

K. Murugan

Vs

Fencing Association of India, Jabalpur and Others

With

B. S. Adityan and Another

Vs

Fencing Association of India and Others

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K. Murugan

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Tamil Nadu Olympic Association, Madras

Vs

V. C. Shukla and Another

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Tamil Nadu Olympic Association and Another

Civil Appeal Nos. 848, 849, 850, 853 and 852 of 1991

(Ranganath Misra, Kuldip Singh, M. H. Kania JJ)

22.02.1991

JUDGMENT

RANGANATH MISRA, C.J. –

1. The Olympic games are ancient in origin. According to the Encyclopaedia Britannica they commenced some 3500 years ago and the name came from its association with the place known as Olympia in Greece. These games were played once in every four years and were abolished in 393

A. D. by the Roman Emperor Theodosius I. In recent times, they were revived in 1896 and have until now been held at the turn of every four years excepting during the First and the Second World Wars. The Olympic games are one of the biggest international events and provide great opportunities to amateur sportsmen in the different classifications.

2. Indian participation in the Olympic games dates back to 1900 when a single representative had joined the Olympics at Paris. Gradually, such participation became more systematic and broad-based. While the Ministry of Youth Affairs and Sports of the Union Government looks after development of sports within the country, the management of the Olympic participation has been entrusted to a society registered under the Societies Registration Act (21 of 1860) known by the name 'Indian Olympic Association' (for short 'IOA')

3. The Memorandum of Association of this society indicates that the principal objects of the society, inter alia, are : (1) to develop and promote the Olympic movement and amateur sport; (2) to promote and encourage the physical, moral and cultural education of the youth of the nation for the development of character, good health and good citizenship; (3) to enforce all rules and regulations of the International Olympic Committee (hereinafter referred to as 'IOC') and the IOA; (4) to be the official organisation in complete and sole charge of all Olympic matters in the country; (5) to educate the public of the country as to the value of amateurism in sports; (6) to maintain the highest ideals of amateurism and to promote interest therein, particularly in connection with the Olympic games and other games under the patronage of the IOC as well as the IOA; (7) to have full and complete jurisdiction over all matters pertaining to the participation of India in the Olympic games and other games under the patronage of the IOC as well as IOA; (8) to assist in cooperation with National Sport Federations/Associations the selection, training and coaching of the teams that will represent India in the Asian, Commonwealth, Olympic and other international competitions and tournaments, under the patronage of the IOC as well as IOA and also to supervise and control the participation of the teams in the said competitions and tournaments after selection; (9) to undertake with the assistance of National Sports Federations/Associations the financing, management, transportation, maintenance and welfare of teams from India taking part in the Olympic games and other games under the patronage of the IOC as well as the IOA; and (10) to stimulate the interest of the people of the country in the promotion of sports and games in the Olympic programme, and to that end the formation of State Olympic Associations for the development of sports and games within a State and National Sports Federations for games and sports in the Olympic programme.

4. We have quoted most of the important objectives to bring it to the forefront that the IOA has been brought into existence to sponsor, supervise, finance, regulate and control all aspects of sports activity in relation to the Asian, Commonwealth, Olympic and international competitions and tournaments under the patronage of the IOC. While its funding is partially out of membership fee, bulk of it comes from government contribution.

5. The society has a set of rules and regulations. There are five categories of members as described in Rule 3. The management of the affairs of the Association is entrusted to an Executive Council defined in Rule 1(v). Rule 8 provides that the Executive Council shall have (i) a President (ii) 9 Vice-Presidents (iii) a Secretary-General (iv) 6 Joint Secretaries (v) a Treasurer (vi) 7 Members elected from among representatives of State Olympic Associations and (vii) 12 Members elected from among the representatives of National Sports Federations/Associations/SSCB. Rule 8 provides the manner of elections to be held for the Executive Council. The term of the Executive Council is 4 years. Rule 11 provides the voting procedure. Clause (b) of that rule requires that voting if necessary in the IOA Executive Council, IOA Emergency Executive Council and/or at the annual general or

special general meetings of the IOA shall be by show of hand. However, if in a particular case the procedure has to be changed, the same will be done by a resolution of the concerned body passed by majority vote. The very rule provides as to the voting power of the different units composing the IOA.

6. Rule 12 deals with the office bearers like the President, the Vice-President, the Secretary-General, the Joint Secretaries, the Treasurer etc. For the resolution of the dispute before us perhaps reference to the other rules is not necessary.

7. The IOA was reconstituted with effect from October 28, 1984, with appellant Shri V. C. Shukla as the President. K. Murugan, appellant in C.A. No. 848 of 1991 (arising out of SLP 1064 of 1991) was one of the 6 Joint Secretaries.

8. In November 1988, Shri B. S. Adityan, one of the Vice-Presidents of the 1984 Executive Council was elected as President for a term of four years. On May 16, 1990, there was a requisition of 17 Members for a special general meeting for considering the move of a no confidence motion against Shri Adityan and his Executive Council. With this started a period of confrontation between the two groups in the Association. In May 1990, the Executive Council overruled the requisition as invalid and President Adityan called a meeting of the General Assembly at Madras for June 15, 1990. For the same day the other group summoned a meeting of the general assembly at New Delhi. This led to court proceedings and the Delhi High Court restrained the requisitionists from holding their meeting at New Delhi and appointed a retired Judge of the Delhi High Court as an observer for the meeting to be held at Madras. In the convened meeting of June 15, minutes of the proceedings whereof have been seriously disputed Shri Shukla claimed to have been elected.

9. A little before the meeting of June 15 at Madras, further proceedings were taken in court which have been labelled as collusive and manipulations for obtaining an order for the manner of voting. The warring factions lost sight of the laudable goals of the IOA and the purpose for which the Association had been set up and put their entire attention on winning control over the affairs of the IOA in their grip through litigation.

10. A Single Judge of the Madras High Court having decided in favour of Shri Adityan, the matter ultimately came before a Full Bench which by its order dated January 3, 1991, remitted the matter to the learned Single Judge and appointed Justice Natarajan, a retired Judge of this Court, to discharge the functions of the President of the IOA as an interim measure. This order is challenged in the appeal by Shri Murugan and Shri V. C. Shukla by two different appeals being Civil Appeals Nos. 852 and 853 of 1991 (arising out of SLPs 1599 and 1787 of 1991). Not content with the litigation in the Delhi and Madras High Courts, the Fencing Association of India filed a civil suit at Jabalpur asking for declaration that Shri Shukla had been duly elected as President. An application for injunction in support of Shri Shukla having been rejected by the trial Judge an appeal had been taken before the High Court where a learned Single Judge made a status quo order. The other two appeals arise out of proceedings including contempt taken therein

11. Long arguments have been advanced before us by Mr. Venugopal for Shri Adityan and by Mr. Sibal for Shri Shukla. The main contention of Mr. Venugopal is that under the rules the term of the President and the Executive Council is four years and in the absence of a clear provision for a vote of no confidence, which would curtail the period, there could be no reduction of the period of office. It has also been contended that the entire Executive Council could not be voted out of office by a motion of no confidence and, therefore, Shri Adityan had rightly overruled the requisition.

Serious challenge has been advanced by Mr. Sibal against the proceedings taken before the Madras High Court and particularly, the learned Judge making an order changing the manner of voting from show of hands to one by ballot in what is stated to be a collusive proceeding.

12. This does not appear to us to be a matter where individual rights in terms of the rules and regulations of the Society should engage our attention. Sports in modern times has been considered to be a matter of great importance to the community. International sports has assumed greater importance and has been in the focus for over a few decades. In some of the recent Olympic games the performance of small States has indeed been excellent and laudable while the performance of a great country like India with world's second highest population has been miserable. It is unfortunate that the highest body in charge of monitoring all aspects of such sports has got involved in group fight leading to litigation and the objectives of the Society have been lost sight of. The representation of India in the IOA has been in jeopardy. The grooming of amateurs has been thrown to the winds and the responsibility placed on the Society has not been responded. This, therefore, does not appear to us to be a situation where rights to office will have to be worked out by referring to the provisions of the law relating to meetings, injunction and rights appurtenant to elective offices. What seems to be of paramount importance is that healthy conditions must be restored as early as possible into the working of the Society and a fresh election has to be held as that seems to be the only way to get out of the malady. The entire nation is looking up to the results of the competitions at the international games when they are held. As we have already pointed out. IOA has great responsibilities to discharge in organising and streamlining the national sport activities intended for international events. The monitoring has to be a continuous one and unless the scheme is ongoing and is made result-oriented, the international performance cannot be up to any appreciable level.

13. The question for consideration, therefore, is not as to which of the two factions should succeed. On the other hand, it is appropriate that all the litigations now pending should abate. In the interest of the appropriate functioning of the Society the litigation outside the head-quarters of the Society should not be permitted. We accordingly direct that any litigation, if at all, should only be within the jurisdiction of the Delhi High Court and no court in India would entertain litigations relating to the Functioning of IOA in any aspect. A fresh Executive Council should be set up and for that purpose elections should be held within two months hence. The general assembly should be convened to meet at Calcutta on April 28, 1991. We appoint Mr. Justice A. D. Koshal, a retired Judge of this Court to conduct the elections keeping the provisions of the rules and regulations of the IOA in view. Voting shall be by secret ballot. The list of voters should be finally settled within four weeks from now and if it is necessary to have any hearing in the matter we authorise such hearing to be undertaken by Mr. Justice Koshal. Until then, Mr. Justice Natarajan will continue to exercise his powers as conferred by the order of the Madras High Court. Once the results of the elections are announced, Mr. Justice Natarajan would cease to be in office and the Association would take over.

14. To enable Mr. Justice Koshal to discharge the obligations cast upon him by this decision, the Ministry of Youth Affairs and Sports is directed to place at his disposal a sum of Rs. 25,000 (Twenty-five thousand) within two weeks and a small group of assistants as he may need. Payment of remuneration for the work done shall be fixed by the court later.

15. All the proceedings in the different High Courts abate; the suit in the Jabalpur High Court shall stand dismissed. The contempt proceedings now pending shall not be proceeded with.

16. In the course of arguments some criticism was advanced against the order of the High Court

providing monthly remuneration to Mr. Justice Natarajan. We leave this aspect to be considered by Mr. Justice Natarajan himself and do not propose to deal with it in our order.

17. Before we leave this matter we would like to point that the Union of India should take greater interest in organising sports both for national and international purposes. Sports have a role to play in building up good citizens. That aspect should be kept in view. We have a feeling that while a lot of money is allotted for the purpose of improvement of sports, the result has been considerably poor and deceptive. We hope and trust that this aspect of the criticism heard from everywhere in this country shall also be given due consideration.

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