the National Sports Code – which has been formulated and authored by the Government of India itself, is not being implemented with any seriousness in respect of the National Sports Federations, including in relation to the Indian Olympic Association. This is despite the fact that this Court had already directed compliance of the National Sports Code in respect of the Archery Association of India. Furthermore, vide order dated 9.5.2014 in WP(C) No.2310/2014 this Court has held that the National Sports Code is applicable to all NSFs without exception. We are informed that the respondent's challenge to the said order is pending adjudication before the Supreme Court in C.A. No.003246/2019, but no interim order has been passed staying the decision of this Court.

5. We grant one last opportunity to the respondent to comply with the directions issued in our earlier order dated 06.11.2020, failing which, we direct the Secretary (Sports), Ministry of Youth Affairs & Sports, Government of India, to personally remain present during the next hearing. The said affidavit be filed positively within the next ten days.

6. Issue notice returnable on 22.01.2021.

On 22.01.2021, the following order was passed:

1. The respondents have filed a compilation of documents stated to be in compliance of our last order. The said compilation is bereft of any affidavit to explain those documents. By our last order, we had required the respondents to file an affidavit. That has not been done. During the hearing, the said compilation has been

forwarded by email to Mr. Mehra.

2. We have heard Mr. Mehra, as well as Mr. Dutta at some length. Mr. Mehra has drawn our attention to Annexure-K (page 1033 of the record), and Annexure-L (page 1054 of the record), which are two tabulations prepared by him in respect of the Indian Olympic Association and several National Sports Federations, in which the compliances/non-compliances of the various salient features of the Sports Code have been tabulated. It is also pointed out from Annexure-N that the constitution of several Sports Federations are themselves are in violation of the National Sports Code.

3. The respondents have filed the tabulation stated to be in terms of our previous order, from which it appears that the respondents have extended the recognition granted to the National Sports Federations and have sought to grant them 6 months to a year's time to comply with the Sports Code.

4. The directions to ensure compliances with the National Sports Code were passed by this Court initially in the year 2014 in W.P.(C) 2310/2012, and again in the year February 2020 in W.P.(C) 195/2010. In this background, for the respondents to grant further time to the Sports Federations is not justified. In any event, to test the intentions and bona fides of the respondents, and to ensure that this extension does not turn out to be as mere a futility as the earlier ones, we have decided to closely monitor the progress that the National Sports Federations make to comply with the Sports Code. It shall be for the respondents to follow up with all the concerned Sports Federations on a regular basis and call for compliance reports with regard to all aspects of the Sports Code. The Sports Federations which do not fall in line and comply with the Sports Code do not deserve and would not be entitled to receive any grants from the Central Government.

5. We, therefore, direct the respondents to file an affidavit

along with tabulation in the formats contained in Annexures K and L to the writ petition (pp.1033 and 1054) in respect of each of National Sports Federation. Such tabulation/ charts shall be filed by the respondents every fortnight after gathering the information/ status from the National Sports Federations, as aforesaid, so that the same available to the Court at each hearing to ascertain the progress made by the respective Sports Federations apropos compliance with the provisions of the Sports Code. We also direct the respondents to put all the Sports Federations to notice of these proceedings, and of the orders passed by this Court in this and other related proceedings. It should be made clear to each of them that they would run the risk of them not being recognised/ de-recognised and their grants being stopped, in case they do not comply with the provisions of the National Sports Code.

6. Mr. Mehra has also drawn our attention to the compendium of instructions on Scheme of Assistance to National Sports Federations, including Indian Olympic Association issued by the Government of India ever since 6th August, 2014. He has placed on record the documents which show that from time-to-time different volumes have been issued of the said compendium up to January, 2018, whereafter they have neither been issued nor uploaded on the website. Mr. Mehra submits that this practice should not be discontinued since access to all the relevant rules and regulations framed by the Government from time to time is essential for National Sports Federations to comply with, and also for all others interested to become aware of. We see no reason why the said practice should be discontinued. Mr. Dutta wishes to take instructions and report in this regard on the next date of hearing.

7. List on 19.02.2021.”

4. Three affidavits have been filed in the past 15 months. The essence of the affidavits is that the government is in the process of ensuring compliance. The writ petition is pending since 2020. The aforesaid

orders regarding compliance were passed in January, 2021. Surely, fifteen months is a long time to ensure compliance, otherwise, it was always open to the respondent to suspend the recognition of NSFs which are in blatant breach of the 'governing regime' apropos administration and recognition of NSFs.

5. Mr. Anil Soni, the learned CGSC submits that notices have been issued to all NSFs calling upon them to put their house in order, in strict conformity with court orders. He further submits that some more time may be granted to the respondents to ensure robust compliance with and conformity with the legal regime governing sports administration. Let Secretary, Ministry of Youth Affairs and Sports, Government of India ensure that the constitution of NSFs concerned Gymnastics, Handball, National Yogasana, Tennis Volleyball, Mallkhamb and Motor Sports as well as Equestrian, Rowing, Golf, Squash Racket, Yachting, Polo is made available by them to the Ministry by the coming Monday. The same will be examined preferably during the course of the week and to the extent that they are not in compliance with the Sports Code, directions/ notices shall be issued apropos suspension of their recognition. An affidavit in this regard shall be filed by a Joint Secretary in the said Ministry with the prior approval of the Secretary (Sports).
6. The petitioner says that in addition to the above identified NSFs, as per Union of India's own affidavit dated 11.11.2021, most NSFs do not meet the mandatory 25% representation of sports persons in the Managing Committee of their respective NSFs.
7. Various judgments have held that compliance with the Sports Code is a

must. It is the *sine qua non* for grant of recognition as a NSF and for access to the corollary benefits that flow from such status. The benefits are in various forms: tax benefits, travel concessions, accommodation and hospitality accorded to players and officials of NSFs, use of government-owned stadia and sports facilities, etc. All this expense is made from public funds. The beneficiary of such funds and facilities must qualify in law, to access it. Unless a NSF/sports entity/registered society/Association strictly adheres to and fully complies with the Sports Code and the court orders, it would disentitle itself from any such benefit. There can be no let-up or latitude in this regard, as relaxation would be arbitrary, illegal and lend to dilution of the Sports Code. No NSF or Sports Entity should be seen to be receiving benefits which are unjust. Fairness and legitimacy need to imbue all governmental affairs. Therefore, it is prudent, indeed imperative that no further exemptions be granted to or lenience be shown to non-compliant NSFs. There comes a stage in the affairs of governance when the recalcitrant have to be called-out and there has to be cessation of their unlawfully enjoying government largesse, a privilege for which they do not qualify. Nor can they be allowed with their faulty NSF status to generate revenues from other sources. Twelve years is a long time to enable sports bodies to conform to the Sports Code. The time to stop is now.

8. The follow-up action by the respondent apropos the shortcomings as detailed in the chart (Annexure R-3) annexed to the aforesaid affidavit, too shall be specified in the affidavit to be filed before the next date.
9. Renotify on 02.06.2022.

10. At this stage, the court would take into consideration that all over the city the lack of easy access to stadia, sports fields and other sports facilities for the ordinary citizens, is well known. This could well be remedied and facilitated, in the first instance, by making available playgrounds of government schools or other schools owned or managed by statutory authorities. Such neighbourhood sports facilities would be convenient for children and sports enthusiasts. In the circumstances, let the Government of NCT of Delhi (GNCTD), Municipal Corporation of Delhi and Kendriya Vidyalaya Sangathan (under the Union Ministry of Education), examine the matter and file their affidavits apropos opening of sports grounds in schools under their respective jurisdictions and for making them available for optimal use for the larger public good; if possible, on a pay-and-play basis and/or any other scheme; while all along ensuring that the said schools retain all their rights in the land and its students too benefit from the additional sports facilities as may be created in their lands.
11. The authorities concerned would bear in mind that the opening of stadia and sports facilities is primarily for the benefit of sports persons. The duration for which such facilities would be kept open requires to be structured around the needs of sports-persons and the climatic conditions (longer evening time in summer to overcome the exhausting heat during practice and play). The timings followed in countries, that have a rich tradition in sports (including countries having tropical climate) may be considered.
12. To begin with, let GNCTD, Sports Authority of India ('SAI') and the other authorities which own and/or manage many stadia in the city,

consider opening of the following stadia: Thyagaraj Sports Complex, Chhatrasal Stadium, Shivaji Stadium and Punjabi Bagh Stadium, from 5 am to 10 pm in the summer months.

NAJMI WAZIRI, J

VIKAS MAHAJAN, J

MAY 26, 2022

RW