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CWP-16935-2023

HARYANA WRESTLING ASSOCIATION
V/S
UNION OF INDIA AND OTHERS

Present: Mr. Ravinder Malik (Ravi), Advocate
for the petitioner.

Mr. S.P. Jain, Addl. Solicitor General of India with
Mr. Sudhir Nar, Sr. Panel Counsel for respondent No.1-
Union of India.

Mr. Amit Jhanji, Sr. Advocate with
Mr. Shashank Shekhar Sharma and
Mr. Sanchit Singla, Advocates
for respondent No.2.

None for respondent No.3- Returning Officer.

Mr. Namit Khurana, Advocate
for respondent No.4.

Mr. Narender Singh, Advocate
for respondent No.5.

Challenge in the present petition is to the order dated 25.07.2023 (Annexure P-15) passed by respondent No.3 - Returning Officer, Wrestling Federation of India, whereby the claim of the petitioner for exclusion of the representatives nominated by respondent No.5 for the Electoral College of the Wrestling Federation of India in the upcoming elections of 2023, has been rejected.

The present petition came up for hearing on 04.08.2023, when the following order was passed:

“Learned counsel appearing on behalf of the petitioner inter alia contends that the Returning Officer has rejected the objections filed by the petitioner by holding that respondent No.5 is duly affiliated with the Haryana Olympic Association. The order finds mention of verification of the certificate from the Treasurer. He

argues that the Treasure is not the competent authority for issuing/verifying any certificate or affiliation of a State Association. It is contended that for the purposes of being eligible to cast vote in the elections to the Wrestling Federation of India, the Sports Association is required to be affiliated with the State Olympic Association as Well. The respondent No.5, having not fulfilled the above criteria, is not competent to cast vote in the ongoing election process of Wrestling Federation of India. The objections of the petitioner have thus been not properly considered by the Returning Officer.

Mr. Namit Khurana, Advocate enters appearance on behalf of respondent No.4-Haryana Olympic Association and submits that he has instructions from the General Secretary of the Haryana Olympic Association that respondent No.5-Haryana Amateur Wrestling Association is not affiliated to the Haryana Olympic Association. He undertakes to file an affidavit in the Court by Monday i.e. on 07.08.2023.

Adjourned to 07.08.2023.”

On resumed hearing, i.e. on 07.08.2023, an affidavit was filed by Haryana Olympic Association, which was taken on record and it was ordered as under:

“Challenge in the present petition is to the order dated 25.07.2023 (Annexure P-15) passed by respondent No3 i.e. the Returning Officer of the Wrestling Federation of India whereby the objection of the petitioner for exclusion of the representatives nominated by respondent No.5 from the Electoral College of Wrestling Federation of India for its upcoming Election of 2023 has been rejected.

Counsel for the petitioner has referred to the above said order passed by the Returning Officer wherein it has been averred that the respondent No.5 has placed reliance on a Certificate of the Haryana Olympic Association dated 02.12.2022. The above said certificate was verified from the Treasurer of the Haryana Olympic

Association and he has acknowledged his signatures on the said certificate.

It is contended by the learned counsel that as per the provisions of the Haryana Olympic Association, the functions of the Treasurer are confined to the following:

“(IV) Honorary Treasurer

1. He shall keep full account of the Association Income and expenditure and make payments when sanctioned by the Hony. Secretary General or the President.
2. He shall pay all bills passed by the Hony. Secretary General or the President which fall within he sanctioned budget estimate.
3. He shall pay advance sanctioned by the President or the Hony. Secretary General.”

He further submits that the question of grant of membership to any sports body/organization can only be decided by the General Body and it is not for the Treasurer to issue any such affiliation certification. It is also averred that respondent No.5 was never affiliated to the Haryana Olympic Association and that for being eligible to cast vote in the elections of the Wrestling Federation of India, an Association ought to be registered with the State Olympic Association, which is affiliated to the Indian Olympic Association, as per Article XXIV (f) of the Constitution of Wrestling Federation of India. The relevant Clause thereof is extracted as under:

Article XXIV-Miscellaneous

Xxx xxxx xxxx xxxx xxx xxx
xxx

“The WFI shall not affiliate a sports Unit of any State that has not affiliated recognized by the State Olympic Association which is affiliated to the Indian Olympic Association.”

Counsel for the petitioner had strenuously argued on the last date of hearing i.e. 04.08.2023, that respondent No.5, not being affiliated to the Haryana Olympic Association, could not be admitted as a valid member to cast vote in the elections of the Wrestling Federation of India.

Mr. Namit Khurana, Advocate had entered appearance on 04.08.2023 and had orally admitted the aforesaid contention. He was thus directed to file an affidavit and the hearing of the case was adjourned for today i.e. 07.08.2023.

On resumed hearing, Affidavit of Neeraj Tanwar, General Secretary Haryana Olympic Association, Olympic Bhawan, Sector-3, Panchkula has been filed wherein it has been specifically averred in para No.4 as under:

“That deponent in compliance of Order passed by this Hon’ble Court stating that as per records of Haryana Olympic Association, Haryana Wrestling Association (Petitioner) is affiliated whereas respondent No.5-Haryana Amateur Wrestling Association is not affiliated to the Haryana Olympic Association.”

In view of the aforesaid specific declaration on an affidavit by the Haryana Olympic Association that respondent No.5 is not affiliated to it, the respondent No.5 is prima facie not eligible to cast its vote in the elections of the Wrestling Federation of India to be held later in the year, as per the Constitution of the Wrestling Federation of India.

Notice of motion.

Notice re: Stay as well.

Mr. Namit Khurana, Advocate accepts notice on behalf of respondent No.4 and Mr. Manjeet Singh, Advocate accepts notice on behalf of respondent No.5 and pray for some time to file response.

To come up on 11.08.2023, for further consideration.

Process dasti as well.

In the meanwhile, the impugned order dated 25.07.2023 passed by respondent No.3 be kept in abeyance till the next date of hearing. The representatives nominated by Respondent No.5 would consequently thus not be eligible to participate in the elections of the Wrestling Federation of India to be held later.”

Written statement on behalf of respondent No.5 has been filed today in Court. Copy thereof has been furnished to learned counsel for the petitioner, who prays for some time to file replication.

Counsel for respondents No.2 and 4 i.e. Wrestling Federation of India as well Haryana Olympic Association also pray for some time to file reply to the writ petition.

The parties have asserted that elections to the Wrestling Federation of India is scheduled for 12.08.2023. Arguments were thus addressed for interim relief so that State of Haryana is represented.

Counsel for the petitioner has reiterated his arguments and contended that respondent No.5 not being affiliated, cannot be permitted to represent the State Wrestling Association in violation of Constitution of Wrestling Federation of India.

It has been reiterated by the counsel for the respondent No.4- Haryana Olympic Association that respondent No.5 is not a affiliated with the Haryana Olympic Association.

Learned Senior Counsel for respondent No.2, while referring to the written statement filed on behalf of respondent No.5, has contended that vide communication dated 04.07.2022, the *Ad hoc* Committee was constituted by the Wrestling Federation of India to conduct fresh elections and to run day to day affairs of the Haryana Wrestling Association. The abovesaid *Ad hoc*

committee thereafter notified the elections schedule and the elections were held pursuant thereto. The abovesaid election was also approved by the Wrestling Federation of India. In the General Council Meeting of respondent No.2 - Wrestling Federation of India held on 25.08.2022, the name of the petitioner-Association was changed to “Haryana Amateur Wrestling Association” and was also approved by the General Council. Accordingly, the respondent No.5 in fact is the same Body i.e. the petitioner herein.

Counsel for respondent No.5 additionally submitted that Haryana Olympic Association proposed an amendment wherein the membership of Haryana Olympic Association is open to State Sports Association affiliated to National Sports Federation. He contends that in view thereof, the respondent No.5 would be entitled to the membership of Haryana Olympic Association.

On a pointed query, it was informed by the counsel that the Haryana Wrestling Association was initially registered under the Societies Registration Act of 1860 and after coming into force of the Haryana Registration and Regulation of Societies Act, 2012, societies that were registered under the Act of 1860 would be deemed to be registered under the Act of 2012 and would be required to be registered again. Fresh registration under Section 9(1) is required to be obtained while existing societies had to seek re-registration under Section 9(4) of the Act of 2012. On a specific query, counsel for respondent No.5 submits that they had submitted an application under Section 9(1) of the Haryana Registration and Regulation of Societies Act, 2012 for registration of its name as “Haryana Amateur Wrestling Association” and not under Section 9(4) of the Act of 2012. No response has come forth on the query as to whether the agenda pertaining to change of name from “Haryana

Wrestling Association” to “Haryana Amateur Wrestling Association” was ever approved by the Executive Committee/ General Body of the Haryana Wrestling Association before the same was raised by the office bearers in the General Council of the Wrestling Federation of India.

The attention of the counsel for the respondents was also drawn to the provisions of the Haryana Registration and Regulation of Societies Act, 2012 as well as the Rules, under which separate proforma has been provided for registration and re-registration and separate statutory form of certificate has been provided. The separate provisions give rise to separate presumptions as regards distinct juristic entity. The same needs to be adjudicated.

Insofar as the argument of counsel for the respondent No.5 that a sports association, which is affiliated to National Federation, is eligible to seek membership of Haryana Olympic Association is concerned, the said proposed amendment only entitles such body to apply for seeking membership of the Haryana Olympic Association, however, the same does not by itself create an obligation to grant of such affiliation give rise to deemed-affiliation. Since the Haryana Olympic Association has taken a specific stand that the respondent No.5 is not affiliated/recognized by the Haryana Olympic Association and as per the constitution of Wrestling Federation of India, for being eligible to cast vote for the Executive Committee, the State Sport Association must be recognized with State Olympic Association, which such requirement is not *ex facie* made out, reply by the Haryana Olympic Association would thus be crucial for the adjudication to determine as to whether the respondent No.5-Haryana Amateur Wrestling Association would step into the shoes of Haryana Wrestling Association or not.

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As the counsel for the respective parties contend that they have crucial right to cast vote for the elections to the Executing Committee of the Wrestling Federation of India which is scheduled to be held tomorrow i.e. 12.08.2023, election of the Executive committee of Wrestling Federation of India is ordered to be stayed till the next date of hearing.

Response(s) by the respective parties be filed positively on or before the adjourned date with copy in advance to the learned counsel opposite.

Replication, if any, be also filed by the learned counsel for the petitioner in the meanwhile with copy in advance to the learned counsel opposite.

Adjourned to 28.08.2023.

A copy of this order be supplied to the counsel for the respective parties under signatures of the Bench Secretary of this Court.

11.08.2023
rajender

(VINOD S. BHARDWAJ)
JUDGE