

**Lodha Committee Recommendations On BCCI Reforms Not Applicable To District Cricket Association Elections: Kerala High Court**

**2022 LiveLaw (Ker) 570**

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**N. NAGARESH, J.**

W.P.(C) No.27587 of 2022; 31<sup>st</sup> October, 2022

**DEVANANDAN M.C. *versus* BOARD OF CONTROL FOR CRICKET IN INDIA (BCCI)**

*Petitioners by Advs. Sunil V. Mohammed, Manoj N., Ajitha Appu, M.S. Neethumol, Aadil Shah A.S.*

*Respondents by Advs. Abhilash K.N., Sunil Nair Palakkat, M.A. Ahammad Saheer, Rithik S. Anand, Anu Paul, Sreelakshmi Menon P., Sunil Shankar*

**J U D G M E N T**

Whether elections to the District Cricket Associations are to be conducted following the direction given by the Hon'ble Apex Court in the judgment in ***Board of Control for Cricket in India and others v. Cricket Association of Bihar and others* [(2018) 9 SCC 624]** and the report submitted by Mr. Justice R.M. Lodha Committee, is the issue arising for consideration in this writ petition.

2. The petitioners are office bearers of Cricket Clubs functioning in Kannur District. The 1<sup>st</sup> respondent is the Board of Control for Cricket in India (BCCI) and the 2<sup>nd</sup> respondent is the Kerala Cricket Association (KCA). The 3<sup>rd</sup> respondent-Cannanore District Association (CDA) is a District Cricket Association (DCA) affiliated to the 2<sup>nd</sup> respondent-KCA which in turn is affiliated to the 1<sup>st</sup> respondent-BCCI.

3. The petitioners submit that the Hon'ble Apex Court has issued various orders from time to time in tune with the recommendations made by Justice R.M. Lodha Committee appointed by it, suggesting drastic changes in the administration, finance, qualification of the office bearers, their tenure, etc. The Apex Court has directed to incorporate these suggestions in the bye-laws of the BCCI as well as of the State Cricket Associations and the 2<sup>nd</sup> respondent-KCA has filed an affidavit dated 01.03.2017 in the Apex Court stating that it has adopted the recommendations of Justice R.M. Lodha Committee.

4. The petitioners state that Ext.P1 was the old Memorandum of Association of the KCA and Ext.P2 is the common bye-laws for District Cricket Associations framed by the KCA. As per Clause 31A of Ext.P2 common bye-laws, the following office bearers and Members of the Executive Committee of the Association shall be elected in the manner specified in the election procedure framed by the State Association from time to time.

1. President.
2. Four Vice Presidents.
3. Honorary Secretary.
4. Honorary Joint Secretary.
5. Honorary Treasurer.
6. Honorary Assistant Secretary.
7. Two representatives to the Kerala Cricket Association.
8. One representative to the District Sports Council.
9. Five representatives to the executive committee from among the permanent member clubs.

The quorum for General Body Meeting shall be 1/3<sup>rd</sup> of the number of Members on the rolls. An office bearer of the Association shall hold office as such for one or more terms of four years each on obtaining a simple majority of votes of the members present and voting in the election. No office bearer of the Association shall hold offices of any other State Level or District Level Sports Association simultaneously.

5. The petitioners state that after adopting the recommendations made by Justice R.M. Lodha Committee, the 2<sup>nd</sup> respondent-KCA has published Ext.P4 revised Memorandum of Association and Rules and Regulations. According to the petitioners, the DCAs being mirror images and affiliated units of the KCA, are bound to adopt Ext.P4. The DCAs need only to affiliate as full Members of the SCAs and no separate registration and bye-laws for the DCAs are provided in Ext.P4.

6. According to the petitioners, as Ext.P4 is applicable to all DCAs under the 2<sup>nd</sup> respondent, the office bearers and Executive Committee to be elected have been reduced to the President, Vice President, Secretary, Joint Secretary and Treasurer (5 Member Committee). As per Ext.P4, the term of an office bearer shall be three years and no person shall be office bearer for more than three terms. A person, who has held any post for two consecutive terms, shall not be eligible to contest any further election without completing a cooling off period of three years and the age limit for being an office bearer is 70 years.

7. The 3<sup>rd</sup> respondent-Cannanore District Association issued Ext.P7 notice dated 08.08.2022 calling for Annual General Body Meeting of the Association and election of its new office bearers on 21.08.2022. In Ext.P7, it has been stated that the Blue Book (Exts.P1 and P2), which stands revoked after Ext.P4, will be followed for the AGM and election. The 4<sup>th</sup> respondent-Returning Officer for election has overlooked the fact that the proposed election as per Ext.P7 has to be conducted following Ext.P4 and not following Exts.P1 and P2.

8. The petitioners submitted nomination for election and during scrutiny of the nomination, the petitioners have raised objection against Ext.P7 and nominations of certain candidates who are disqualified as per Ext.P4 to contest in the election. The objections of the petitioners were not considered favourably and the elections are going to be conducted following Exts.P1 and P2. The petitioners therefore have approached this Court.

9. The counsel for the petitioners argued that the 2<sup>nd</sup> respondent-KCA had filed Ext.P3 affidavit in the Apex Court stating that it had adopted the recommendations of Justice R.M. Lodha Committee in the Special General Body Meeting held on 28.08.2016 and thereafter on 02.01.2017 and has resolved to accept amendment to its bye-laws to bring the bye-laws in terms of the recommendations of Justice R.M. Lodha Committee. The Hon'ble Apex Court in the judgment in **Board of Control for Cricket in India and others** (supra) has approved the Rules and Regulations of the 1<sup>st</sup> respondent-BCCI with necessary amendments and each members of the 1<sup>st</sup> respondent were directed to undertake registration of their respective Rules and Regulations on similar lines, making it clear that in case the SCAs do not undertake compliance as above, the directions in the orders dated 07.10.2016 and 21.10.2016 shall revive. Thereupon, the 2<sup>nd</sup> respondent had issued Ext.P4 Rules and Regulations in tune with the said decision. The respondents are bound to act on the basis of Ext.P4. The conducting of election to the 3<sup>rd</sup> respondent-CDA following Exts.P1 and P2 would be highly illegal, arbitrary and would amount to violation of the directions given by the Apex Court.

**10.** The counsel for the petitioners pointed out that as per Clause 7(e) of Ext.P1 Memorandum of Association, “District Association shall mean a Body recognised by the Association and affiliated to it and shall have at least ten Clubs affiliated. The Rules and Regulations of the Association shall be binding on the District Associations”. Ext.P4 is the Memorandum of Association of the 2<sup>nd</sup> respondent-KCA. Therefore, the rules contained therein shall be binding on the District Cricket Associations also.

**11.** The counsel for the petitioners further urged that Ext.P2 common bye-laws for District Cricket Associations is a part of Ext.P1 Memorandum of Association of the KCA and therefore when Ext.P1 Memorandum is replaced by Ext.P4, Ext.P2 would also cease to exist. Ext.P2 cannot exist independently of Ext.P1, contended the counsel for the petitioners.

**12.** The counsel for the petitioners pointed out that as per Clause 45 of Ext.P4, Ext.P4 Rules and Regulations of the KCA shall not be repealed, added to, amended or altered except when passed and adopted by a 3/4<sup>th</sup> majority. Any such amendment will not be given effect to without the leave of the Hon'ble Supreme Court. Clause 45 specifically mandates that the old constitution shall cease to operate the field as soon as Ext.P4 constitution comes into force. Therefore, Exts.P7 and P8 cannot stand the scrutiny of law.

**13.** The counsel for the petitioners further submitted that in view of Clause 2D of the compendium to second status report dated 17.03.2017 filed before the Hon'ble Apex Court, the KCA is bound to encourage the formation of DCAs and organisation of Inter District and other tournaments, to lay down norms for recognition which achieve uniformity in the structure, functioning and processes of the member Association.

**14.** The 2<sup>nd</sup> respondent-KCA opposed the writ petition. The 2<sup>nd</sup> respondent stated that a Committee under the chairmanship of Hon'ble Justice R.M. Lodha was appointed by the Hon'ble Supreme Court on 21.01.2015. The Committee was appointed to suggest reforms in the administration of the BCCI. The Apex Court accepted Ext.R2(1) Lodha Committee report. Ext.R2(1) report was aimed at improving the administration of the State Associations and not of its component units. The Lodha Committee did not conduct any study on the administration of the State Associations and its component units. The Committee's research and recommendations were confined to the BCCI.

**15.** The Apex Court did not give any mandatory directions to the State Associations, but only stated that unless the State Associations implement certain recommendations, they would not get monetary grant from the BCCI. The Lodha Committee reforms/recommendations are not applicable as such to the State Associations, asserted the 2<sup>nd</sup> respondent.

**16.** In view of the judgment of the Hon'ble Apex Court, amendments were carried out to the bye-laws of KCA. Ext.R2(3) is the amended bye-law. The DCAs are the component units of KCA. The affairs of DCAs are regulated by Ext.P2 common bye-law adopted by the District Associations in the year 2008.

**17.** The learned counsel for the 2<sup>nd</sup> respondent pointed out that Exts.P2 and P4 would govern different fields. Ext.P2 will apply to DCAs whereas Ext.P4 would govern the KCA. Ext.P2 is the common bye-law adopted by the 14 DCAs. The prayer of the petitioners to implement the recommendations of the Lodha Committee in the administration and governance of the DCAs is therefore unsustainable.

**18.** The counsel appearing for the 1<sup>st</sup> respondent-BCCI submitted that the Justice Lodha Committee report is intended to revamp the administration and functioning of BCCI.

The report has not specifically made any recommendations to be made applicable to District Cricket Associations.

19. I have heard the learned counsel for the petitioners and the learned Standing Counsel for respondents 1 and 2.

20. The petitioners seek to direct respondents 2 to 4 to hold elections in CDA, as per the norms laid down by the Lodha Committee report.

21. It is evident from the judgment in **Board of Control for Cricket v. Cricket Association of Bihar and others** [(2016) 8 SCC 535] that the Apex Court assigned to the Justice R.M. Lodha Committee the task of recommending such changes in the Rules and Regulations of BCCI as good in the opinion of the Committee, safeguard the interests of public at large in the sport of cricket, improve the ethical standards and discipline in the game, streamline and promote efficiency in the management of BCCI, provide accessibility and transparency, prevent conflict of interest situations and eradicate political and commercial interference and abuse, and create mechanisms for resolution of disputes within the BCCI.

22. Justice R.M. Lodha Committee identified the problem areas in the functioning of the BCCI. The Committee came to the conclusion that many officials of the SCAs were holding power without any accountability and transparency by converting the Associations into personal fiefdoms.

23. It was argued before the Hon'ble Apex Court that if the recommendations on the BCCI are implemented, it is the citizens comprising the State Cricket Associations are the ones who will be actually affected by the recommendations. The Hon'ble Apex Court repelled the concern holding as follows:

We regret our inability to accept the submission so vehemently urged before us by learned counsel for the BCCI and the State Cricket Associations. We say so, firstly because no citizen has come forward in the present proceedings or in the earlier round to complain of the violation of any fundamental right guaranteed under Article 19(1)(c) of the Constitution. Secondly and more importantly because the recommendations do not, in our opinion, affect the composition of the State Cricket Associations in any manner. Citizens who have come together to form the State Associations continue to associate as before with no change in their internal composition. If that be so as it indeed is the right guaranteed under Article 19(1)(c) stands exercised, which exercise would continue to enjoy the protection of the constitutional guarantee till the Association / Union or co-operative Society, as the case may be, continues to exist. What is, however, important is that the right under Article 19(1)(c) does not extend to guaranting to the citizens the concomitant right to pursue their goals and objects uninhabited by any regulatory or other control. The legal position in this regard is settled by several decisions of this Court to which we may gainfully refer at this stage.

24. Therefore, it is evident that the Justice R.M. Lodha Committee and the Hon'ble Apex Court intended to make reforms in the governance of BCCI and bring the SCAs in harmony with such reforms. The Hon'ble Apex Court has categorically held in paragraph 61 of the judgment in the Board of Control for Cricket (supra) that the composition of the State Cricket Associations remain unaffected and so does the right of those forming such Associations under Article 19(1)(c). Nothing in the judgment in the **Board of Control for Cricket** (supra) and the recommendations of the Justice R.M. Lodha Committee (Ext.R2(1)) would indicate that the Committee report and recommendations are intended to apply to the District Cricket Associations.

**25.** The argument of the petitioners is that Ext.P2 common bye-laws for District Cricket Associations is an integral part of Ext.P1 Memorandum of Association of the KCA and since Ext.P1 Memorandum of Association is substituted by Ext.P4 Memorandum of Association and Rules and Regulations, Ext.P2 common bye-laws for District Cricket Associations do not survive and therefore no election to the 3<sup>rd</sup> respondent-CDA can be conducted following Ext.P2 bye-laws. Though at the first blush the argument appears to correct, a closer scrutiny would prove otherwise. Ext.P2 is common bye-laws for District Cricket Associations which are adopted by the DCAs. Ext.P2 lays down provisions for General Body, composition and election to the District Cricket Associations. Clause 31A of Ext.P2 reads as follows:-

**31A. ELECTION :**

The following office bearers and members of the executive committee of the Association shall be elected in the manner specified in the election procedure framed by the state association from time to time (refer election procedure).

1. President.
2. Four Vice Presidents.
3. Honorary Secretary.
4. Honorary Joint Secretary.
5. Honorary Treasurer.
6. Honorary Assistant Secretary.
7. Two representatives to the Kerala Cricket Association.
8. One representative to the District Sports Council.
9. Five representatives to the executive committee from among the permanent member clubs.

According to the petitioners, election cannot be conducted to the 3<sup>rd</sup> respondent-CDA on the basis of Ext.P2.

**26.** It is to be noted that Ext.P1 Memorandum of Association of the KCA has been substituted by Ext.P4 Memorandum of Association and Rules and Regulations. Ext.P4 provides for membership and jurisdiction of members and lays down that membership of the KCA shall be confined to full members which shall include DCAs and former international players (male and female) hailing from the State of Kerala. Ext.P4 Memorandum of Association does not provide for election to the District Cricket Associations.

**27.** As Ext.P4 Memorandum of Association and Rules and Regulations of the 2<sup>nd</sup> respondent-KCA do not provide the manner in which elections to the DCAs are to be conducted, I do not find any illegality in the 2<sup>nd</sup> respondent following Ext.P2 common bye-laws for DCAs for the purpose of conduct of election to the 3<sup>rd</sup> respondent-CDA, in spite of the fact that Ext.P1 Memorandum of Association stands substituted by Ext.P4. It is to be noted that Ext.P2 common bye-laws for DCAs are bye-laws adopted by the DCAs.

**28.** It is true that Ext.P4 Memorandum of Association in Clause 2(d) laying down the objects and purpose of the KCA enables the 2<sup>nd</sup> respondent-KCA to lay down norms for recognition which achieve uniformity in the structure, functioning and processes of the member Association. No one has a case that the KCA has laid down such norms for DCAs after the adoption of Ext.P4. Therefore, as long as the 2<sup>nd</sup> respondent has not laid down



new norms for the DCAs for recognition, structure, functioning, etc. The 2<sup>nd</sup> respondent will be justified in following Ext.P2 common bye-laws for the District Cricket Associations.

**29.** The learned counsel for the petitioners then relied on Clause 7(e) of Ext.P1 Memorandum of Association to urge that the Rules and Regulations of the Association shall be binding on the District Associations. Clause 7(e) of Ext.P1 Memorandum of Association reads as follows:

'District Association' shall mean a body recognized by the Association and affiliated to it and shall have at least ten clubs affiliated. The rules and regulations of the Association shall be binding on the District Associations.

The argument is that the Rules and Regulations of the 2<sup>nd</sup> respondent-KCA should be applied to the District Associations as such.

**30.** Ext.P1 Memorandum of Association is no more in force as the same is substituted by Ext.P4 Memorandum of Association. Even otherwise, the mandatory clause that the Rules and Regulations of the Association shall be binding on the District Associations cannot be taken as one commanding to adopt the same pattern of governing body and mode of election to the District Cricket Associations also. Clause 7(e) is only intended to bind the District Cricket Associations by the Rules and Regulations of the State Cricket Associations.

**31.** The learned counsel for the petitioners relied on the order of the Ombudsman, the Andhra Cricket Association in Case No.5/20 and argued that the Ombudsman, Andhra Cricket Association has found that steps should be taken to implement necessary measures to apply the reforms as approved by the Hon'ble Supreme Court and adopted by the Andhra Cricket Association through its bye-laws and Rules and Regulations, passing necessary resolution. In the order dated 10.11.2020 of the Ombudsman, the Andhra Cricket Association in Case No.5/20, the Ombudsman directed the 1<sup>st</sup> respondent-Krishna District Cricket Association therein to take necessary measures to implement the reforms approved by the Hon'ble Apex Court. It is to be noted that the said order was passed by the Authority in its capacity as Ombudsman, which position is intended to resolve the internal disputes between members and associations. The decision is taken on the basis of the situation prevailing in respect of the said District Cricket Association. I do not find any reason to make such direction universally applicable to all District Cricket Associations. Such direction would amount to interference with the democratic autonomy of the DCAs.

For all the afore reasons, I find that the petitioners have not made out a case for interference in Exts.P7 and P8.

The writ petition fails and hence it is dismissed.