

SUPREME COURT OF INDIA

Board of Control for Cricket in India

Vs.

Cricket Association of Bihar

C.A.No.4235 of 2014

(Dipak Misra,CJI., A.M.Khanwilkar and Dr.D.Y.Chandrachud,JJ.,)

09.08.2018

JUDGMENT

Dr.D.Y.Chandrachud,J.,

1. While pronouncing its judgment on 18 July 2016 in *Board of Control for Cricket in India v Cricket Association of Bihar*¹, this Court accepted the reforms in the administration of cricket proposed by a Committee chaired by Justice RM Lodha². The review petition has been dismissed. On 2 January 2017, this Court directed that a Committee of Administrators³ shall supervise the administration of BCCI through its Chief Executive Officer. The CoA was constituted on 17 January 2017. On 24 July 2017, this Court directed that except for certain outstanding issues which were identified, the recommendations of the Lodha Committee must be implemented:

“...(c) All concerned shall implement the recommendations of the Justice Lodha Committee Report as far as practicable, barring the issues which have been raised pertaining to membership, number of members of the selection committee, concept of associate membership, etc. The purpose is to implement the report as far as practicable and, thereafter, it shall be debated as to how the scheme of things can be considered so that the cricket, the ‘gentleman’s game’, remains nearly perfect. Be it noted, the issue with regard to disqualification or qualification of the representative is kept open.” (Emphasis supplied)

On 23 August 2017, the CoA was entrusted to prepare a draft constitution in accordance with the judgment rendered on 18 July 2016 and the order dated 24 July 2017. Modalities were evolved by this Court to consider the concerns of stakeholders by ensuring that the draft constitution is duly circulated between all the counsel so that their suggestions could be evaluated. This Court observed:

“we. . . direct the Committee of Administrators to prepare a draft Constitution in terms of the main judgment as well as the order dated 24th July, 2017. A copy of the draft Constitution shall be handed over to Advocate-on-Record assisting the learned

counsel for the respondents. A copy of the draft Constitution be also handed over to Mr. B.K. Prasad, learned counsel assisting Mr. Ranjit Kumar, learned Solicitor General . Suggestions, if any, to the draft Constitution be handed over to the learned counsel assisting the learned Amicus Curiae and Mr. Parag P. Tripathi so that they can prepare a chart and will be in a position to give their comments.

On the next date of hearing, besides the three aspects that have been mentioned in the order dated 24th July, 2017, any aspect which is sought to be raised by the Association can be raised. But, it is to be impressed that the suggestion must have acceptable sanctity. It should not be raised for the sake of raising an objection.” (Emphasis supplied) cooperate while giving the suggestions. If the aforesaid three Office Bearers do not give suggestions in accordance with the judgment of this Court which has accepted the Justice Lodha Committee report, they shall face serious consequences. The draft constitution shall include the suggestions given by Justice Lodha Committee in its entirety so that a holistic document comes before this Court. After the document is placed before the Court, the claims of Railways. Universities and Services and the other cricket Associations, who are of the view that concept of ‘one State one vote’ should not be applicable keeping in view their contribution to the game of cricket, shall be considered. The suggestions, shall be given within three weeks hence. For the purpose of drafting out the constitution after taking note of the suggestions, to make it final for the purpose of approval by this Court, the Office Bearers of B.C.C.I shall not hold a General Body Meeting.”

(Emphasis supplied)

2. On 21 September 2017, the CoA made a grievance that quite apart from the fact that no suggestions were received, a concerted effort was made by the office bearers of BCCI not to abide by the judgment of the Court. Hence, on 21 September 2017, the Court while recording the above submission extended another opportunity to receive suggestions to the draft constitution:

“In the course of hearing, it is submitted by Mr. Parag P.Tripathi, learned senior counsel appearing for the Committee of Administrators that though a draft constitution was handed over to the office bearers of B.C.C.I. and also to all concerned, no suggestion has been received and a concerted attempt has been adopted by the office bearers of B.C.C.I. not to follow the judgment of this Court.

We may hasten to add that in our previous order dated 24th July, 2017, we have clearly indicated that three to four aspects shall be debated. The suggestions in that regard can be given to Mr. Parag P. Tripathi, learned senior counsel appearing for the Committee of Administrators, Needless to emphasize, Mr. C.K. Khanna, Mr. Anirudh Chaudhry and Mr.Amitabh Choudhary, Office Bearers of B.C.C.I. shall fully cooperate while giving the suggestions. If the aforesaid three Office Bearers do not give suggestions in accordance with the judgment of this Court which has accepted the Justice Lodha Committee report, they shall face serious consequences. The draft

constitution shall include the suggestions given by Justice Lodha Committee in its entirety so that a holistic document comes before this Court. After the document is placed before the Court, the claims of Railways, Universities and Services and the other cricket Associations, who are of the view that concept of ‘one State one vote’ should not be applicable keeping in view their contribution to the game of cricket, shall be considered. The suggestions, shall be given within three weeks hence. For the purpose of drafting out the constitution after taking note of the suggestions, to make it final for the purpose of approval by this Court, the Office Bearers of B.C.C.I shall not hold a General Body Meeting.”

(Emphasis supplied)

3. On 27 October 2017, the CoA filed a draft constitution for BCCI and its office bearers. Suggestions to the draft received from state cricket associations and other parties were filed by the CoA together with comments on the proposed suggestions, in a status report dated 12 January 2018. On 1 May 2018, this Court noted that suggestions to the draft constitution have been filed and would be finalized by the Court. In the interest of fairness, it was however observed that any further suggestions that a state cricket association may have, could still be forwarded to the amicus. Accordingly, the following directions were issued:

“A draft Constitution meant for the B.C.C.I. and its Office Bearers has been filed on 27.10.2017. Suggestions to the same by various State Cricket Associations have also been filed and the same have been attached to the draft Constitution. The draft Constitution shall be finalized by this Court.

In the meantime, if any State Cricket Association intends to file any further suggestion, they may submit the same in bullet points to Mr. Gopal Subramaniam, learned Amicus Curiae, who shall compile the suggestions and file it before this Court within three days.

It is hereby made clear that the draft Constitution approved by this Court shall not be debated upon and shall stand finalized, only subject to the determination made in the application(s) for recall of the primary judgment, pending adjudication before this Court.

Let the matter be listed on 11.5.2018.”

(Emphasis supplied)

4. Following this comprehensive exercise which has been taken by the CoA, the amicus and by all the learned Counsel appearing on behalf of diverse parties, including state cricket associations and those who have served as office bearers of BCCI, the suggestions made by all stakeholders have been compiled and presented to the Court. The amicus has, in the course of compiling the suggestions, informed the Court that as many as nineteen state cricket associations, the Association of Indian Universities, the Cricket Club of India and National Cricket Club, the Administrator appointed by the Delhi High Court for DDCA and

two officer bearers of BCCI (Mr Amitabh Choudhary, Secretary and Mr Anirudh Chaudhary, Treasurer) have submitted suggestions. We have heard all the stakeholders who wished to be heard at length so as to enable the Court to form a holistic perspective. The purpose of this exercise is to finalise the text of BCCI's Constitution which incorporates the principles which find acceptance by the Lodha Committee (and affirmed by this Court), while at the same time ensuring a measure of practicality in implementation. The acrimony which witnessed the proceedings earlier has given way to a robust cooperation by the counsel appearing for all the stakeholders. Before we deal with the suggestions, we must commend the approach adopted by all the stakeholders before this Court. All the learned Counsel who advanced submissions made a fair attempt to resolve the outstanding issue of finalizing the draft constitution, with a sense of objectivity. It was after hearing extensive arguments of all the learned Counsel that on 5 July 2018, this Court reserved orders on the question of finalizing the draft constitution having due regard to the contents of the draft placed on the record and the suggestions of the learned amicus Curiae and counsel.

5. Broadly speaking, the suggestions which have been received to the draft constitution have been divided by Mr Gopal Subramaniam, learned amicus Curiae under the following heads :

- a) Issues relating to membership and Associate Membership;
- a) Number of members in Selection Committee and related matters;
- b) Cooling off period;
- c) Disqualifications;
- d) Constitution of the Apex council;
- e) Conditions imposed on State Associations;
- f) Power/Duties of Office Bearers and Professional Management (CEO);
- g) No interference at all in the functioning of BCCI; and
- h) Binding value of Frequently Asked Questions issued by the Hon'ble Justice Lodha committee.

We propose to examine the issues which have been raised during the course of hearing.

A. Issues relating to membership and Associate Membership: One State - One Vote

6. Rule (3)(a)(i) of the draft constitution contemplates that membership of BCCI shall consist of (i) Full members and; (ii) Associate members. The text of the draft constitution provides thus:

“(ii) Full Members

A. Each State shall be represented by a state cricket association duly recognized by the BCCI and such associations shall be Full Members. No State shall have more than one Full Member at any given point of time.

B. The associations who are the controlling bodies for cricket in the following States shall be the Full Members of the BCCI:

1. Andhra Pradesh
2. Arunachal Pradesh
3. Assam
4. Bihar
5. Chhattisgarh
6. Delhi
7. Goa
8. Gujarat
9. Haryana
10. Himachal Pradesh
11. Jammu and Kashmir
12. Jharkhand
13. Karnataka
14. Kerala
15. Madhya Pradesh
16. Maharashtra
17. Manipur
18. Meghalaya

19. Mizoram
20. Nagaland
21. Orissa
22. Punjab
23. Rajasthan
24. Sikkim
25. Tamil Nadu
26. Telangana
27. Tripura
28. Uttar Pradesh
29. Uttarakhand
30. West Bengal

C. In States with multiple Existing Members, the full membership shall rotate annually among such Existing Members such that only one of them will exercise the rights and privileges of a Full Member at any given point of time. The rotation shall be as per the policy framed by the BCCI.

D. Where disputes are pending regarding the duly recognized association to represent a particular State, the State shall be represented by the recognized association, subject to any order of the Court or resolution of the BCCI as the case may be.

(iii) Associate Members

A. Any Existing Member (including an Existing Member who is not exercising the rights and privileges of a Full Member in terms of Rule 3(1)(ii)C above) shall be an Associate Member of the BCCI.

B. The BCCI may induct any other entity as an Associate Member, subject to all the conditions and disqualifications laid down in Rule 33(b)(b) below.”

7. In Chapter 1 of its report titled “The Structure and Constitution”, the Lodha Committee dealt with membership of BCCI and anomalies perceived in its composition. The Committee

took note of the fact that several states such as Bihar, Chhattisgarh, Uttarakhand, the six north-eastern states (except Tripura) and Union Territories (except Delhi) lack representation on the Board. On the other hand, the Committee perceived an anomaly in that states like Maharashtra and Gujarat hold three full memberships each. The Committee noted that the Services Sports Control Board (“Services”), Railway Sports Promotion Board (“Railways”) and Association of Indian Universities (“Universities”) do not as such represent any specified territory but are actively involved in the game of cricket whereas some members like the National Cricket Club at Kolkata and the Cricket Club of India at Mumbai do not represent any territory. The Lodha Committee relied upon territoriality as a determining factor for the grant of full membership. Railways, Services and Universities not being tied to the territory of one state were denied full membership. Though Gujarat fielded three cricket teams (Gujarat, Saurashtra and Baroda) and so did Maharashtra (Mumbai, Maharashtra and Vidarbha) both states would each have one Full membership. The Lodha Committee recommended that the status of associate member should be granted to those members who do not represent any territory.

8. In the principal judgment of this Court dated 18 July 2016, the one state - one vote norm was accepted. While doing so this Court observed thus:

“62. That brings us to the question whether “One State One vote” recommended by the Committee suffers from any legal or other infirmity sufficient for this Court to reject the same. The recommendation made by the Committee has a two-fold impact on the current state of affairs in BCCI. The first is the reduction of some of the Associations and Clubs from the full membership of BCCI to the status of Associate Members. The other aspect of the recommendation is the reduction of the full membership of at least four existing full members to the status of associate members from the states of Maharashtra and Gujarat.

63. We see no merit in that contention nor do we see any reason to disagree with the recommendation made by the committee, who has upon a thorough consideration of all facts and circumstances relevant to the working of the BCCI, recommended the conversion of the clubs and associations without a territory from full members to associate members.

This is a measure which has been recommended with a view to structurally streamlining the BCCI to make it more responsive and accountable having regard to the aspiration of different regions for an equal opportunity to participate in the growth and promotion of the game in the country.

65.. .a balance has to be struck with historical reality and the need for adopting a pragmatic, uniform and principled approach aimed at reforming and rationalizing BCCI’s structural edifice. The recommendation made by the Committee to the extent it provides for one vote for each state is unexceptionable nor should there be any compromise with what is proposed as a reformative measure. Even so the question is whether BCCI, in the peculiar situation prevalent in these two states, is in a position to recognize one of the three Associations representing different territories in those

two States as the one that would represent the entire State That being so, the only reasonable and rational answer to the problem within the broad principle of One State One Vote would be to allow the full membership of BCCI to rotate among the three clubs on an annual basis.”

(Emphasis supplied)

9. The one state - one vote norm and the principle of territoriality have given rise to specific objections. Historically in the State of Maharashtra, there have been three associations, each of which fields its own cricket team in the Ranji Trophy : (i) Maharashtra; (ii) Mumbai and; (iii) Vidarbha. Similarly, in the State of Gujarat, there have been three associations representing: (i) Gujarat; (ii) Baroda; and (iii) Saurashtra. In both the states, these associations have made a signal contribution to the cricketing history of the nation. Besides, fielding teams for the Ranji Trophy, these associations have produced players of national and international repute. The amicus has responded to the plea before this Court for allowing full membership to the three associations each in the States of Maharashtra and Gujarat. The amicus submits that the order of this Court mandates that there should be an annual rotation of the constituent members of Maharashtra and Gujarat so that every year, one of the three constituent members would be capable of voting and participating in the general body. Moreover, it has been submitted that for the elections to the Apex Council which take place once every three years, the first member association which has already cast a vote should not be able to cast a vote at the end of three years but must pass it on to the next association in turn. In this manner, it has been suggested that all the three constituent associates of the two states will have due opportunity to not only participate in the affairs of the general body but would have an opportunity to vote at the end of three years. In the view of the amicus, a rotational policy is eminently practicable for Maharashtra and Gujarat and the mandate of the principal judgment brings about parity and fairness so that no constituent member is excluded from the general body for a period exceeding one year. However, it has not been explained how, once full membership has been granted, what legal principle can be applied for adopting a rotational policy. The amicus while recognising the circumstances of history pertaining to Maharashtra and Gujarat submits that the recommendations of the Lodha Committee which have been accepted in the principal judgment seek to bring about uniformity in the structure of management and a certain amount of domestic equality. However, he suggests that the releasing of grants and such other requirements as may be necessary for constituents must be suitably addressed by the CoA and by the regularly elected Apex Council.

10. We are of the view that it is necessary to restore full membership in the constitution of the BCCI to the three associations each in the State of Maharashtra (Maharashtra, Mumbai and Vidarbha) and in Gujarat (Gujarat, Baroda and Saurashtra). During the course of the hearing, written submissions have been placed on the record in which the contributions of Baroda, Saurashtra, Mumbai and Vidarbha have been set out. We need to extract them here:

“BARODA CRICKET ASSOCIATION

Cricket was introduced to Vadodara city by the Maharaja of Baroda, Sayajirao Gaekwad in 1934 and Moti Bagh Stadium was the home of Baroda cricket. Since then Baroda has emerged 5 times as Ranji Trophy Champions in the year 1942-43, 1946-47, 1949-50, 1957-58 & 2000-01. Baroda had produced many famous cricketers of international level in the past such as Vijay Hazare, Gogumal Kishenchand, Jayasingh Rao Ghorpade, Deepak Shodhan and in the present generation Datta Gaekwad, Chandu Borde, Kiran More, Anshuman Gaekwad ... Jitendra Patel. Amongst the later crop, Irfan Pathan, Yusuf Pathan, Zaheer Khan and Munaf Patel have played for this association.”

“MUMBAI CRICKET ASSOCIATION

In the year 1928, ‘the Bombay Presidency (Proper) Cricket Association’ was formed having geographical limits extending from Sind in the north to Karnataka (excluding Mysore State) in the South. In the year 1935 it was re-christened as ‘Bombay Cricket Association’ as the newly formed Gujarat and Maharashtra Cricket Association receded from the territorial limits of the Bombay Presidency (Proper) Cricket Association.

The present day Mumbai Cricket Association or MCA is the governing body for cricket in Mumbai and its surrounding regions like Thane and Navi Mumbai. The Mumbai cricket team is the team for The Mumbai Cricket Association in the Ranji Trophy. The team has won over 41 titles, the most recent being in 2015-16. It has also come runner-up in the final of the Ranji Trophy a total of 4 times. The association owns the Wankhede Stadium.

Famous cricketers produced by MCA, amongst others, include Abey Kuruvilla, Ajinkya Rahane, Ajit Wadekar, Ashok Mankad, Chandu Borde, Dilip Sardesai, Dilip Vengsarkar, Eknath Solkar, Farokh Engineer, Jatin Paranjpe, Polly Umrigar, Ravi Shastri, Rohit Sharma, Rustomji Jamshedji, Rusi Modi, Sachin Tendulkar, Sandeep Patil, Sanjay Manjrekar, Sunil Gavaskar, Vijay Manjrekar, Vijay Merchant, Vinod Kambli, Wasim Jaffer etc.”

“SUARASHTRA CRICKET ASSOCIATION

Saurashtra is one of three cricket teams based in Gujarat which competes in the Ranji Trophy (the others being Baroda and Gujarat). Formerly it was known as Nawanagar Cricket Team. Nawanagar was an Indian princely state in the historical Halar region, located on the southern shores of the Gulf of Kutch. Ranjitsinhji often known as ‘Ranji’, was the ruler of the Indian princely state of Nawanagar from 1907 to 1933, as Maharaja Jam Saheb, and a noted Test cricketer who played for the English cricket team. He also played first-class cricket for Cambridge University, and county cricket for Sussex. Ranji has widely been regarded as one of the greatest batsmen of all time. In 1934 the BCCI launched a national competition between “the princes and the princely states” and it was named after the greatest Indian player of that time, KS

Ranjitsinhji. Saurashtra won the Ranji Trophy in 1936-37 and were also runners up in the very next season of 1937-38. They have been runners up in Ranji Trophy (plate) in 1937-38, 2012-13 and 2015-16.

Famous International players are Cheteshwar Pujara, Ravindra Jadeja & Jaydev Unadkat.”

“VIDARBHA CRICKET ASSOCIATION

Vidarbha Cricket Association is the governing body of cricket activities in the Vidarbha region in Maharashtra state and Vidarbha cricket team. Vidarbha first played first-class cricket in the 1957-58 season, competing against the other Central Zone teams until 2001-2002, after which the Ranji Trophy was no longer contested on a zonal basis. Vidarbha’s best seasons were 1970-71 and 1995-96, when it reached the quarter-finals of the Ranji Trophy and 2002-03 and 2011-12, when it reached the semi-finals of the Plate Group, Vidarbha has played more than 250 first-class matches. Umesh Yadav is a member of the Vidarbha Cricket Team. Vidarbha won the Ranji Trophy and Irani Trophy in the 2017–2018 season.”

These associations have a long and abiding history of nurturing talent for the game of cricket in India. The history of cricket in India is replete with their contribution to the cause of cricket. These associations have produced players who have brought laurels to their states and to the nation. The principle of territoriality requires that each of the States and Union Territories should have full membership of BCCI in terms as suggested in clause 3(a)(ii-B). This becomes a principle of inclusion. To utilise territoriality as a basis of exclusion is problematic because it ignores history and the contributions made by the above associations to the development of cricket and its popularity. Having due regard to the contributions made by Mumbai and Vidarbha in the State of Maharashtra and by Baroda and Saurashtra in the State of Gujarat to the game of cricket, it would be appropriate to also grant them full membership of the BCCI. We however, maintain the decision not to grant the status of full members to the National Cricket Club and the Cricket Club of India. Neither of the two Clubs fields teams in the Ranji Trophy. They cannot be placed at par with the other state associations.

Railways

11. The contribution of Railways to the cause of Indian Cricket is noteworthy.

12. It has been pointed out before the Court that:

“RAILWAYS SPORTS PROMOTION BOARD

Railways Sports Promotion Board (RSPB) is a sports board run by the Indian Railways. It promotes 29 sporting disciplines and owns the Karnail Singh Stadium in New Delhi.

RSPB is a member of the Board of Control for Cricket in India and RSPB fields the Railways' cricket team in domestic cricket competitions in India such as the Ranji Trophy. In recent years since 2000, Railways have won the trophy twice and become runners-up as well. As Champions of the Ranji Trophy, they have played the Irani Trophy twice, emerging victorious on both occasions.

Famous International Cricketers include Mahendra Singh Dhoni (played for South Eastern Railways & was employed as a Train Ticket Examiner), Murli Kartik, Sanjay Bangar, Karn Sharma. In the recently concluded ICC Women's World Cup 2017, the Indian Women's Team reached the finals of the tournament where 10 out of the 15 women cricketers playing for India are employees of the Indian Railways. In fact Diana Fram Edulji (one of the members of the COA) has also represented the Railways."

12. In suggesting the grant of full membership to the Railways, the amicus has made certain pertinent comments which are reproduced below:

"Railways fields at least 90% of the members of the Women's Cricket Team, i.e. who play for India in the national team. A question therefore arises whether Railways must be given a full membership. In view of the security of employment of the players from Railways as well as the ability to demonstrate playing skills and having regard to women's cricket as an integral part of Indian Cricket, it appears necessary to consider this as an exception. It is only on these considerations that it is possible to recommend Railways to a full membership. The Amicus is of the opinion that this qualifies to be considered as an exception."

13. The amendment proposed to the draft constitution is in the following terms:

"E. Notwithstanding anything contained hereinabove in this Rule 3(a)(ii), a representative from the Indian Railways shall be entitled to vote at meetings of the General Body of the BCCI.

However, such representative shall be a former cricketer from the Indian Railways who is elected by an association of former players from the Indian Railways and not a person nominated by the Government/Railway Sports Promotion Board."

14. We accept the amendment proposed by the amicus. We clarify specifically that the representative from Railways who would exercise voting power must be a former cricketer who has represented Indian Railways and who is elected by an association of former players from the Indian Railways and not a person nominated by the government or the Railway Sports Promotion Board.

Services and Association of Indian Universities

15. The amicus has not suggested the grant of full membership to Services and the Association of Indian Universities. For Services, he submits that sufficient material is not available and that having regard to the need for insulation from government control, 'as at present advised', it is not possible to recommend the grant of a full membership status. As regards the Association of Indian Universities, it has been submitted that since they do not field a team for the Ranji Trophy, full membership status should not be granted. On the contribution by the Services team to the cause of Indian cricket, we take note of the following :

“SERVICE SPORTS CONTROL BOARD

The aim of the Service Sports Control (SSCB) is to conduct inter-services sports championships to select and to train services sports persons. The board initially was known as the Army Sports Control Board and was established in 1919. Post-independence, it was rechristened as Service Sports Control Board and all the three services are running the organization on a rotational basis. The Services cricket team plays in the Ranji Trophy, the premier domestic first-class cricket competition in India. Under the auspices of the SSCB, the players represent the Indian armed services.

They first played in the Ranji Trophy in 1949-50. They have played about 320 matches in the Ranji Trophy.”

Similarly as regards the Association of Indian Universities, we may note that “ALL INDIA UNIVERSITIES

Many Indian Universities players went on to play Test cricket.

From the first side in 1949-50, for example, Nana Joshi, Pankaj Roy, Polly Umrigar, Gulabrai Ramchand, Deepak Shodhan and Subhash Gupte played Tests for India. Three of the 1970-71 side Ashok Gandotra, Mohinder Amarnath and Budhi Kunderan played Test cricket. Thereafter Sunil Gavaskar, Kenia Jayantilal, Surinder Amarnath and Dilip Doshi also played Test cricket.”

16. The Services team represents the Armed Forces of the nation. The Services have a long history of association with Indian sports in general and with cricket as well. Having regard to the pre-eminent position occupied by the Services including the Army, Navy and Air Force in propagating the cause of sports and cricket, we are of the view that the same principle which we have followed in the case of Railways should be followed in their case. Similarly, the Universities are a nucleus for encouraging the game of cricket among players of the college going generation in the country. We would therefore also grant full membership to the Association of Indian Universities. The amendment which has been proposed to the draft constitution by the amicus in the case of the Railways shall be suitably modified to also cover the Services and the Association of Indian Universities. The representative respectively for Services and the Association of Indian Universities shall be a former cricketer who has

played for them respectively and is elected by an association of former players and not a person nominated by the government/ sports control board.

B. Number of Selectors

17. The Lodha Committee restricted the number of selectors to three. While doing so, it opined that with the constitution of a Cricket Talent Committee, a three-member selection committee will be more compact, increase the authority of the Selection Committee and make it accountable for team performance.

18. The Selection Committee is entrusted with the responsibility of selecting cricket teams for participation at various levels. For the men's teams, there are two committees which look after the selection of teams for tournaments in various formats of the game. These are:

“ I All India Senior Selection Committee: International matches - Test Matches, ODI Matches and T20 matches India 'A' teams - both for home and away series President's XI / BCCI XI to play visiting international teams

II All India Junior Selection Committee:

Under-23 cricket Under-19 cricket Under-16 cricket”

19. With twenty-eight teams, India is reported to have the highest number of first class teams in the world. Senior selectors watch over several tournaments during the course of the domestic cricketing season, from August to April every year. These are:

- “1. Ranji Trophy league matches
2. Ranji Trophy knock out matches
3. Vijay Hazare League matches
4. Vijay Hazare knock out matches
5. Mustaq Ali league matches
6. Mustaq Ali Knock out matches
7. Irani Trophy
8. Duleep Trophy
9. Deodhar Trophy.”

20. Apart from domestic cricket, senior selectors also witness India-A team matches and matches across different formats at home and overseas. National teams are required to be selected across different formats in accordance with the ICC schedule. Senior selectors are also part of the team management that selects the 'playing eleven' of the Indian team on the day prior to a match. On an average, it has been stated, a senior selector travels for nearly 280 days in a year, with a break during the IPL. Having regard to the vastness of the country and the need to effectively select from a wide pool of talent, it has been submitted that restricting the Selection Committee to three persons is not in the interest of the game and that a five-member selection team would be necessary. Another aspect which has been

highlighted is that generally, a fifteen-member squad is chosen to represent India at the international level in Test matches, ODIs and T20 matches. About 40 per cent of the players participate in all the formats. Many cricketers who have had the best of records in domestic cricket are unable to represent the country in international matches. It has been submitted before the Court that it is necessary to motivate cricketers at the domestic level. Hence, cricketers who have not represented India in international matches should not be excluded altogether from being part of the Selection Committee.

21. We have been persuaded with the reasons which have been adduced before the Court for enhancing the number of selectors on the Selection Committee from three to five. Restricting the number of selectors to three was recommended by the Lodha Committee with the specific purpose of ensuring compactness of size, authority of decision making and monitoring performance. While bearing these factors in consideration, it is necessary to ensure that the purpose of a broad-based Selection Committee which facilitates a careful evaluation of the talent pool across the country is achieved. The vast territory of the nation, the extent of cricket being played both at the national and international level, the need for selectors to travel extensively to spot talent from the pool of cricketers and the need to encourage both domestic and international cricket, are consideration which persuade us to accept the plea for modification in regard to the number of selectors to five.

22. We may note that the amicus has also supported the suggestion that the number of selectors be increased to five. He however also indicated that this should be subject to the criteria of a selector having played a minimum of (a) seven test matches; or (b) thirty first class matches; or (c) ten One Day Internationals in the fifty over format and a minimum of twenty first class matches. We accordingly accept the proposed amendment as suggested by the amicus in the following terms:

“Clause 26(2)A(i)

“The Men’s Selection Committee shall select the Senior National Team for representation in Tests, One Day Internationals. T20 and any other format. This Committee shall also be responsible for providing evaluation reports of the respective team performances to the Apex Council on a quarterly basis.”

“Clause 26(2)A(ii)

The Men’s Selection Committee shall consist of five persons to be appointed by a Cricket Advisory Committee comprising of reputed former international cricketers identified by the BCCI at the annual General Meeting, subject to the following criteria:

(a) Every member of the Men’s Selection Committee should have played a minimum of

(i) Seven Test Matches; or

(ii) Thirty First class Matches; or

(iii) Ten One Day International Matches and twenty First Class Matches.

(b) Every member of the Men's Selection Committee should have retired from the game at least five years previously. The senior most among the members of the Men's Selection Committee shall be appointed as the Chairperson."

"Clause 26 (2) B (i)

The Junior Cricket Committee shall consist of five persons to be appointed by the BCCI at the Annual General Meeting, on such terms and conditions as may be decided by the Apex Council from time to time. Only former players who have played a minimum of 25 First Class games shall be eligible to be appointed to this Committee, provided that they have retired from the game at least five years previously. The senior most amongst the members of the Committee shall be appointed as the Chairperson."

"Clause 26 (2) C (ii)

The Women's Selection Committee shall consist of five persons to be appointed by the BCCI at the Annual General Meeting, on such terms and conditions as may be decided by the Apex council from time to time. Only former players who have represented the Women's National Team shall be eligible to be appointed to this Committee, provided that they have retired from the game at least five years previously. The senior most international amongst the members of the Committee shall be appointed as the Chairperson."

23. Until the elections to the BCCI take place, the CoA is empowered to consult with the Cricket Advisory Committee, comprising of reputed former international cricketers and to constitute a Committee of Selectors consistent with the above criteria. In regard to the appointment of coaches, managers, physiotherapists and other staff, we accept the modification suggested in clause 24(5) in the following terms:

"Clause 24 (5)

To appoint Team Officials for the Indian teams which shall compulsorily include qualified coaches, managers, physiotherapists, nutritionists, trainers, analysts, counsellors and medics. However, the Head Coach of each of the National Teams shall be appointed by the Cricket Advisory Committee referred to in Rule 26(2)A(ii) below."

C. Cooling Off Period

24. The Lodha Committee recommended that

- (i) the tenure of each term for office bearers of the BCCI and state associations should be three years;
- (ii) a maximum of three terms should be allowed regardless of the post held; and
- (iii) there should be a mandatory ‘cooling off period’ after each term.

In making these recommendations, the Committee has been guided by the need to ensure that vested interests do not emerge out of the indefinite continuation in office of one or more individuals. These recommendations seek to enforce a rule against self-perpetuation by stipulating the period of each term of office, the number of terms which a single individual may hold and the requirement of a break between successive terms. The recommendations can be construed as an effort to ensure a dispersal of authority so that control over BCCI and the state associations is not concentrated in the hands of one or a limited group of persons. The proposals for setting limits on tenures and terms were incorporated in a section which the Committee describes as the “end of the innings”.

25. In the principal judgment of this Court, the recommendations of the Lodha Committee have been accepted for the following reasons:

“20...These recommendations come in the wake of a finding by the Committee that under the present dispensation office bearers could continue for any number of terms. The Committee found both of these to be unacceptable and in our opinion rightly so.... Given the problems that often arise on account of the individuals holding the office for any number of consecutive terms, the Committee was, in our opinion, justified in recommending the length of a term in office ... The three years recommended by the Committee is, in our opinion, reasonable. Similarly, the prescription of cooling off period between two terms cannot be faulted Similarly, an optimum period of 9 years as a member of the Apex Council cannot be termed as unreasonable ”

(Emphasis supplied).

26. The recommendations of the Lodha Committee, as adopted by this Court, have been clarified in two orders dated 20 January 2017 and 24 March 2017. The clarification by this Court is that when an office bearer who completes nine years in any post in the BCCI is disqualified to become an office bearer of the BCCI again. A similar disqualification attaches to a person who has held any post of an office bearer, in a state association for nine years. For the sake of clarity, what is indicated in the order dated 24 March 2017 reads thus:

“21...What has been meant by the clarificatory order is that, if an office bearer has completed nine years in any post in the B. C.C.I., he shall stand disqualified to become an office bearer of the B.C.C.I. Similarly, if a person holds the post of office bearer in any capacity for any State Association for nine years, he shall stand

disqualified for contesting or holding any post or office of the State Association. To avoid any kind of maze, we proceed to state by giving an example. If a person has held the post of office bearer in respect of a State Association for a period of nine years, he will not be disqualified to contest for the post of office bearer of the B.C.C.I.”

(Emphasis supplied)

27. A considerable amount of fire has been directed against the provision for a cooling off period. Essentially, the cooling off period stipulates that an office bearer is not eligible to contest a succeeding election. The recommendation has been criticised on the ground that an individual who has acquired experience in working in a particular post for three years is unable to utilise the experience gained (as a result of a cooling off period of three years) which would be a loss to the game of cricket. “Continuity of service”, it has been submitted, subserves the interest of the game and a person who has “enriched himself” over a period of three years should be allowed to contribute even thereafter without a break. This, it has been submitted, would enable office bearers to develop their networks with other cricketing nations and the ICC. Moreover, since an upper age limit of seventy years is in place, it has been submitted that the requirement of a cooling off period may be dispensed with. The nature of cricket, it has been urged, is rapidly evolving and an endeavour must be made to ensure that individuals with requisite experience are able to contribute to the game.

28. While dealing with the objections to a cooling off period, it is necessary at the outset to emphasise that the term of an office bearer cannot be regarded either as an opportunity “to enrich himself” or as a matter involving “continuity of service”. The expression “enriched himself” may have a legitimate connotation if it adverts only to experience gained. Otherwise, enrichment in the form of personal aggrandisement is precisely what was frowned upon by the Lodha Committee, and for justifiable reasons. The position of an office bearer in the state associations and in the BCCI is not a matter of ‘service’ in the conventional sense. Office bearers should not construe their position as employees with a vested right to a particular tenure of service. Undoubtedly, the submission that individuals must continue for a period which enables them to develop experience in the administration of the game cannot be discounted. Equally, it is a matter of concern that vested interests and conflicts of interest develop around power centres which have unbridled authority. Dispersal of authority is a necessary safeguard to ensure against the perpetuation of power centres. Individuals who administer the game of cricket must realise that the game is perched far above their personal interests. Important as experience in administration is, it is far-fetched to assume - and far more difficult for the court to accept - that experience rests on the shoulders of a closed group of a few individuals. In fact, opportunities to a wide body of talent encourage a dispersal of experience and democratisation of authority.

29. Understood from the above perspective, the requirements that the term of office of an office bearer should be three years; and that an individual should not hold office in the BCCI for a period excess of nine years (regardless of the post held) with a similar stipulation of

nine years for the state associations is manifestly in public interest. Both the stipulations are valuable safeguards to ensure against the concentration of power.

30. The requirement of a cooling off period of three years at the end of every term in office, however, requires careful consideration. The argument against the imposition of such a requirement is that by requiring an office bearer who has held a post for three years to undergo a break of three years prevents office bearers from applying their knowledge and experience in regard to the administration of the game of cricket. The submission which has urged before the Court is that once there is a cap of a nine year tenure for BCCI, with a similar tenure of nine years for the state associations, an additional cooling off period of three years at the end of every term of office may not be necessary.

31. The amicus has earnestly supported the cooling off requirement as being necessary, having regard to the spirit of the Lodha Committee recommendations. A cooling off period, it has been urged is necessary to ensure that after a period of three years, a person is not able to migrate to another association and occupy the position of an office bearer or to occupy any other position in the same association. The amicus also submits that the expression 'office bearer' should not be allowed to be circumvented by being a member of any other committee. Subject to these safeguards, the amicus agrees that a person may be able to serve for a period of nine years in the BCCI and nine years in a state association.

32. Having carefully evaluated the submissions which have been urged before us, we are of the view that a cooling off period should be observed. A cooling off period has several features which are of utmost importance: (i) it is a safeguard against the development of vested personal interests; (ii) it ensures against the concentration of power in a few hands; (iii) it facilitates a dispersal of authority; and (iv) it encourages the generation of a wider body of experienced administrators. Cooling off must be accepted as a means to prevent a few individuals from regarding the administration of cricket as a personal turf. The game will be better off without cricketing oligopolies.

33. However, in our view, it would be appropriate to direct that a cooling off period of three years would apply after an individual holds two successive terms in office either in the BCCI, or in any state association or a combination of the two. For instance, if an office bearer has held office for two consecutive terms in any post in a state association, such an individual must face a cooling off period of three years. Likewise, if an individual has held any post as an office bearer of the BCCI for a total period of six years in succession, the individual must have a cooling off period of three years before seeking election again either to the BCCI or to a state association. The cooling off period would apply also in a situation where an individual holds a post for one term in a state association followed by a post in the BCCI successively or vice versa. This would ensure that after a period of six years involving two consecutive terms, a cooling off period would be attracted. Allowing an individual to act as an office bearer for six years in continuation, is a sufficiently long period for experience and knowledge gained to be deployed in the interest of the game without at the same time resulting in a monopoly of power.

The cooling off period shall read as follows:

“An office bearer who has held any post for two consecutive terms either in a state association or in the BCCI (or a combination of both) shall not be eligible to contest any further election without completing a cooling off period of three years. During the cooling off period, such an office bearer shall not be a member of the governing council or of any committee whatsoever of the BCCI or of a state association.”

The above principle shall govern Clause 6(4) as well as Clause 14(4) of the draft constitution. The above principle will ensure that the cooling off period will come into operation upon a person holding any post for two consecutive terms not exceeding six years.

34. We accordingly clarify that the position as approved by the Court in the present order shall be to the following effect:

- (i) The term for all posts of office bearers in BCCI and in state associations shall be three years;
- (ii) No person shall hold the position of an office bearer in any state association, regardless of post, for a period in excess of nine years in the aggregate;
- (iii) No person shall hold the post of office bearer in BCCI, regardless of post, for a period in excess of nine years in the aggregate;
- (iv) There shall be a cooling off period of three years after an individual has held the post of an office bearer for two consecutive terms either in a state association or in the BCCI or a combination of both; and
- (v) The expression ‘office bearer’ should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any state association, as the case may be.

D. Division of Functions, Professional Management and Disqualifications

35 The report of the Lodha Committee postulates that the General body of the BCCI would consist of full members and associate members. The report provides for an Apex Council which is responsible for the administration of the Board.

36. This functional distinction between the General body and the Apex Council is an institutional safeguard to ensure professional management of BCCI. The Apex Council is entrusted with the function of professional management through the Chief Executive Officer, the Chief Financial Officer and other officers who must be recruited on a transparent and professional basis. Of the nine members of the Apex Council, five (the President, Vice President, Secretary, Joint Secretary, Treasurer and a member) are to be elected by the General body.

We approve clause 15 (1) in regard to the Apex Council which reads thus:

“The affairs of BCCI shall be governed by the Apex Council and its framework of governance shall:

- (i) Enable strategic guidance of the entity;
- (ii) Ensure efficient monitoring of management;
- (iii) Ensure the performance of the respective roles, responsibilities and powers of the CEO, Managers, Cricket Committees and Standing Committees except the Governing Council; and
- (iv) Ensure a distribution and balance of authority so that no single individual has unfettered powers.”

E. Disqualifications

37 In regard to disqualifications, we accept the clause in the draft constitution as proposed with the incidental modifications as suggested by the amicus. The disqualifications read as follows:

“ Clause 6 (5)

A person shall be disqualified from being an Office Bearer, a member of the Governing Council or any Committee or a representative to the International Cricket Council or any similar organization if he or she:

- (a) is not a citizen of India;
- (b) has attained the age of 70 years;
- (c) is declared to be insolvent, or of unsound mind;
- (d) is a Minister or Government Servant or holds a public office;
- (e) holds any office or post in a sports or athletic association or federation apart from cricket;
- (f) has been an Office Bearer of the BCCI for a cumulative period of 9 years or of a State association for a cumulative period of 9 years;

(g) has been charged by a Court of Law for having committed any criminal offence. i.e. an order framing charges has been passed by a court of law having competent jurisdiction.”

38. Clauses 29, 33(1), 33(2) and 45 of the draft constitution with the modifications suggested by the amicus read as follows :

“Clause 29

INADVERTENT OMISSION TO GIVE NOTICE OF MEETING

Inadvertent omission to give notice of an Annual General or Special General Meeting or Meetings of the Apex Council or of any of the Committees to any member entitled thereto or the non-receipt thereof by such individual shall not invalidate the proceedings of such meetings.

Clause 33(1)

At least four weeks prior to the Annual General Meeting at which an election is to be held, the Apex Council shall appoint an Electoral Officer, who shall be a former member of the Election Commission of India.

Clause 33 (2)

The Electoral Officer shall oversee and supervise the entire election process including scrutiny of the electoral rolls for Councillors and the Players’ Cricket Association, which shall include all nominations and candidatures being subject to his scrutiny in accordance with the Rules.

Clause 45

These Rules and Regulations of the BCCI shall not be repealed, added to, amended or altered except when passed and adopted by a 3/4th majority of the members present and entitled to vote at a Special General Meeting of the General Body convened for the purpose or at the Annual General Meeting. Any such amendment will not be given effect to without the leave of the Hon’ble Supreme Court.”

39. We approve the above clauses. We are emphatically of the view that once the draft constitution has been approved by this Court, any amendment should not be given effect to without the leave of this Court.

40. Having regard to the fact that the draft constitution submitted by the CoA on 27 October 2017 has now been approved by this Court subject to the aforesaid modifications, we issue the following directions:

1. The Registrar of Societies under the Tamil Nadu Societies Registration Act, 1975 shall upon the presentation of the said Constitution by the CEO, register the documents forthwith and report compliance by way of a report to the Secretary General of this Court within four weeks;

2. Upon the registration of the said Constitution of BCCI, each of the members shall undertake registration of their respective Constitutions on similar lines within a period of 30 days thereafter. A compliance certificate must be furnished to the CoA, which shall file a status report before this Court with reference to the compliance undertaken by the State Associations; and

3. In the event that any State Association does not undertake compliance with the abovesaid directions, the directions contained in the orders of this Court dated 7 October 2016 and 21 October 2016 shall revive.

41. The Committee of Administrators is at liberty to submit a further report for such future directions as may be warranted and to secure compliance.

Judgment

¹(2015) 3 SCC 0251

²Abbreviated in this judgment as the Lodha Committee

³Abbreviated as CoA