

\$~11

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

+ **CONT.CAS(C) 676/2022**

ASLAM SHER KHAN

..... Petitioner

Through: Mr.Mohit Mathur, Sr.Advocate
alongwith Sh.Vanshdeep Dalmia,
Advocate

versus

NARINDER DHRUV BATRA & ORS.

..... Respondent

Through: Ms.Shyel Trehan, Advocate for R-1
Mr.Ruchir Mishra alongwith
Mr.Hemant Phalpher, Advocates
Mr.Chetan Sharma, ASG with
Ms.Pratima N.Lakra, CGSC for R3

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% **24.06.2022**

CM APPL. 28674/2022 (EXE.)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CONT.CAS(C) 676/2022

The petition has been filed under Article 215 of the Constitution of India read with Section 2 (c) and Section 10 of the Contempt of Courts Act,

1971 for initiating contempt proceedings against the Respondents, jointly and severally, for wilful disobedience and deliberate defiance of the Judgment dated 25.05.2022 passed by this Court in W.P (C) No. 5703 of 2020.

Mr.Mohit Mathur, Learned senior counsel for the Petitioner, at the outset has submitted that he has instructions to pursue only the Civil contempt and not the Criminal contempt.

Learned senior counsel has invited the attention of this court to Para 39 & 40 of the judgment dated 25.05.2022 passed by this court in W.P (C) No. 5703 of 2020, which are being reproduced herein below :-

“39. It is not known what was the follow-up, if any ensued. The age and tenure restrictions of the Sports Code as well as the cooling-off period between successive terms in the Managing Committee of a NSF, coupled with the necessary 2/3rd votes for the second term, are clear safeguards against permanent positions in a NSF. What cannot be done "per directum" is not permitted "per obliquum" meaning thereby, that, whatever is prohibited by law cannot be effected by an indirect or circuitous contrivance.

40. R-3 knew fully well that the post of Life President and Life Member in a NSF is illegal. He had been specifically intimated so by the Government of India. Yet when Hockey India was registered as a Society under the Societies Registration Act 1860, on 28.05.2009 and was granted prompt recognition by the Government of India within a couple of days thereof, R-3 went ahead and had himself appointed as Life Member of Hockey India. This smacks of brazen impertinence to the clear mandate of law. It was a less than honest but futile endeavour to institutionalize oneself in a body whose legitimacy itself is contingent upon conformity with the

Sport Code and the law. What a paradox, to make oneself permanent in an entity whose tenure itself is impermanent. The illegal Post of Life President or Life Member cannot be the stepping-stone for any other position or benefit elsewhere, be it nationally (including in the Indian Olympic Association) or in international bodies. If R-3 has so benefitted, then such benefit or position shall end right away. Let the CoA look into the matter, so would the Government of India.”

Mr.Mohit Mathur, Senior learned counsel has submitted that the proposed contemnor / respondent no. 1 has been removed from the position held by him in National Sports Federation (NSF) by virtue of the judgment dated 25.05.2022 of this court in W.P (C) No. 5703 of 2020. He submits that the proposed contemnor / respondent no. 1 has committed contempt of the court by continuing as President, IOA and cannot be allowed to further perpetuate contempt. Learned senior counsel submitted that other respondents have also committed Contempt of Court by taking part in the proceedings conducted by him as President, IOA despite the order of this Court Learned senior counsel submitted that continuance of respondent no. 1, on this position, for even a moment shall amount to continuance with contempt of the order of this court.

Mr.Mohit Mathur, learned senior counsel has invited the attention of the court to para 16.2 of **Rules and Regulations Of The Indian Olympic Association** which provides that in the absence of the President, one of the Senior Vice Presidents approved by the Executive Council shall preside over the meetings.

Learned ASG submitted that such litigations are increasing day by day, and in such proceedings the paramount consideration of the courts

should be to ensure excellence of the sports and sports persons. It has been submitted that the courts while dealing with such petitions has to take into account the overall sanctity, credibility and functioning of the such Sports Federations.

Issue notice to the respondent / proposed contemnor as to why the proceedings of contempt be not initiated against them.

Ms.Shyel Trehan, Advocate accepts notice on behalf of respondent no. 1.

Mr.Ruchir Mishra, Advocate on behalf of respondent no. 2 accepts notice.

Mr.Chetan Sharma, learned ASG has appeared for R-3 and Ms.Pratima N.Lakra for CGSC accepts notice.

Let the reply be filed within four weeks.

Whether Mr.Batra is appointed as President, Indian Olympic Association (IOA) only by virtue of being the Life Member of Hockey India or if he is holding the position by virtue of some other position in FIH or Associate Vice President in Hockey India is required to be seen in light of the judgment passed by this court in W.P (C) No. 5703 of 2020.

During proceedings, Mr.Ruchir Mihsra, Advocate for Indian Olympics Association has invited the attention of the court to the communication bearing IOA/IOC/V-I/2022/0886 dated 3rd June'2022, whereby in pursuance of the judgment passed by this court in W.P (C) No. 5703 of 2020, the International Olympic Committee had been informed that the position of Mr. Batra as President, IOA would end right away from 25.05.2022. It has been further informed that duties and responsibilities of the President, IOA as per the Constitution of IOA has been taken over by Sr.

Vice President, IOA Mr.Anil Khanna. Learned counsel further submits that IOA has already implemented the orders of this court.

This Court considers that the functioning of Sports Federation should be above any kind of doubt. The purity in the functioning of such federations are much more important, than the individual who hold the positions.

In view of the submissions of the Learned counsel for R-2, and the orders passed by this Court in W.P (C) No. 5703/2020, the respondent no. 1 / proposed contemnor is restrained to further discharge any function as President, IOA.

In view of the communication dated 3rd June'2022, Mr.Anil Khanna, Senior Vice President will take over the duties and responsibilities of the President. The Senior Vice President's shall also perform any other tasks/ functions as directed by the President, the Executive Council or the General Meeting.

Let the matter be listed before Roaster Bench on 3rd August, 2022.

DINESH KUMAR SHARMA, J
(VACATION BENCH)

JUNE 24, 2022 / sk