

**Objections to the Nominations sent by Rajasthan State Kabaddi Association
(in short RSKA) for the Electoral College of AKFI**

ORDER

Rajasthan State Kabaddi Association (RSKA) affiliated to AKFI was invited to send names of two representatives for the “Electoral College” of AKFI since election of Office Bearers of AKFI are to be held. RSKA sent two names, that of its President Mr. Tejasvi Gehlot and its Secretary Mr. Govind Narayan Sharma. Objections were also invited against names of the Representatives while the “Electoral College” list was published on the website of AKFI in order to ensure correctness of the “Electoral College”. While asking affiliated State Associations for sending names of its representatives for “Electoral College”, each State Association was also directed to provide its status; when was last election of Association held, for how many terms the Office Bearers of Association were in their respective posts, age of the Office Bearers and if any court case involving Association was pending. Said information was called to examine as to what extent the State Associations were in compliance with Sports Code. In the case of RSKA a common complaint / objections were sent by Mr. Giriraj Kishore Sharma, Mr. Heeranand Kataria and Mr. Ashfaq Ahmad, all three claiming to be associated with Kabaddi game in past. Objections were received on AKFI email on 18.12.2018, quite long after the date for inviting objections was over. Still in the interest of the Federation, Objectors were invited and heard in the presence of representative of RSKA. Hearing was given to both sides on 04.01.2019.

Mr. Giriraj Kishor Sharma and Mr. Om Prakash appeared on behalf of Objectors. Mr. Ravi Bhojak Advocate appeared on behalf of Association.

Objections / complaint in nut shell is that the State Kabaddi Association because of its illegalities and irregularities in the management of its affairs was liable to be kept away in the AKFI elections. Investigation was required against those illegalities of the Association and fresh election of its Office Bearers was requested to be held.

Further elaboration of Objections was mentioned that 1. Secretary RSKA Mr. Govind Narayan Sharma was holding post for last 22 years which was against rules and Sports Code, 2. Players were being selected in gross irregularities, 3. Fake certificates were being issued for money and a case involving secretary was sub-judice in Delhi Court, 4. Election of President Mr. Tejasvi Singh was against rules as he was son of Mr. Janardan Singh Gehlot and Mrs. Mridul Bhadauria. No member of a family could hold an office of a State Association. Mr. Tejasvi Singh is son of the President of AKFI and was not at all connected with Kabaddi game at any level.

The State Association provided status report by furnishing details which had been asked for as below:

1. Last Election of RSKA was held on 22.05.2016 and relevant election proceedings were annexed.
2. Mr. Tejasvi Singh was elected as President of RSKA for the first time in that election for the term 2016-2020.

3. Mr. Govind Narayan Sharma General Secretary was in the post since 2000 and his election in 2016 was his 5th term.
4. Mr. Tejasvi Singh is about 37 years as his date of birth is 28.01.1981
5. Mr. Govind Narayan Sharma is 61 years as his date of birth is 05.05.1957
6. Treasurer Mr. Narender Kumar is 65 years of age as his date of birth is 11.05.1953

As regard a court case involving State Association or its Office Bearer, it is informed that WPC 7727/2018 was pending in the Hon'ble Delhi High Court but there was no interim stay from any court.

During hearing on objections Objector Mr. Giriraj Kishore Sharma and his associate Mr. OM Prakash pressed the point that election of Mr. Tejasvi Singh as President of the State Association in 2016 was in violation of the Sports Code guidelines, he being neither a Kabaddi Player nor in any manner associated with the game at any level. The only consideration for him being elected as President was that he was son of the then President AKFI Mrs. Mridul Bhadauria. They also pressed the point that the Secretary Mr. Govind Narayan Sharma was in the post since 2000 and that was in blatant violation of Sports Code. Both these Office Bearers were liable to be removed so as to provide a genuine representation for AKFI "Electoral College" for the benefit of the Kabaddi Game.

Advocate Mr. Ravi Bhojak appeared on behalf of State Association at the time of hearing on Objections. Mr. Bhojak argued that election of Office Bearers of RSKA was held in a well organised elections wherein retired SDM was the Election Officer,

Observers from AKFI, Rajasthan State Olympic Association and Rajasthan State Sports Council were also present. Result was declared by Election Officer and was signed by all concerned. He submitted that election of Office Bearers held on 22.05.2016 has remained unchallenged in any court of law and there was no reason or ground to ignore it for AKFI "Electoral College".

Counsel Mr. Bhojak further submitted that Rajasthan State has brought its Act for the governance of Sports Associations in the State and the Act is "The Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005. As regards eligibility of Office Bearers of the State Association to contest the election, Counsel referred to Section 15 clause (3) of the Act which provides that "Elected Office Bearers of all affiliated District Level Sports Associations are eligible to contest the elections of a State Level Sports Association" He submitted that both President and Secretary elected in 2016 were fulfilling the requisite eligibility. He further pointed out that the State Act of 2005 nowhere provides for any "tenure or term" limit and thereby even the election of the General Secretary in the year 2016, despite he being in post from year 2000 could not be held illegal, not being in violation of any of the provisions of the State Act. He also refuted other alleged irregularities in the management of affairs of the State Association. Arguments from both sides have been considered.

When President of RSKA has been elected in due compliance of the eligibility criteria as per the State Act and further fact that it has not been challenged in any court, prima facie, names of Office Bearers as representative for "Electoral College"

of AKFI cannot be ignored. Likewise election of the Secretary Mr. Govind Narayan Sharma can also be accepted for limited purposes of formation of the “Electoral College” of the AKFI. When the Secretary is found to be in his 5th term in the post, State Association must take steps to make the election of its Office Bearers in compliance of the Sports Code. Merely that the State Act has not provided the “Tenure and Term” limit for Office Bearers of the State Association, it would not imply that State Association can ignore the Sports Code.

Question then arises the enforceability of the Sports Code in terms of various Guidelines on the subject issued by Government of India at different point of time since 1975 and finally those guidelines codified in the National Sports Development Code 2011. Emphasis on compliance of these Guidelines has always been the object of Good Governance of the Sports Bodies, transparency in their functioning and promotion and development of their respective sports. Similar situation as about importance of these Guidelines and their enforceability as held by Hon’ble Delhi High Court in various judgements arose and was examined while considering identical Objection in other matters. In one such matter of Delhi State Kabaddi Association it has been observed and held as follows:

“Clause 3.5 of the code mentioned gist of new initiatives taken by the Government in the recent past. Annexure XIII of the code dealt with the subject of ‘Restoration of limits on the duration of tenure of Office Bearers of Indian Olympic Association and all the recognised NSFs. Para 5 of this annexure letter observed that whereas after detailed examination of IOC

charter, it was found that even the International Olympic Committee (IOC), which was the mother body of all sports federations, enforced tenure limits on its members and Office Bearers. It was further observed that Honourable Members of Parliament from across all political parties during a debate in Rajya Sabha on 24.10.2010, on the functioning of Ministry of Youth Affairs and Sports, pressed on the need to enhance transparency and accountability in the functioning of Sports Bodies by way of appropriate Guidelines including tenure limit for the Office Bearers”.

The aspect of “Tenure and Term” limit in the Sports Code was also examined and it was observed and held as below:

“Good Governance of Sports Bodies in context of ‘Basic Universal Principles of Good Governance of Olympic and Sports Movement’ was also then taken into consideration and some of the core principles of the Basic Universal Principles of Good Governance of Olympic and Sports Movement’ were considered for its being followed by the NSFs. These core principles are:

- Elections to the Sports Bodies should be governed by clear, transparent and fair rules.*
- Adequate procedural regulations must exist to ensure there is no conflict of interests*
- **The term of Office should be of a limited duration in order to allow renewal of Office Bearers on a regular basis and give access to new candidates***

- *Co operation, coordination and consolation with Government to preserve autonomy.*

National Sports Code 2011 thereby very emphatically stipulated that a National Sports Federation in order to be eligible for recognition was required to

I. Comply with the tenure limits prescribed in the letter dated 01.05.2010 whereby tenure for the President was a maximum of 12 years.

II. -----

III. Hold Elections for the post of Office Bearers, as per the Model Election Guidelines.

Code stipulated that non compliance with stipulations in the NSCI would, ipso facto, disentitle the concerned NSF from the right to Recognition as well as from the facilities made available by the Government to the NSFS.

The model Election Guidelines which formed part of NSCI required the candidates to be members of one of the Member States / UT's / Boards / Institutions, which was one of the constituent units of the AKFI as well as to figure in the Electoral College List".

Legal salinity and enforceability of the Guidelines has been examined by Hon'ble High Court of Delhi in various judgements and in the matter of Delhi State Kabaddi Association it came to be observed and held:

The sustainability and enforceability in law of the guidelines issued by the Government to regulate the functioning of National Sports Federation came up

for consideration before the Delhi High Court in a case Narinder Batra V/s UOI in a writ petition (C) 7868 / 2005. Hon'ble Court held that guidelines issued by the Government were validly issued and were binding for the purpose for which they were issued.

Enforceability of Sports Code to the NSF was again examined and approved and affirmed in Rahul Mehra I and Rahul Mehra II cases by Delhi High Court. Case of Rahul Mehra I concerned elections of the Archery Association of India (AAI), a National Sports Federation. AAI was derecognized by the Government and the Government of India raised contention before court that unless and until AAI complied with the provisions of NSCI, including tenure & age restrictions of Office Bearers and holding of free and fair elections, the Government would not consider the grant of recognition to such Sports Federation. In the circumstances Code directed that recognition would be accorded by the Government to AAI only if the elections of AAI were held in accordance with NSCI. Since directions issued by the Court were not being complied, court disposed of the writ by appointing an Administrator to take over the affairs of AAI till its constitution was amended and elections were held in terms of Court's order.

In Rahul Mehra II case the Electoral College of All India Football Federation (AIFF) was in a challenge before the court on the ground that it was not in accordance with Model Election Guidelines or with NSCI. Hon'ble Delhi High Court held

“22. The Court is of the view that insofar as the Rules of the AIFF are in breach of the National Sports Code and the Model Guidelines for the conduct of elections, the results of the elections of the AIFF declared on 21.12.2016 would have to be set aside. It is so ordered. Fresh elections shall be conducted in accordance with the Model Guidelines. Additionally, nominations would be required to be proposed and seconded by one member association each and with clear notice, as required by the Model Election Guidelines read with rules of AIFF. Furthermore, the Electoral College shall be first prepared after addressing the complaints of various members who may have grievances in this regard.”

It is now clear by above referred judgments by the High Court that National Sports Federations are bound to implement and follow the Guidelines issued by the Government governing the Sport concerning that NSF.

Clause 30 of the MOA of AKFI provides that all the affiliated member units will abide by the Constitution of the AKFI.

Considering the situation that AKFI has to amend its constitution as measure of good governance of its affairs and to bring it in conformity with Sports Code and when its annual recognition by the Government of India would be on a test of its being compliant with National Sports Code, then State / UTs Associations which are affiliate bodies of AKFI also must act towards objective of good governance and thereby Sports Code compliant, in particular the tenure and age limit that will guide their functioning for fair and transparent representative nature of their elected representatives. State Governments if

seek to govern Sports in a State, guided by the Sports Code would be contributing to the cause if proceed further to implement the Sports Code. State of Andhra Pradesh has taken a step in the direction. Till such State laws for the Sports bodies are legislated, AKFI considers appropriate to implement Sports Code, at least on the point of 'Tenure & Age limit' for the Office Bearers of its affiliated unit / associate so as to make those Office Bearers effective and true representatives of this body".

The Sports Code has to be a Guideline in the functioning of State Associations also.

Accordingly the objections are decided to the effect that Rajasthan State Kabaddi Association will amend its Constitution to make it compliant of Sports Code and then hold elections of its Office Bearers in compliance with Model Election Guidelines in terms of Hon'ble Delhi High Court Judgment, preferably within one month. The elections be conducted under the supervision of retired High Court judge or retired district judge as per rules.

In the present situation however the "Electoral College" for the election of Office Bearers has been constituted for a limited purpose that the elected body of AKFI will amend the MOA of AKFI so as to bring it in conformity with Sports Code. Accordingly names received from RSKA for "Electoral College" are accepted as such for the limited purpose for first round of elections of AKFI in terms of judgement of Hon'ble Delhi High Court.

Objections are disposed of accordingly.

Copy of the order be sent by e-mail to both the parties for compliance and be put on the website of AKFI.

23.01.2019

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Administrator

AKFI