

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

% Order reserved on : 17.03.2023
Order pronounced on : 11.04.2023

+ **CONT.CAS(C) 73/2022**

RAJASTHAN EQUESTRIAN ASSOCIATION Petitioner
versus

SHRI SPS TOMAR Respondent

+ **W.P.(C) 10342/2019 & CM APPL. 42732/2019, CM APPL.16483/2020, CM APPL. 32960/2020, CM APPL. 43562/2021, CM APPL. 31560/2022, CM APPL. 33330/2022, CM APPL. 36336/2022, CM APPL. 42691/2022, CM APPL. 54682/2022, CM APPL. 284/2023**

RAJASTHAN EQUESTRIAN ASSOCIATION Petitioner
versus

EQUESTRIAN FEDERATION OF INDIA
AND ORS Respondents

+ **W.P.(C) 10783/2022 & CM APPL. 31338/2022**

COL. RAJESH PATTU, SJRP, VSM, (RETD) Petitioner
versus

EQUESTRIAN FEDERATION OF INDIA
& ORS Respondents

+ **W.P.(C) 2036/2022**

RAJASTHAN EQUESTRIAN ASSOCIATION
& ANR Petitioners
versus

UNION OF INDIA & ORS

..... Respondents

+ **W.P.(C) 5989/2022, CM APPL. 17986/2022, CM APPL. 54683/2022 & CM APPL. 279/2023**

RAJASTHAN EQUESTRIAN ASSOCIATION Petitioner
versus

UNION OF INDIA & ORS

..... Respondents

Advocates who appeared in these cases:

For the Petitioners : Mr. Rajiv Dutta, Senior Advocate with Mr. Ashish Kothari, Mr. Devang Gautam and Ms. Pratha Pant, Advocates.

For the Respondents : Mr. R. Bala Subramaniam, Sr. Adv. with Mr. Ajay Digpaul, CGSC with Mr. Kamal Digpaul and Ms. Swati Kwatra, Advocates for R-1/ UOI.

Mr. Jayant Mehta, Senior Advocate with Mr. Kirtiman Singh and Mr. Prateek Dhanda, Mr. Waize Ali Noor, Mr. Manmeet Kaur Sareen, Ms. Vidhi Jain and Mr. Madhav Jain, Advocates for EFI.

Mr. Nilanjan Bhattacharjee and Mr. Aakarsh Kamra, Adv.

Mr. Vineet Dhanda, CGSC with Mr. Shubham Prasad, Advocate for UOI.

Mr. Vinayak Bhandari and Mr. BhavNinder Singh, Advocates for Intervenor.

Mr. R. A. Iyer, Adv for Ld. Court Observer.

Mr. Harish Vaidyanathan Shankar, CGSC with Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat, and Mr. Alexander Mathai Paikaday, Advocates.

Mr. Pallav Shishodia, Sr. Adv. with Mr. Vinayak Bhandari, Adv. for Intervenor

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. With the consent of the parties, this court is confining itself to the adjudication of the disputes only to the extent of relief as sought in the prayers of the applications, filed before this court, for the purposes of elections to the various posts of the office bearers of the EFI.

2. For the sake of brevity considering the different roles and nomenclature assumed by the contesting parties and the same may be read in its entirety for reference, the following table is generated for convenience :-

<u>TERMS</u>	<u>ABBERRIATIONS</u>
RAJASTHAN EQUESTRIAN FEDERATION	REF
EQUESTRIAN FEDERATION OF INDIA	EFI
UNION OF INDIA THROUGH MINISTRY OF YOUTH AND SPORTS AFFAIRS	Ministry
INDIAN OLYMPIC ASSOCIATION	IOA
SPORTS AUTHORITY OF INDIA	SAI
NATIONAL SPORTS DEVELOPMENT CODE OF INDIA, 2011	NSDCI/ "SPORTS CODE"
STATUTES OF EQUESTRIAN FEDERATION OF INDIA	EFI STATUTES
NATIONAL SPORTS FEDEARTION	NSF

3. This court is also conscious of the fact that such immediate and specific consideration to the dispute is necessary in the present

circumstances, in that, the selection of probables to represent India in the Olympic Discipline in the upcoming 19th Asian Games to be held between 23.09.2023 to 08.10.2023 in Hangzhou, China, is at the doorstep. A functioning Executive Committee of EFI, being an NSF, is necessary to formulate a Selection Committee for the same, which can only be formulated after the successful emergence of the governing body of EFI, duly elected by electoral college, endorsed in accordance with the Sports Code.

4. Thus, through the present set of applications, the EFI, is seeking:-

“Prayer in CM. APPL. - 33330-2022 in W.P.(C) - 10342-2019
(i) Pass appropriate Order/direction permitting the Applicant/Respondent No. 1 to hold its elections for the Executive and Selection Committees;

Prayer in CM. APPL. - 54682-2022 in W.P.(C) - 10342-2019
Pass appropriate Orders for disposal of CM No. 33330 of 2022 in terms of the prayer made therein and direct the conduct of elections to the Executive and Selection Committee of the Applicant/Respondent No. 1 without prejudice to the rights and contentions of the parties;

Prayer in CM. APPL. - 54683-2022 in W.P.(C) - 5989-2022
(i) Direct the conduct of elections to the Executive and Selection Committee of the Applicant/Respondent No. 2 without prejudice to the rights and contentions of the parties;”

5. By the order dated 10.11.2022, this Court has already formulated brief factual background for the present entire batch of petitions filed before this court, which is extracted hereunder:-

2. From the record, it transpires that post the formulation of the National Sports Development Code of India [“Sports

Code”], the Union Government has been continually calling upon EFI to transition and ensure compliance with the provisions made in the Sports Code. The constitution of EFI has admittedly and till date not been brought in line with the various provisions of the Sports Code.

3. W.P.(C) 10342/2019 had been preferred seeking directions for EFI undertaking that transitional process. The records of the aforesaid writ petition further bears out that by an order of 26 September 2019, the Court had permitted the holding of elections for constituting the governing body of EFI subject to the results thereof not being declared without the approval of the Court. EFI is stated to have consequently held elections on 29 September 2019. On 15 November 2019, a further order was passed permitting the declaration of the results of the elections. It was however provided that the declaration of results would not create any rights or interests in favour of any person elected in that process and that their continuance as members of the governing body would be subject to the result of the writ petition. By the said order, the Court had also appointed Dr. S. Y. Quraishi as an Observer to oversee the functioning of EFI with a further rider being placed that it would be open to the Observer to call upon EFI to seek the prior approval of this Court on any decision that he may disapprove of.

4. During the pendency of the present writ petition, the President and Vice-President (Admin) who were elected on 29 September 2019 are stated to have tendered their resignations. Subsequently, two individuals came to be appointed as temporary President and Vice-President (Admin) without holding any fresh elections. According to the petitioner, the aforesaid individuals were enrolled as members of EFI and shown as elected to the aforesaid offices merely by virtue of their rank and position in the Armed Forces. Taking cognisance of the aforesaid challenge, the Court by its order of 20 July 2020 had restrained the Interim-President and Vice-President (Admin) from acting as such. It is admitted before the Court that elections for constituting the governing body is imperative since the last elections were held almost 4 years ago and which is the maximum term of that body under the constitution.

8. When this batch of writ petitions was taken up subsequently, directions were passed for the Observer to submit a

further report with respect to the current state of affairs of the EFI. That report dated 17 August 2022 filed by the Observer records that despite sufficient time having elapsed, EFI has failed to amend its constitution and bring it in line with the Sports Code. The Observer has further opined that till such time as issues pertaining to the constitution of the general body are resolved, it would be inexpedient to hold elections.

6. Vide the same order dated 10.11.2022, this court had also flagged certain concerns regarding EFI, which are extracted hereunder:-

5. It would be pertinent to note that clause 1.3 read with clause 3.9 of Annexure-II of the Sports Code stipulates that the membership of a National Sports Federation would be generally confined to the corresponding States / Union Territories and other special units affiliated to it. The purport of the aforesaid clauses appears to be that membership of a National States Sports Federation would be restricted to associations that may have been formed and duly recognised at the State / Union Territory level. Clauses 3.9 and 3.10 of Annexure-II of the Sports Code further prescribe that even if membership of a National Sports Federation is granted to individuals and clubs, the right to cast votes shall be reserved exclusively in favour of State and Union Territory associations who may be members of such a federation. The aforesaid position, according to the petitioner also stands duly reflected and reiterated in clauses 3, 4 and 10 of the Model Election Guidelines.

6. Contrary to the aforesaid prescriptions contained in the Sports Code, the petitioners urge that the EFI constitution confers voting rights on all member including individual members, clubs and other units. The petitioners would contend that contrary to the provisions made in the Sports Code, EFI has continued to induct various individuals, clubs and other units as members and thus effectively marginalizing State Associations.

7. The other grievance which is raised and voiced in these proceedings is with respect to the decision of the Union Government which had granted exemptions to EFI from various provisions of the Sports Code in exercise of powers conferred by

clause 16 thereof. The exemption which the Union Government has granted relates to clauses 3.4 and 3.9 comprised in Annexure-II and Paragraphs 4(1), 4(2) and 4(4) of Annexure-XXXVII of the Sports Code. The aforesaid exemptions which have been granted form subject matter of challenge in W.P.(C) 5989/2022. It is contended that the aforesaid exemptions cannot possibly be viewed as being in the interest of the development of equestrian sports. On hearing submissions at the time of admission on that writ petition, the Court had noted that, prima facie, it would appear that the exemptions granted would not be referable to promotion of sports, sports persons or to remove difficulties in giving effect to the provisions of the Sports Code.

9. Having noticed the submissions which were addressed on this batch today, the Court is of the considered opinion that the principal issues which arise for consideration are the amendments liable to be adopted to bring the constitution of the EFI in sync with the Sports Code, to rule on the rights of individual members and units and to review the general working of the EFI bearing in mind the various issues which have been flagged by the Observer in its report. However, the aforesaid issues would have to be answered only after the Court has had on occasion to rule on the validity of the exemptions which have been granted by the Union Government. This since if the Court were to come to the conclusion that the exemptions would not sustain, that decision would have a material bearing on the composition of the general body and an identification of those constituents who would be eligible and entitled to participate in the election process. It would also have a direct bearing on the amendments that are liable to be made to the constitution of the EFI.”

With this background this Court now proceeds to adjudicate the present applications filed for an immediate relief as contended.

CONTENTIONS OF EFI

7. At the outset, Mr. Jayant Mehta, learned Senior Counsel appearing for EFI refers to the W.P.(C) 5989/2022 particularly to page

70 of the paper book which is a letter dated 09.11.2021 issued by the Ministry granting exemption to the EFI from certain provisions of the Sports Code, to submit that by virtue of such exemption, the EFI proposes to hold elections to its Executive Committee.

8. Mr. Mehta, learned Senior Counsel submitted that the Equestrian Sports are of a unique nature and briefly described the nature as under :-

(i) It is a club based sport.

(ii) It is a peculiar sport, in that, it consists of two athletes, one is the human athlete and the other is the horse, which can be considered to be the second athlete.

(iii) It is an expensive sport, in that, the horse itself costs a minimum sum of Rs. 20 Lakh for Indian breed and in case foreign breed is imported the cost may reach upto Rs. 40 Lakhs. The expenses also involve Transportation, Boarding, Lodging, Veterinary Expenses, and Maintenance of horses i.e. its feed and daily maintenance of Equines coupled with the fact that Training facilities are again very expensive since they have to be of a reasonable size and in addition there is a requirement for discipline specific infrastructure such as Show Jumping, Dressage, Endurance and Tent Pegging. Furthermore, currently Equestrian Centers exist at Meerut, Delhi, Jaipur and Bangalore with only one Center having Integral Equine Disease Free Zone (EDFZ) facility to enable Indian Horses to travel abroad as per International Rules on the subject.

(iv) Keeping in view the aforesaid expenses, not all districts and states have the wherewithal to maintain equestrian sport, as also do not have the capability or capacity to fall in line with the provisions of the Sports Code.

9. Mr. Mehta, referred to the brief submissions filed on behalf of Ministry especially to the annexures appended thereon, to submit that the exemptions so granted to EFI vide the letter 09.11.2021 by the Ministry is neither peculiar or arbitrary to EFI, but letters of such nature granting similar exemptions, keeping in view the requirement of various sports and the difficulties that they have been facing to implement the sports code, were infact issued by the Ministry. As an example, Mr Mehta refers to letters granting exemptions to the Indian Golf Union, the Indian Polo Association, the Rowing Federation of India, the Yachting Association of India and similar other sports to reiterate that the peculiar situation arising in the equestrian sports was considered before issuing such exemption.

10. Learned Senior Counsel also drew attention to page 71 of the paperbook which is the letter dated 9/11/2021, particularly to para 5 to submit that the exemption which has been granted is conditional and only till such time, the requisite number of State/ UT Associations in the 2/3rd of States and UTs with 50% District Units come into existence as per the terms of the Sports Code. On that basis, learned Senior Counsel submits that the exemptions are temporary in nature and only to bridge the gaps as also to ensure that the EFI is successfully able to achieve integration of its Constitution with the Sports Code.

11. Learned Senior counsel vehemently stressed upon the letter dated 09.11.2021, particularly to para 4 to submit that upon a holistic consideration of the difficulties being faced by EFI in conforming to the Sports Code, exemptions were granted in the nature relaxation of application of para 3.4 and 3.9 of Annexure II of the Sports Code from applying strictly to the EFI. Similar exemption in respect of para 4 (1), 4 (2), 4 (4) of Annexure XXXVII of the Sports Code was extended to EFI. On that basis, learned senior counsel submits that the rigours of the aforesaid paras of the Sports Code are not applicable to the EFI till such time EFI is able to fulfil the requisites as stipulated in para 5 of the exemption letter.

12. In view of the above submissions, learned Senior Counsel further submits that the prayers in the writ petition are not tenable for the reason that the exemptions have been granted in the peculiar nature of the equestrian sports and comparing the same with other sports having different parameters, different needs and varying requirements would not fall within the mischief of Article 14 of the Constitution of India. Moreover, learned Senior Counsel submits that the petitioners possibly cannot question the exemptions so granted by the Ministry in respect of EFI. Learned Senior Counsel also submits that in case the contentions of the petitioners are applied, then only five eligible State Associations would be able to cast their votes, making a mockery of the entire electoral process, besides leaving the fate of the EFI in the hands of a collective few, which would be contrary to the democratic principles.

13. In short, learned Senior Counsel submits “*One Size Fits All*” policy cannot be applied to all the prevailing sports in the country in view of the fact that each sport has its own peculiarities and ground realities. Thus, the exemption so granted, is in line with such principle.

14. Learned Senior Counsel also submits that there can be no qualms about the fact that under Clause 5 of the Sports Code, the Ministry has the power of relaxing any of the provisions of the sports code in respect of any sport for reasons to be given in writing. Learned Senior Counsel also reiterates that such power is inherent in the Executive power exercised by the Central Government, particularly in case where the Ministry itself has, as a matter of policy, formulated the Sports Code.

15. Mr. Mehta, learned Senior Counsel submits that no challenge has been laid to the inherent and ultimate power of the Ministry to exempt any National Sport Federation in respect of any provision of the Sports Code.

16. Learned Senior Counsel further refers to orders dated 16.09.2019 and 26.09.2019, 15.11.2019, 20.07.2020, 24.09.2020 and 03.03.2021 to submit that holding of elections is imperative in the EFI.

17. Learned Senior Counsel submits that it was in line with the aforesaid orders, as also the difficulties faced by the EFI that the Ministry, on a written representation dated 15.07.2019 & 31.10.2022 of the EFI, granted the aforesaid exemption.

18. Learned Senior Counsel next referred to the brief written submissions handed over the Bench to submit that out of almost 20 states affiliated with the EFI, 8 have lost membership.

19. Another relevant submission of Mr. Mehta, learned Senior Counsel is, that historically the contribution to the initiation and growth of equestrian sport largely rests with the Indian Army and Army Clubs and its other Units which have been responsible for ensuring that India is represented in Equestrian Sport, internationally. He submits that the Indian Army is one of the largest animal forces in the world and has been providing infrastructure facilities to promote various disciplines of the Equestrian Sport in the country. Furthermore, the only active Cavalry Regiment in the world as on date is the 61st Cavalry Regiment of the Indian Army. Thus, he submits that the allegation that the EFI is controlled and monopolized by the armed forces is clearly misconceived and erroneous.

20. Learned Senior Counsel referred to annexure R-4 to the counter affidavit of EFI which is the Amended EFI Statute w.e.f., 28.03.2022, to submit that sub-Article 2 of Article-005 of Chapter 2 of the aforesaid annexure determines the manner in which the EFI would grant membership and also provides as to which of the associations and when they would become eligible to cast their votes.

21. On that basis, learned Senior Counsel submit that all those State Associations which are not affiliated yet, may apply for membership, however, would be subject to Article 005 Sub-Article 2 in respect of voting which would be conferred only after being given the status of a permanent member.

22. Learned Senior Counsel submits that the electoral college of the EFI annexed as Annexure-D to the Observer's Report dated

17.08.2022, is the correct and true electoral college of EFI as on date, and this Court may direct holding of elections on that basis by appointing an Election Officer/Returning Officer, who may conduct elections at the earliest.

23. Learned Senior Counsel vehemently emphasised that a bare reading of the Observer's Report dated 09.02.2021 and 17.08.2022 itself brings to fore the anxiety of the Observer to also conduct free and fair democratic elections of the EFI at the earliest so as to ensure that a duly elected body takes control and is able to administer the day to day affairs of the EFI.

24. Learned Senior Counsel also submits that the elections ought to be held at the earliest also keeping in view the fact that an International Equestrian Sport event in China in the months of September-October 2023 is slated and the selection process for the teams/ athletes is to commence as soon as possible in view of the fact that it takes considerable time in the selection process as also the subsequent training.

CONTENTIONS ON BEHALF OF MINISTRY

25. Col. Subramaniam, learned Senior Counsel appeared for the Ministry and referred to the affidavit filed on its behalf. Learned Senior Counsel submitted that there is no dispute that the National Sports Development Code of India, 2011 was formulated by the Union of India as a policy decision to ensure that various sports in the country, both regulated and un-regulated, fall under the common code of

conduct, governance, adopt model guidelines for conduct of elections and other administrative affairs to ensure that such sports are able to come up to the international standards.

26. Learned Senior Counsel submits that whenever a policy is formulated by the Central Government, the power to rectify, review or change any of the provisions of the Sports Code would inherently lie with the said Ministry which cannot be questioned by the petitioner/REF.

27. Learned Senior Counsel submits that in any case, the petitioner have not questioned the power of the Central Government as an Eminent Domain to exercise such powers in the matters of policy.

28. Learned Senior Counsel submits that there has been no allegation of mala fide exercise of powers by the petitioner against the Ministry or its officials and, therefore, in the absence of such allegations, there cannot arise any question of interference in such exercise of power too.

29. Learned Senior Counsel submits that the petitioner should not step into the issue of interpretation of any policy, which is the exclusive domain of the Union of India, least of all in matters which are subject of a policy decision, as enshrined in the Article 77 (3) of the Constitution of India read with Government of India (Allocation of Business) Rules, 1961, as amended upto 31.01.2017. Based thereon, learned Senior Counsel thus submits that the policy decisions being based on such power, entitles the Central Government to manage the entire arena

pertaining to the matter relating to sports activities in the country and are not within the jurisdiction of the courts.

30. Learned Senior Counsel draws attention to the Status Report dated 17.08.2022 of the Observer, particularly to para 4.4 and 4.5, 4.10, 5.3 and 5.4 to submit that the Ministry after taking into consideration the issues flagged by the Observer, as also the peculiar and unique difficulties faced by the EFI, also agrees that the ideal way to resolve all the pending issues of the EFI would be, to conduct democratic elections to ensure that a duly elected body takes control of and administers the EFI.

31. Col. Subramaniam, learned Senior Counsel submitted the following bullet points for the consideration of this Court to direct holding of elections at the earliest :-

- (a) International Sport bodies do not recognise federations which are not represented by an Elected body.
- (b) Unless the mala fides are found in the contentions of the petitioner, of which none are there, the election process may be allowed to go on.
- (c) Objections, in any case, can be taken care of by the Election Officer/Returning Officer.
- (d) Exemptions granted are not peculiar only to EFI and other similar NSFs have also been given such exemptions.
- (e) These exemptions are temporary in nature and only a stop gap arrangement.

CONTENTIONS OF THE PETITIONER/REF

32. Mr. Rajiv Dutta, learned Senior Counsel appears for the petitioner and refers to the W.P.(C) 10342/2019 particularly to the written submissions filed on behalf of the petitioners and takes the Court through the various submissions made therein.

33. According to Mr. Dutta, learned Senior Counsel his first contention is in relation to the deliberate defiance of the Sports Code by the EFI resulting in anarchy and submits that the Indian Olympic Association (hereinafter referred to as “IOA”) was compelled to take strict action against the EFI and reduced it to a non-voting member of the IOA. Learned Senior Counsel submits that it is after considering the various instances of malfeasances and mal-administration, the IOA was constrained to reduce the status of EFI to that of a non-voting member, which was communicated vide the letter dated 16.09.2019.

34. Learned Senior Counsel further submits that the special treatment given to the EFI by the Ministry is intriguing for the reason that despite innumerable instances of mal-administration and malfeasances, instead of ensuring strict adherence to the Sports Code, granted unwarranted extensions to the EFI to comply with the provisions of the Sports Code.

35. Learned Senior Counsel submits that despite the EFI being directed to present a Road Map to the Ministry explaining as to the manner and the time within which the EFI would fall within the parameters required under the sports code and the EFI miserably failing

to adhered to such timelines, the Ministry granted exemptions of the nature contained in letter dated 09.11.2021.

36. Learned Senior Counsel laid a great stress upon the letter issued by the Ministry to the EFI in the year 2017 whereby the Ministry had specifically directed the EFI to formulate a road map to implement and follow the sports code in letter and spirit within a particular period of time. He submits that in terms of such direction, number of letters/ road maps formulated, were sent by the EFI right uptill the year 2020. However, none of the steps as promised and assured to implement such road map have been taken by the EFI till date. A number of extensions, in the form of renewal of recognition of EFI had been granted by the Ministry for such purpose time and again. Despite such indulgence and “Special Treatment”, EFI has not implemented its own road map till date.

37. Learned Senior Counsel relies on the Road Map for Transition of EFI which is at page 421 of the W.P.(C) 5989/2022 to submit that the contents of the road map were in tune with the sport code, though, were never implemented in letter and spirit by EFI despite passage of more than five years. On that basis, learned Senior Counsel submits that it is apparent that there was never an intention of the EFI to implement its own road map and fall in line with the Sports Code which was held by various judicial pronouncements of this Court to be, non-negotiable. To the same extent, learned Senior Counsel brings attention of this Court to para 6 of the said road map, which referred to the Strengthening of the State Associations. Learned Senior Counsel submits that no steps in

regard to development of the State Associations in the country were ever undertaken by the EFI till date. In other words, learned Senior Counsel submits that having not implemented the road map to align itself with the Sports Code during the past five years, disentitles the EFI from any right, authority or jurisdiction to now seek exemptions from the relevant and crucial provisions of the Sports Code. Equally, the Ministry itself, being the policy maker of the Sports Code, does not have any right of authority to dilute the provisions of the said Code, to drastically affect the sport or the sport persons.

38. Learned Senior Counsel then refers to the Notification dated 01.02.2021, whereby the Ministry had inserted, by way of an amendment, a clause in the Sports Code containing the power to relax any provision of the said Sports Code, in respect of any National Sports Federation. The said Notification dated 01.02.2021 is extracted hereunder :-

*“No. 12-2/2021-SP-INI
Government of India
Ministry of Youth Affairs & Sports
Department of Sports
Shastri Bhawan, New Delhi
1st February, 2021*

***Sub: National Sports Development Code of India, 2011
- inclusion of relaxation provision- regarding***

The National Sports Development Code of India, 2011 (Sports Code) has been in force since 31.01.2011. The Government has also, from time to time, issued certain other guidelines and instructions with regard to

governance and management of Indian Olympic Association (IOA) and National Sports Federations (NSFs). It has been decided to add the following relaxation clause provision at No. 16 under the Heading of Relaxation Clause of the Sports Code 2011 at page 32:

Relaxation clause:

"Government shall have the power to relax any of the provisions of the National Sports Development Code of India, 2011 and other instructions issued with regard to recognition of National Sports Federations (NSFs), renewal of recognition of NSFs on annual basis and governance and management of Indian Olympic Association (IOA) and NSFs, as a special exemption where considered necessary and expedient for the promotion of sports, sportspersons or to remove difficulties in giving true effect to that particular provision of the Sports Code, always being guided by and not inconsistent with the overarching spirit of good governance and ethical conduct enshrined in the Sports Code 2011. The reasons for such relaxation shall be recorded in writing. Power to relax the provisions will vest with Minister In-charge of the Ministry of Youth Affairs & Sports."

2. This issues with the approval of Minister of State (Independent Charge) for Youth Affairs & Sports."

On the basis of the above clause, Learned Senior Counsel submits that the power to relax even if considered as an inherent power, though not admitting so, would also have to be construed strictly keeping in view the development of the sport as also the sports person. He further submits that the true purport of such relaxation has to be in the nature which is expedient for promotion of sports, sportsperson or

to remove difficulties in giving true effect of that particular provision of the sports code, always being guided by the spirit of good governance and ethical conduct enshrined in the said Sports Code. However, Learned Senior Counsel submits that in the present case, the exemption so granted is not in the interest of either the sport or the sportspersons.

39. Learned Senior Counsel submits that the description of the horse as given by the Ministry as also the EFI is absolutely contrary and violative of the description as contained in the Sports Code. According to the learned Senior Counsel, horse has been described as an “equipment” as per 10.4.4. in the Sports Code which states that *Para 10.4 For participation in international competition and training abroad - 10.4.4 For hiring of equipment locally, actual amount required wherever necessary may be advanced. Horses along with their diet for equestrian events and boats/yachts etc. shall be treated as equipment for reimbursement of hiring/transportation.* Learned Senior Counsel submits that when there is a clear description/definition attributed to the horse, to now re-define the horse also as an athlete would be violative of the Sports Code. In any case, learned Senior Counsel submits that, the EFI does not own a single horse nor does it have any sports ground to call its own.

40. Learned Senior Counsel drew attention of this Court to a letter dated 15.07.2019 of the EFI, written to the Secretary of the Ministry, which is self-explanatory and contrary to the road map submitted by the EFI to the Ministry in the year 2017. According to Mr. Dutta, Learned Senior Counsel, this letter is one of the series of such letters which

slowly but surely establish the wilful violations and deliberate attempts to overcome the rigours of the road map as also the Sports Code. As per Learned Senior Counsel, the letter itself demonstrates the deliberate attempts of the EFI to violate its own road map.

41. Learned Senior Counsel refutes the submissions made by Mr. Mehta, learned Senior Counsel appearing for the EFI that the Ministry has exempted other National Sports Federations like Rowing Federation, Yachting Federation, Squash Federation or the Golf Federation from the rigours of the sport code, and submits that the exemptions given by the Ministry in respect of such other sports federations, was in different context and for purpose other than those, which are granted to the EFI and, therefore, the submission that there has been no discrimination by the Ministry, is untenable. According to Mr. Dutta, learned Senior Counsel, the exemption granted to the EFI by the Ministry in respect of para 3.4 and 3.9 of Annexure II as also para 4(1), 4 (2), 4 (4) of Annexure XXXVII of the Sports Code drastically effects the administration of the equestrian sports and immeasurably effects the sports persons belonging to the equestrian sports. He thus, submits that the exemptions so granted ought to be set aside and elections be held strictly in terms of the model guidelines for elections as contained in the Sports Code.

42. Learned Senior Counsel submits that the entire EFI is being currently controlled by the Indian Army particularly the Army Service Corps (hereinafter referred to as “ASC”) which is also observed in the report dated 17.08.2022 of the Observer whereby the Observer has

particularly mentioned that, “*currently, the electoral college of EFI has 155 private club members (most of which are affiliated to the ASC) and 12 institutional members as against only 5 State Associations.*”

On that basis, learned Senior Counsel submits that the vote of the State Association in the elections would become in-consequential, thereby establishing the complete control of the ASC over the EFI. Further, learned Senior Counsel submits that there is an unsaid rule in the EFI for reserving key posts of EFI for the Army officers on the basis of their ranks or postings in the Indian Army. Learned Senior Counsel pertinently points out that the aforesaid malice had been noted by this Court in its order dated 20.07.2020 in the present writ petition whereby Ld. Gen. S.S. Mishra and Lt. Gen. M.K.S. Yadav were restrained from occupying the post of President and Vice President respectively. Learned Senior Counsel very vehemently submits that the aforesaid control is visible from the fact that EFI has reduced the number of State Associations from 12 in the year 2020 to just 5 in the year 2022 and simultaneously, the increase in the number of memberships granted to clubs and units of the army have substantially increased over the past few years. Therefore, Learned Senior Counsel submits that the democratic functioning of the EFI, in the above circumstances, is not possible. Learned Senior Counsel also informs this Court that not only the entire control of the EFI is in the grasp of the ASC, even the Headquarters of EFI are based in the Delhi Cantt. Area, which falls within the complete administrative control of the Army.

43. Learned Senior Counsel referred to the letter/ complaint dated 28.03.2019 written by an eminent sports person, namely, Lt. Col. Sandeep Dewan (Retd.) addressed to the Central Government exposing the deep rooted corruption in the EFI, as also the stark and deliberate violation of the Sports Code by the ASC and the Army in general. On that basis, learned Senior Counsel submits that it is clear that the condition of EFI is precarious and not at all conducive to the sport or the sportspersons.

44. Lastly, Mr. Dutta, learned Senior Counsel refers to judgment of this Court in ***Rahul Mehra vs. Union of India and others 2022 SCC OnLine Del 2438*** as well as ***Aslam Sher Khan vs. Union of India and Others 2022 SCC OnLine Del 1569*** to submit that the provisions of the Sports Code have to be complied with, in full rigour and wherever the NSF's fail, the Court ought to interfere. On that basis, Mr Dutta urges that this Court may exercise its jurisdiction under Article 226 of the Constitution of India to ensure that the EFI aligns its Constitution with that of the Sports Code.

45. Learned Senior Counsel also submits and is in agreement with the contention that elections ought to be held at the earliest, keeping in view the fact that the Asian Games are to be held in China in the months of September-October 2023.

46. In rebuttal, Mr. Kirtiman Singh, learned counsel for EFI reiterates the original arguments and further submits that the submission made by the learned senior counsel for the petitioner may be considered for deciding the writ petition finally, however, are not

relevant for the purpose of deciding issue pertaining to holding of elections.

47. Learned counsel referred to the letter issued by the Ministry exempting certain National Sports Federation (NSF) to submit that the Ministry had applied its mind to the peculiarity arising in those sports to give sanction according to the necessity and keeping in view the different situations as obtaining on the ground level. He further submits that similarly, in the case of EFI, the exemptions contained in the letter dated 09.11.2021 of the Ministry, have been granted keeping in mind the peculiar and unique facts and difficulties faced by EFI and thus the said exemption cannot be said to be arbitrary.

48. Learned counsel refers to the written submissions handed over the Bench in respect of various State Associations to submit that membership of certain State Associations were not renewed for want of payment of subscription fees and other reasons. Mr. Singh submits that such State Associations cannot be permitted to participate in the elections.

49. Mr. Singh learned counsel further submits that at this stage, when this court is taking a prima facie view of the issues raised in the writ petition, the exemption so granted cannot be curtailed or struck down. Learned counsel further reiterates that the power to relax always vested with the Ministry and such exercise of power cannot be questioned by the petitioner.

50. Mr. Singh learned counsel also refers to their electoral college to submit that there are 9 State Associations which did not apply for

membership and cannot be permitted to vote within one year as they would be Associate Members who do not have the entitlement to cast vote.

51. Mr. Singh learned counsel finally submits that elections must be held without any further delay to ensure that an elected body is put in place for managing the affairs of EFI.

CONTENTIONS OF THE INTERVENOR

52. The present intervenor was permitted to participate in the present proceedings vide the order dated 28.08.2022 in CM APPL. 36303/2022.

53. Mr. Shishodia, learned senior counsel appears for the intervenor Col. S. S. Ahlawat and drew attention to the various malpractices, malfeasances and the mal-administration of the EFI in general. Learned senior counsel submitted that only three members including Col. Ahlawat form the part of the body of EFI as of now. Learned senior counsel submits that the Secretary General namely Col. Jaiveer Singh has been conducting the whole business of the EFI and has made categorical assertions that the said Secretary General has been running the EFI as his personal fiefdom. Learned senior counsel referred to the judgment of Coordinate Bench of this Court in **Review Petition No. 54/2023 in W.P.(C) 16490/2022** titled as "*Chirag Khandal Vs Equestrian Federation of India & Ors.*", **Neutral Citation Number(NCUSN): 2023:DHC:2254** to submit that this Court has castigated the EFI and its functioning and has come down heavily on

the manner in which the Secretary General was conducting the daily affairs of EFI.

54. Learned senior counsel submits that keeping in view the observations made by this Court in *Chirag Khandal(supra)*, an Administrator be appointed by this Court to administer the affairs of EFI.

55. Mr. Kirtiman Singh learned counsel appearing for the EFI submits that in respect of the aforesaid issues raised by the intervenor, cross suits have already been filed and the same are pending adjudication before the Coordinate bench of this Court and therefore this Court may not pass any observations in regard thereto.

ANALYSIS AND CONCLUSION:-

56. At the outset it is clear from the submissions made across by all the parties that they are ad idem to conducting elections to the EFI. The dispute primarily relates to the Electoral College, on which the elections are to be conducted.

57. This court has considered the lengthy arguments, submissions, pleadings and documents on record while passing the present order. In fact, the arguments addressed by the respective parties have been all encompassing and cover the entire dispute in the lis. However, since this court is to render its decision on the elections alone, the present order is restricted to that aspect of the matter.

58. To understand the dispute it would be germane to first understand the manner in which the Sports Code has framed the

guidelines under the Model Guidelines for Conduct of Elections of any National Sports Federation, which are extracted hereunder:-

“ MODEL ELECTION GUIDELINES TO BE FOLLOWED BY ALL NATIONAL SPORTS FEDERATION

4. Electoral College:

(1) Each Permanent Member State/Union Territory duly affiliated by _____ (abbreviation of Federation) as its Permanent Member shall have two votes at the elections of the Office Bearers and Managing Committee Members.

(2) For the purposes of sub-clause (1), each Permanent Member State/Union Territory shall be represented by two members authorised by the President or Secretary General/Secretary of the affiliated Permanent Member State/Union Territory; however, in case President/Secretary General / Secretary nominates different person(s), the person(s) authorised by the President shall be deemed to be the duly authorised person(s). Irrespective of the date.

(3) Each Board or Institution duly affiliated by as its Permanent member under shall be represented by only one representative.

(4) Each Permanent Member State/Union Territory and each Permanent Member Board/Institution shall intimate the name(s) of their representative(s) mentioned in sub-clauses (2) and (3), latest by _____ (Day - 1 - e.g. 13th December,); and such intimation shall be addressed to the President / Secretary General of _____ on their letter head duly signed by President / Secretary General / Secretary of that member unit, so as to reach him on or before the aforesaid date; any change in the name of any authorized representative after _____ (Day - 1 e.g. 13th December, 2010) or any intimation received thereafter shall be permitted only with the approval of the President of _____.

(5) The President / Secretary General of _____ shall prepare the list of the authorised representatives of the Member States/Union Territories /Boards/

Neutral Citation Number 2023:DHC:2452

Institutions in Form 1, and circulate a copy of the list so prepared by him to all Member States/Union Territories/Boards/Institutions, latest by _____ (Day - 2-e.g. 14th December, 2010), by display, on the website of _____.

(6) The President / Secretary General shall also furnish a duly authenticated copy of the list mentioned in sub-clause (5) to the Returning Officer as soon as may be after his appointment by the President of _____ under clause (5) below.”

59. To appreciate the cause which has given rise to the dispute it would also be relevant to also consider whether the EFI has been able to comply with the Sports Code of India or not. For the said purpose it would be apposite to extract the relevant portions of the letter of the year 2017 whereby the EFI had formulated a Roadmap at the asking and direction of the Ministry to fall in line with the Sports Code which is as under:

“1. Equestrian sports is a specialized sports and pursued by a very few in the country as the sport is money intensive in nature. Post independence, the Army took a leading role in nurturing this sport by forming a national federation called Equestrian Federation of India in 1967 as this was a pre requisite by Federation Equestre Internationale (FEI) for participation of our riders in International events. Since then, Indian riders have participated in many international events and brought laurels for the country. Over a period of time, some civilian riders have taken up this sport and their participation in various national/international events is rising steadily. Accordingly, civilians have started occupying a fair number of posts in executive committee of EFI and as on date there are six civilian members in the Executive Committee of 21 members. However, it will take some time for the sports to be popularized

throughout the country and for EFI to be fully compliant to the NSDCI.

2. *At present maximum equine population for sporting purposes is held by Army /Paramilitary Organizations. Slowly and steadily, civilian have started investing in this sports by buying thorough bred and warm blood horses. Besides this, India has a fair number of indigenous breed of horses in the selected areas of country such as Punjab, Rajasthan, UP, Gujarat, Maharashtra, Manipur and J& K to name a few which are being given exposure.*

3. *At present there is no govt. infrastructure for equestrian sports available in the country. Most of the infrastructure is held either by the Army or some paramilitary/CPOs. Very few civilian centres have been developed by private players and those are limited to Show Jumping and Dressage discipline of equestrian sports only. As far as Eventing discipline s concerned the infrastructure is held with only the Army/Paramilitary /CPOs. Eventing is the only discipline in which India has been winning medals continuously at international level. Thus, keeping Army/Paramilitary/CPOs out of the sports will be detrimental for the future of this sport in the country. However, there is a need to develop more participation by civilians and create more number of civilian venues over a period of time to make it popular among the broad spectrum of civilian population.”*

xxxxxx

“6 **Strengthening of State Associations:** *Although there are 16 State Associations who are members of EFI, none of them has district associations affiliated to them as they are non existent. The EFI intends to*

support the state associations in the following manner:-

(a) The state associations will be advised to affiliate the clubs of their state to their association. They will be further advised to encourage private players/schools & colleges to open equestrian clubs with the help of govt/NGOs. Since there is no district level base available in the Country, a code will have to be evolved whereby clubs will come under the umbrella of the state association's and the state associations will then come under the aegis of the EFI. This will need approval from MYAS for which a specific case will be taken up. The statutes will be formally amended and then the procedure will be put into place. The states will be further strengthened by giving them funds ex MYAS so that requisite infrastructure can be created at all places so that the sports persons get the best facilities pan India.

(b) Through these State Associations, various private schools/colleges/universities will be encouraged to open riding clubs and if required, the cast horses of Army will be provided to such interested clubs after obtaining due sanction from the govt. These clubs/organizations will remain affiliated to the State Associations and will be eligible to elect various members of Executive Committee of State Association.

(c) Once the State Associations are active in a time period of four to five years they will be given the responsibility to choose Regional Members (at present there are six Regional Members) to represent their region in EFI executive committee which will automatically

lead to better civilian participation in the governing of EFI. ”

60. It would be clear from a bare perusal of the aforesaid Roadmap that there were many aspects which needed to be complied with by the EFI in order to gain recognition of the Ministry as a National Sports Federation. On that count, it not only framed a roadmap but also undertook to comply with the provisions of the Sports Code within a particular period of time. Unfortunately, no steps in that regard have been urged to have been undertaken or completed till date.

61. It is also apparent from the records of the case that time and again extensions of recognition as an NSF have been granted repeatedly to EFI on the undertaking that it would comply with the provisions of the Sports Code in terms of tuning its Constitution with that of the provisions of the Code. Nonetheless, no compliance has been effected till date.

62. Despite having failed to fall in line with the Sports Code, the EFI instead of fulfilling its obligations under the Roadmap of the year 2017, changed its narrative from the year 2019 onwards and sought to dilute the rigours of the Code by portraying itself as an expensive, exclusive and club based sport which needs a separate identification and different treatment as an NSF. To appreciate the issue, it would be relevant to extract the letter dated 15.07.2019 of the EFI to the Ministry, as also the ensuing correspondence, hereunder:

LETTER DATED 15.07.2019

“035/MYAS/EFI/2019

15 Jul 2019

Shri Radhey Shyam Julaniya, IAS
Secretary of Sports (MYAS)
Room No 2 C-Wing, Shastri Bhawan,
New Delhi – 110001

**RECOGNITION OF EQUESTRAIN FEDERATION
OF INDIA BY MINISTRY OF YOUTH AFFAIRS &
SPORTS (MYAS)**

My dear Shri Radhey Shyam Julaniya Ji

1. *On behalf of Equestrian Federation of India (EFI). I would like to convey my gratitude to the Ministry of Youth Affairs & Sports for granting the Federation time to comply with the NSDCI-2011. Within the time frame granted, EFI has exerted all possible efforts to raise State Equestrian Associations which ideally would be a governing body and a true representative of the sport in the respective states. However despite all efforts till date, only 15 State Associations are affiliated with the NSF out of which only a few are active and the rest are existing on paper only.*

2. *I would like to highlight the peculiar nature of Equestrian Sport which act as a major hindrance for the compliance of the Sports Code.*

(a) *The Sport is unique consisting of 02 athletes - a human athlete and an equine athlete and the sport cannot be practiced in absence of one of them.*

(b) *Certain districts within a state do not have equine population. Therefore the concept of State Association based on the pyramidal structure of having 50% district associations at grassroot level is not feasible.*

(c) *The sport being a club based sport requires huge infrastructure, land holding and nuances of maintaining equines round the year which make the sport unique and expensive and is largely organised by*

clubs and individuals. Since clubs and individuals are the largest stake holders in the sport, due Importance of voting rights of clubs and individuals cannot be overlooked which will lead to degradation of the sport which as it is limited to a few pockets in the country.

(d) State Associations do not have the where with all to organise various equestrian activities which are generally organised by the clubs located in the respective regions. Therefore State championships are also not held for this particular sport.

3. It is further reiterated that equestrian sport worldwide is a club and individual based sport and they are the main stake holders in governance of National Federations.

4. In consideration of the above it is felt that compliance to NSDCI-2011 in totality right from the grassroot level to the NSF level is not feasible without compromising and diluting the directions on the subject. I would therefore request you to reconsider the issue of compliance of NSDCI-2011 by EFI and accord annual recognition of the NSF which has been granted upto 03 Aug 2019 vide Ministry of Youth Affairs & Sports letter No F.No.9-12/2017-SP-1 dated 01 Feb 2019.

With Best Wishes & regards

Yours Sincerely

(Sd-)"

LETTER DATED 03.12.2019

*“F.No: 27-4/20 13-SP.In
Government of India
Ministry of Youth Affairs & Sports
(Department of Sports)*

*Shastri Bhavan, New Delhi
Dated: 3th December, 2019*

The Secretary General

Neutral Citation Number 2023:DHC:2452

*Equestrian Federation of India
C/o 'B' Sqn., 61 Cavalry
Cariappa Marg
Delhi Cantt: 110010 .*

***Sub: Implementation of NSDCI, 2011 in respect of
Equestrian Federation of India-reg***

Sir,

I am directed to refer to Equestrian Federation of India's letter No. 035/MYAS dated 24.06.2019 and 15.07.2019 regarding exemption from compliance of the' National Sports Development Code of India-(NSDCI), 2011 and say upon considering the peculiar nature of Equestrian sport, it has been decided that EFI is to furnish a roadmap for its transition to be compliant with the NSDCI, 2011 by 31.03.2020. After which further course of action will be decided, till such time the recognition of EFI is continued.

2. *This issues with the approval of competent authority.*

*Yours faithfully,
(S.P.S Tomar)
Deputy Secretary (Sports)”*

LETTER DATED 31.10.2020

“035/MYAS/EFI/2020

31 Oct 2020

*Sh Ravi Mital, IAS
Secretary of Sports
Ministry of Youth Affairs & Sports
Govt of India, Shastri Bhavan New Delhi – 110011*

**EXEMPTION TO EQUESTRIAN
FEDERATION OF INDIA(EFI) FOR**

**COMPLIANCE OF NSDCI-2011 IN
RELATION TO FORMATION OF STATE AND
DISTRICT ASSOCIATION**

Dear Sir,

- 1. I take this opportunity to submit the following in furtherance to meeting held on 29 Jan 2020 at Sports Authority of India (SAI) under the Chairmanship Shri Kiren Rijiju, Hon'ble Minister of State (I/C) for Youth Affairs & Sports.*
- 2. The Equestrian Federation of India (EFI) was established in 1967 under the aegis of Indian Army and has been governing equestrian sports in India. The Federation has 883 individual members, 179 Club/Unit members and thus is a small org with proven track record under existing governance norms and has promise to deliver in future.*
- 3. The sport has been categorised as 'Priority by Ministry of Youth Affairs & Sports (MYAS) and as on date we have one Athlete probable for Tokyo Olympics 2020, another Athlete having bestowed with the coveted Arjuna Award 2020 and preparation of team's participation in Asian Games 2022 are underway to better the two Silver Medals our athletes had won in last Asian Games.*
- 4. Equestrian Sport is a Club based sport world over. It is of peculiar nature wherein two athletes, one human and the other an equine, participate as one combination in all gender neutral competitions. The sport is incomplete in absence of either. It is also an expensive sport keeping in view the nuances of maintaining and transportation of equines.*
- 5. The sport despite exorbitant costs involved, has flourished due to contribution by individuals,*

Clubs / Institutions like the Indian Army, Para Military Forces etc, who own horses/ have horses in their organisation. Hence, due importance of voting rights of clubs and individuals cannot be overlooked. Any deviation may lead to decline of the sport which as it is limited to a few pockets in the country.

6. *The NSDCI-2011 has regulated functioning of NSFs but its “one size fits all policy” pertaining to State Associations with 50% District Associations cannot work for EFI as most districts within a state do not have equine presence. Aiso, the participation of States in growth and development is negligible as is evident from non inclusion of equestrian sports in National Games. Till date, Indian Army has Equestrian Centres at Meerut, Delhi, Jaipur and Bangalore which have facilitated India winning laurels at the international levels. Equine Disease Free Zone (EDFZ) facility which is a mandatory pre-requisite for export of sporting horses for International competitions has been established by the Remount Veterinary. Corps of the indian Army in the past whenever required. Therefore, the structure of having 2/3 State/Union Territory Associations with 50% District Associations in each state as required under NSDCI-2011 is not feasible with regards to equestrian sports for reasons stated above.*
7. *In view of aforesaid facts, the EFI humbly seeks exemption with reference to NSDCI-2011 as per its Para 5.1, Annexure II, Page 37 in the interest of Equestrian Sports.*
8. *We look forward to a favourable consideration please.*

With Warm Regards”

LETTER DATED 26.11.2020

*“F. No. 27-2/2020-SP-III
Government of India
Ministry of Youth Affairs & Sports
Department of Sports*

Shastri Bhawan, New Delhi

Date: 26 November, 2020

*To
The President / Secretary General
Equestrian Federation of India,
C/o 'B' Sqn. 61 Cavalry
Cariappa Marg
Delhi Cantt: 110010
Email: eflindianf@yahoo.co.in*

Subject: Renewal of recognition of Equestrian Federation of India (EFI) - reg.

Sir,

I am directed to refer to letter dated 24.02.2020 and 31.10.2020 regarding exemption/relaxation from National Sports Development Code of India, 2011 (Sports Code). The matter has been examined and upon consideration of the matter, it has been decided to renew the recognition of Equestrian Federation of India for a period of one year from date of issue of this letter, during which EFI is required to bring its constitution and governance structure in line with the Sports Code. Accordingly, the Federation is required to make categorical affirmation of the provisions of the Sports Code in its constitution so as to bring the same fully in line with the Sports Code.

2. The Federation is also required to take necessary steps for uploading of the information in compliance to

the instructions as contained in this Ministry's letter no. 9-7/2014-SP.I dated 26.02.2015 on suo-moto disclosure within 3 months' time (copy enclosed).

This is issued with the approval of competent authority.

*Yours faithfully,
(SPS Tomar)
Deputy Secretary to the Government of India”*

63. While appreciating the aforesaid letter, this Court is not making any observations on the genuineness of the difficulties that the sport may have in the facts as mentioned above, but is considering the overall impact of the narrative as expressed in the said letter. The entire letter is conspicuous by the absence of even one instance of having complied with the Roadmap formulated by the EFI despite passage of many years. It is not as if the EFI implemented the Roadmap and brought itself around to align with the provisions of the Sports Code and then having failed, addressed such concerns to the Ministry. No such attempt even appears to have been made and none is discernible from the reading of the aforesaid letter. Moreover, the contents of the said letters appear to have no impact upon the Ministry at all. Thus, this Court is unable to appreciate as to why the EFI did not implement its own Roadmap and align itself with the Sports Code.

64. It is also pertinent to note that the Ministry did not appreciate such stand of the EFI and still expected the EFI to “*fall in line*” so to say.

65. It is relevant to note that the Ministry, by the letter dated 01.02.2021 inserted the Power to Relax any of the norms mentioned in the Sports Code for reasons to be written in writing. The relevant extract of the said letter dated 01.02.2021 is brought out hereunder:

*“No. 12-2/2021-SP-INI
Government of India
Ministry of Youth Affairs & Sports
Department of Sports*

*Shastri Bhawan, New Delhi
1st February, 2021*

***Sub: National Sports Development Code of India, 2011
- inclusion of relaxation provision- regarding***

The National Sports Development Code of India, 2011 (Sports Code) has been in force since 31.01.2011. The Government has also, from time to time, issued certain other guidelines and instructions with regard to governance and management of Indian Olympic Association (IOA) and National Sports Federations (NSFs). It has been decided to add the following relaxation clause provision at No. 16 under the Heading of Relaxation Clause of the Sports Code 2011 at page 32:

Relaxation clause:

"Government shall have the power to relax any of the provisions of the National Sports Development Code of India, 2011 and other instructions issued with regard to recognition of National Sports Federations (NSFs), renewal of recognition of NSFs on annual basis and governance and management of Indian Olympic Association (IOA) and NSFs, as a special exemption where considered necessary and expedient for the

promotion of sports, sportspersons or to remove difficulties in giving true effect to that particular provision of the Sports Code, always being guided by and not inconsistent with the overarching spirit of good governance and ethical conduct enshrined in the Sports Code 2011. The reasons for such relaxation shall be recorded in writing. Power to relax the provisions will vest with Minister In-charge of the Ministry of Youth Affairs & Sports."

66. The Power to Relax any of the norms of the Sports Code is circumscribed in the aforesaid letter itself to very narrow area and that too for good reasons to be reduced into writing. This, of course, is to the extent whereby there is no dilution of the provisions of the Sports Code nor does such action interfere with the growth of that particular Sport. With this in the background, this Court now proceeds to examine the exemption/relaxation granted to EFI by the Ministry and the causal relation between the cause and its effect.

67. In order to appreciate the exemption granted to the EFI it would be apposite to peruse the letter dated 9/11/2021 which is extracted hereunder:

*"No. 27-4/201 3- SP- III (Vol- II)
Government of India
Ministry of Youth Affairs & Sports
Department of Sports*

*Shastri Bhawan, New Delhi
9th November 2021*

*To,
Secretary General,
Equestrian Federation of India.*

*T 1 Station Road, Cariappa Marg,
Delhi Cantt, New Delhi- 110010*

Subject: Grant of exemption to Equestrian Federation of India (EFI) from certain clauses of National Sports Development Code 2011- regarding

Sir,

I am directed to refer to EFI's letter No. 035/MYAS/EFII2021 dated 13 October 2021 and other letters mentioned in its letter dated 13 October 2021 requesting for exemption from certain clauses of the National Sports Development Code, 2011 (The Code) and to say that the request has been examined in terms of the provisions of the Code as well as the Ministry's letter No. 12-2/2021-SP-III dated 1.2.2021 regarding relaxation provision.

2. EFI has brought out in its above-mentioned letters to the Ministry that equestrian sport is a club-based sport the world over and it is of peculiar nature wherein two athletes, one human and the other an equine, participate as one combination in all gender-neutral competitions. It has also been brought by EFI that equines are integral part of the sport and maintenance of horses requires special expertise and its quite expensive in terms of their feed, veterinary expenses, grooms for looking after horses on daily basis, lodging of horses, logistics involved in transportation, boarding and lodging of horses, requirements of holding discipline specific competitions like Show Jumping, Eventing, Tent Pegging, Dressage, Endurance with large size grounds, requirement of Equine Disease Free Zone facility to enable horses to be –quarantined and examined beforehand to travel abroad as per international rules etc.

3. The Ministry has taken note of the special requirements for the sport of Equestrian and that the requisite expertise,

sport infrastructure and horses for training and competitions are not available in all States and Districts of the country.

4. Accordingly, it has been decided to grant exemption to EFI from the requirement under the Code, as a special dispensation to EFI and by taking into consideration the peculiar nature of the sport and the requirement of availability of the requisite sports infrastructure and horses, by relaxing the following provisions of the Code:

(i.) Para 3.4 of Annexure-II of the Code requiring the Federation! Association to have affiliated units in at least 2/3rd of total States/UT's of India.

(ii.) Para 3.9 of Annexure-II of the Code requiring the Federation to confine the membership to corresponding State/UT and other special units affiliated like (Sports Control Boards etc.) and where Federation grant membership to individual clubs or individual persons, such membership does not confer on such members the right to vote in any of the Federation's meetings.

(iii) Para 4 (I) of the annexure XXXVII of the Code requiring that each permanent Member State/ Union Territory duly affiliated by the Federation as its Permanent member shall have two votes at the elections of the officer bearers and Managing Committee bearers.

(IV) Para (2) of the Annexure XXXVII of the Code requiring that for the purposes of sub-clause (I) each Permanent member State /Union Territory shall be represented by two members authorized by the president of Secretary General/Secretary of the affiliated permanent member state/ Union territory: however, in case.president/ Secretary General/Secretary nominates different person (s) the persons (s) authorized by the president shall be deemed to be the authorized person (s) irrespective of the

date:

(V) Para 4 (4) of the Annexure XXXVII of the code requiring that each permanent member state/. Union Territory and each permanent member Board/ Institution shall intimate the name (s) of their representative (s) mentioned in sub clauses (2) and (3) latest by ... : and such intimation shall be addressed to the president/ Secretary General/ Secretary of ./ ... on their letter head duly signed by president / Secretary General/ Secretary of that member unit, so as to reach him on or before the aforesaid date: any change in the name of any authorized representative after .. or any other intimation received thereafter shall be permitted with the approval of the president of

5. The exemption will be available to EFI only till such time requisite number of State/ UT Association in 2/3rd of States and UTs with 50% District units come into existence, as required under para 3.4 of annexure II and para 3.10 of Annexures II of code. EFI is impressed upon to take steps for development of requisite sports infrastructure so that State/UT Associations come into existence in at least 2/3rd of State/ UTs with 50% District units.

6. Above exemption are granted with the approval of Minister of Youth Affairs & Sports by invoking the relaxation clause as a special dispensation to EFI and by taking into consideration the special requirements of horses and related sports infrastructure for the sport of equestrian.

*Your faithfully
(S.P.S Tomer)*

*Deputy Secretary of the Government of India
Tel No. 24361819”*

68. It is clear from the recitals that the Ministry has permitted exemption to the EFI from the rigours of the provisions of para 3.4 and 3.9 of Annexure II and para 4(1), 4(2) and 4(4) of Annexure XXXVII of the Sports Code. Extracts of para 3.4 and 3.9 of Annexure II and para 4(1), 4(2) and 4(4) of Annexure XXXVII of the Sports Code 2011 are as under:

ANNEXURE – II
GUIDELINES FOR RECOGNITION OF NATIONAL
SPORTS FEDERATIONS

3.4 At the time of applying for recognition, the Federation/Association should have affiliated Units in atleast 2/3rd of total States/UTs of India.

3.9 The membership of the Federation should be confined to the corresponding State/UT and other special units affiliated (like Sports Control Boards etc.) and where Federation grant membership to individual clubs or individual persons, such membership does not confer on such members the right to vote in any of the Federation's meetings.

ANNEXURE - XXXVII
MODEL ELECTION GUIDELIENS TO BEFOLLOWED BY
ALL NATIONAL SPORTS FEDERATIONS

4. Electoral College:

(1) Each Permanent Member State/Union Territory duly affiliated by (abbreviation of Federation) as its Permanent Member shall have two votes at the elections of the Office Bearers and Managing Committee Members.

(2) For the purposes of sub-clause (1), each Permanent Member State/Union Territory shall be represented by two members authorised by the President or Secretary General/Secretary of the affiliated Permanent Member State/Union Territory; however, in case President/Secretary General / Secretary nominates different person(s), the person(s) authorised by the President shall be deemed to be the duly authorised person(s). Irrespective of the date.

(4) Each Permanent Member State/Union Territory and each Permanent Member Board/Institution shall intimate the names) of their representative(S) mentioned in sub-clauses (2) and (3), latest by _____ (Day - 1 - e.g. 13th December, 204); and such intimation shall be addressed to the President / Secretary General of _____ on their letter head duly signed by President / Secretary General / Secretary of that member unit, so as to reach him on or before the aforesaid, date; any change in the name of any authorized representative after _____ (Day - 1 e.g. 13t December, 2010) or any intimation received thereafter shall be permitted only with the approval of the President of _____ ”

69. This court is of the opinion that so far as para 3.4 and 3.9 of Annexure II to the Sports Code are concerned, the relaxation is only with respect to the requirement of minimum 2/3rd States having membership of 50% District Associations in a State to be available for the purposes of constituting the State Associations only. This definitely cannot be read to mean that an open invitation was handed over to the EFI to invite the Clubs/ Units and other Institutions/Individuals from not only becoming the members directly of the EFI (NSF) but also

confer upon them the voting rights contrary to the clear mandate of the Sports Code.

70. That apart, from the manner in which such relaxation/exemption has been implemented, it is clear that the State Associations have now been equated with the Clubs/Units/Institutions, with the power to cast votes, rendering the provisions of the Sports Code otiose. There cannot be any quarrel with the fact that the pyramidal structure from District Association onwards to the State Associations to finally the National Federation was created and maintained as such under the Sports Code for rational purposes. By virtue of the present manner of interpretation, in one stroke, EFI has equated all the components into one single unit taking away the need to have any District Association or even State Association altogether. This definitely cannot be the interpretation of the exemptions granted to the EFI.

71. During the hearing, this court had put a two very pertinent queries to the counsel for EFI & Ministry, which are as under:-

(A) How are the clubs qualified and entitled to participate and cast vote in the elections, if the states associations are themselves disentitled or unqualified to vote on the basis of exemption as provided by the Ministry ?

(B) What is the composition /constitution of the District Level Association ? and what are the parameters of an institution or a club to become eligible as a member of the District Level Association ?

72. To the above queries, Mr. Singh learned counsel for EFI did not provide any clear and categorical answer and vaguely submitted that

the EFI as a National Sports Federation is not concerned with composition /constitution of the District Level Association. Mr. Singh further submits that the same would be considered by the by laws of the State Associations and have no nexus with the NSF's.

73. Considering the aforesaid submissions of Mr. Singh, this court is, *prima facie*, of the general opinion that ordinarily the club or other unit may enrol themselves as members of the District Association or States Associations, as the case may be, in line with the sports code as also keeping in view the sanctity of the pyramidal structure formulated under the Sports Code.

74. Now coming to the exemptions granted to the EFI from the rigours of para 4(1), 4(2) and 4(4) of Annexure XXXVII of the Sports Code 2011, similar situation prevails. By virtue of such exemption, neither the Ministry nor the EFI can dilute or tinker with the provisions of the Sports Code. Till such time the EFI is unable to implement its Roadmap, certain relaxations may be necessitated, however, taking the exemptions to such absurd levels which would directly affect the mandate of the Sports Code would be impermissible. In any case, the conferring of right to vote cannot be granted as largesse by EFI upon components which are not otherwise qualified to cast vote. This view of the Court is also strengthened by the judgement of Division Bench of this court in ***Rahul Mehra v. Union of India***, reported as **2022 SCC OnLine Del 2438**; wherein it is held:-

“89. Various judgments have held that conformity to the Sports Code is a sine-qua non for grant of recognition to a NSF and the corollary access to benefits which flow from such status. The court is informed

that Government expense, in this regard, extends to hundreds of crores of rupees annually. Without government support, the NSFs and IOA would not be able to discharge their duties. Forty-seven years have gone by, but non-conformity with the Sports Code and court directions continues unabated. In fact, non-conformity has almost attained permanence. This should end now.

102. As has been discussed hereinabove, the legal regime apropos sports administration in India has to be implemented fully and effectively. Compliance with the Sports Code is non-negotiable. If a sports federation does not comply with the law of the land, it will receive no recognition from the Government. All benefits and facilities to it will stop promptly. It is better that a legitimate body represents the cause of sportspersons than one simply masquerading as the real champion of Indian sports. Fairness and legitimacy needs to imbue all public affairs. Recalcitrant entities which defy adherence to rules of the game, while continuing to unjustly enjoy government's largesse and patronage, must be called-out.”

75. Casting of votes is a very valuable right conferred upon the stakeholders of any Sport. It was not without reasons that the Ministry after observing the situation of the Sports in the Country and the manner in which the sports persons were being mistreated and ignored by the loose Federations that it formulated the Sports Code 2011. It was purely with the reason to ensure that the Sport as well as the Sports persons are encouraged and get optimum exposure, both, within and outside the Country that it deemed it necessary to codify the Sports events and the sports persons. It was with that benevolent view that the Sports Code was formulated.

76. The formation of District Associations, who would then, amongst themselves, choose their representatives to the State Associations and further from the State Associations representatives would be nominated to the National Sports Federation was brought into

place under the Sports Code for the purposes of streamlining and creating a firm and ascertainable structure. However, by way of the interpretation sought to be given by EFI to the exemptions by the Ministry, the entire effort of the Ministry as also the mandate of Sports Code would be diluted to an unrecognizable extent. It would lead to absurd results, in that, in certain Sports Federations at the National level, the genuine pyramidal structure would be retained with every component working well within its sphere and in some others, the need to have District Associations or State Associations would be completely done away with. That can neither be fathomed nor permitted.

77. That so far as the submissions regarding other NSF's getting similar exemption is concerned, this Court has closely scrutinized the letters of the Ministry issued to the other Sports and concludes that the exemptions granted to EFI are different and more detailed than the other sports and therefore, the question of equality with the other Federations does not arise. Moreover, in other cases, there is no dilution of the various components/bodies formulated and prescribed under the Sports Code and thus, not comparable and would not accrue to the benefit of the EFI.

78. In view of the above analysis and discussions, this Court is of the considered opinion that, the Elections to EFI have to be held so as to ensure that a democratically elected body is in place. However, having said that, this Court also considers that the elections cannot be held unless the Electoral College is determined. After perusing the Electoral

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College provided by parties and the record as available, this Court has culled out the list of probables which is as under:-

STATE WISE LIST OF CLUBS/STATE ASSOCIATION

CLUBS UNIT

S.NO	STATE STATE ASSOCIATION	No. OF DISTRICTS	ARMY	CAPF	CIVIL	ARMY	CAPF	CIVIL	TOTAL
1.	ANDHRA PRADESH (ANDHRA PRADESH EQUESTRIAN ASSOCIATION- AM-03)	13	2		1				3
2.	ARUNACHAL PRADESH (EQUESTRIAN ASSOCIATION OF AP)-N/A	25	1			4			5
3.	ASSAM EQUESTRIAN FEDERATION OF ASSAM -AM-14	34	5	1	1	17			24
4.	BIHAR EQUESTRIAN ASSOCIATION OF BIHAR STATE - N/A	38				1			1
5.	CHHATISGARH EQUESTRIAN ASSOCIATION OF CHHATISGARH-AM -24	28		1	1				2
6.	GOA EQUESTRIAN & POLO ASSOCIATION OF GOA- AM-26	2							0
7.	GUJARAT GUJARAT EQUESTRIAN ASSOCIATION AM-28	33			4		1		5
8.	HARYANA EQUESTRIAN ASSOCIATION OF HARYANA -N/A	22	4		13	1	1		19
9.	HIMACHAL	12				4			4

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	PRADESH HP EQUESTRIAN & POLO ASSOCIATION-N/ A								
10.	JAMMU & KASHMIR N/A	20	11		1	31			43
11.	<i>JHARKHAND JHARKHAND EQUESTRIAN ASSOCIATION AM-25</i>	24	1		1	2			4
12.	<i>KARNATAKA KARNATAKA RIDING ASSOCIATION, AM-29</i>	31	2		4	3			9
13.	KERALA N/A	14	1		1				2
14.	<i>MADHYA PRADESH MADHYA PRADESH EQUSTERIAN ASSOCIATION AM-17</i>	51	2		2	2	2		8
15.	<i>MAHARASHTRA MAHARASHTRA EQUESTRIAN ASSOCIATION AM-18</i>	36	3		10	2			15
16.	<i>MANIPUR MANIPUR EQUESTRIAN ASSOCIATION AM-22</i>	16	1			2			3
17.	MEGHALAYA N/A	11				1			1
18.	MIZORAM N/A	11							0
19.	NAGALAND N/A	12	1						1
20.	ODISHA N/A	30	1			1			2
21.	<i>PUNJAB PUNJAB EQUESTRIAN ASSOCIATION AM-15</i>	22	4		11	9	1		25
22.	<i>RAJASTHAN RAJASTHAN EQUESTRIAN</i>	33	2	1	6	9			18

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	<i>ASSOCIATION AM-02</i>								
23.	SIKKIM N/A	4				1			1
24.	TAMIL NADU N/A	38	1		9	4			14
25.	<i>TELANGANA TELANGANA STATE EQUESTRIAN ASSOCIATION AM-30</i>	33			1	2			3
26.	TRIPURA N/A	8							0
27.	<i>UTTAR PRADESH EQUESTRIAN ASSOCIATION OF UP AM-09</i>	75	7		10	14	1		32
28.	<i>UTTARAKHAND EQUESTRIAN ASSOCIATION OF UTTARAKHAND AM-27</i>	13	2		1	4			7
29.	<i>WEST BENGAL WEST BENGAL EQUESTRIAN ASSOCIATION AM-16</i>	23	5	2	1	16			24

UNION TERRITORIES OF INDIA

30.	<i>ANDAMAN & NICOBAR ISLAND N/A</i>	3							0
31.	<i>CHANDIGARH CHANDIGARH EQUESTRIAN ASSOCIATION AM-08</i>	1				3			3
32.	DADAR & NAGAR HAVELI	1							0
33.	DAMAN & DIU	2							0
34.	<i>DELHI DELHI EQUESTRIAN AND POLO ASSOCIATION AM-19</i>	11	1	1	9	14	1		26
35.	LAKSHWADEEP N/A	1							0
36.	<i>PONDICHERY N/A</i>	4			1				1

TOTAL	734	57	6	88	147	7	0	305
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79. As a one-time measure, keeping in view the emergent and dire situation of elected body of EFI, and considering the impending 19th Asian Games to be held between 23.09.2023 to 08.10.2023 in Hangzhou, China, this Court deems it fit, to direct as under:-

- a. The EFI would permit all the State /Union Territories Associations to cast their votes (two) after fulfilling all the requisite criteria and in any case not unduly prevent them from casting votes, subject to their eligibility to be decided by the Election Officer/Returning Officer;
- b. The parties are at liberty to submit their own list of electoral college to the Election Officer/Returning Officer who may consider such list in accordance with the present directions as also the table as brought out in para 78 above.
- c. The EFI to permit 25% of the vote share of the electoral college to the Eminent Sports Persons to cast their votes in accordance with the Sports Code;
- d. No Institutions/Individuals would have any right to cast votes;
- e. So far as the Clubs/Units are concerned, to following methodology would be worked out:

(I) Wherever and in whichever State/UT the State Association or UT Association is available, no Club/Unit would be permitted to cast votes;

(II) Wherever and in whichever State/UT, the State or UT Association is not available, all eligible Clubs/Units will cast one vote each which would be proportionately divided in Two Votes in all, by granting proportionate share to each Club/Unit and the greater percentage amongst those who vote, would be the deciding factor for the respective candidates. This measure is undertaken to ensure equal participation of the concerned stakeholders belonging to a State/UT, where, the State Associations are not available or are found to be ineligible by the Election/Returning Officer.

f. That the EFI is directed to produce and handover all and any records sought for by the Election Officer/Returning Officer, without any undue delay.

80. To carry out the aforesaid exercise and determine the Electoral College as directed above, this Court deems fit to request Hon'ble Mr. Justice Ajit Bharihoke (Retd.) to:

a. Assume the responsibilities of Election Officer/ Returning Officer, at the earliest, so as to ensure election process could be initiated without any further loss of time;

- b. Take over the charge as an Election Officer and receive all the necessary assistance from EFI as also the Ministry;
- c. Determine the Electoral College in terms of para 78 and 79 above;
- d. Draw up a suitable Election Notice and Schedule, for Elections of EFI as soon as the Electoral College is determined;
- e. Conduct the elections for Executive Committee and Selection Committee of EFI;
- f. Take assistance of any person, including Mr. S Y Quaraishi, the learned Observer, who is requested to render all or any assistance sought;
- g. Determine his fee as also of the persons assisting in the aforesaid exercise, which would be payable by the EFI immediately;
- h. Declare the results of such Elections, which would be binding upon the parties.

81. Having regard to the above directions, the aforesaid applications are disposed of. It is made clear that the aforesaid analysis and conclusions are only *prima facie* and restricted to the decision of the aforesaid applications and shall not tantamount to any expression on the merits of the contentions of the parties in regard to the writ petitions.

82. So far as the contentions raised by the Learned Senior Counsel for the intervenor is concerned, in view of the fact of cross suits

pending before the Coordinate Bench of this Court, this court refrains from making any observations thereon.

83. Copy of this order be sent to Hon'ble Mr. Justice Ajit Bharihoke (Retd.), and also to Mr. S.Y. Quaraishi, Learned Observer, for further action.

CONT.CAS(C) 73/2022

W.P.(C) 10342/2019

W.P.(C) 10783/2022

W.P.(C) 2036/2022; &

W.P.(C) 5989/2022

84. List the aforesaid Petitions alongwith the other pending applications on 10.05.2023 for further hearing.

TUSHAR RAO GEDELA, J

APRIL 11, 2023/nd/ms