

Objections to the Nominations sent by Tripura Amateur Kabaddi Association
(in short TAKA) for the Electoral College of AKFI

ORDER

Tripura Amateur Kabaddi Association (TAKA), an affiliated State unit of AKFI sent names of its two representatives for “Electoral College” namely Dr. Rupendra Ch. Bhowmik President and Ms. Minu Saha Chowdhary General Secretary of the Association. Against these two names, objections were filed by Ms. Jaba Das (Paul). In the objections, it was stated that election of Tripura Amateur Kabaddi Association (TAKA) affiliated to AKFI were held on 29.04.2018. In the said election Mr. Chandra Shekhar Sinha was unanimously elected as President and Ms. Jaba Das (Paul) as Honorary General Secretary. It is further stated that the said election was conducted by Mr. Chanchal Choudhari Returning Officer TAKA. After the elections Dr. Rupendra Ch. Bhowmik and Ms. Minu Saha Chowdhury were no more President and Honorary General Secretary of the Association.

Notice of these objections was sent to the affiliated unit TAKA. Hearing on objections from both the parties were held on 03.12.2018. On behalf of objector Ms. Jaba Das (Paul) along with Krishna Kamal Banil appeared. Ms. Minu Saha Chowdhury sent request as she was out of station. Subsequently Mr. Rafiqul Hussain, Vice President appeared on her behalf. Both the parties were heard on the objections and were given effective hearing. Documents filed by both of them in support of their objections were taken on record.

On perusal of objections and documents on record it reveals that there is dispute between both the parties regarding the elections of TAKA. Contention of the objector is that elections were held on 29.04.2018 at Press Club Agartala at 3 p.m. The elections result was declared on 29.04.2018 by Shri Chanchal Choudhari Returning Officer. In the said election Chandra Shekhar Sinha and Jaba Das (Paul) were elected among others as President and Honorary Secretary respectively. It was noted that the previous President Dr. Rupendra Ch. Bhowmik and Honorary General Secretary Ms. Minu Saha Chowdhury did not attend the election; they did not file any documents. It was urged by the objectors that by a letter dated 07.04.2018 Minu Saha Chowdhury herself had informed the affiliated Districts Units of TAKA that the elections of TAKA were being held at Agartala Press Club at 3 p.m. on 29.04.2018. She further informed them that she and Dr. Rupendra Ch. Bhowmik would not participate in the said elections as they were not eligible to hold posts in terms of National

Sports Code, Government of India. The objector further alleged that vide letter dated 09.04.2018 Minu Saha Chowdhury had appointed Chanchal Choudhari as the Returning Officer.

Mr. Rafiqul Hussain, representing the Association urged that all these documents produced by the objectors are forged and fabricated and do not bear the signatures of Minu Saha Chowdhary. It was contented that no elections were held on 29.04.2018 as alleged. It was claimed that the elections were previously held in 2016 and the said body was elected for 4 years. The last election was held on 25.09.2016.

On perusal of the rival contention of the parties it reveals that no cogent and creditable documents have come on record to decide the controversy at this stage between the parties. Minu Saha Chowdhary has placed on record various documents showing that the activities pertaining to Kabaddi are being performed by her elected body till date. The letter has been written to the Department of Youth Affairs and Sports on 05.05.2018 whereby intimation was sent that unauthorised persons have formed a new Tripura Amateur Kabaddi Association. This controversy requires detailed inquiry in the due course. Parties shall place on record the creditable documents and file affidavits on support of their objections. A detailed inquiry shall be conducted by AKFI to ascertain the true position.

The objector did not explain as to why they did not initiate any proceedings against the existing Office Bearers for not handing over the record pertaining to TAKA. They also did not initiate any proceedings to get their names removed as the elected body soon after the alleged elections took place on 29.04.2018. It is not clear when for the first time, the previous President of AKFI was asked by new committee to approve the list of Office Bearers. The matter will be examined after seeking response in detail from both the parties. At this stage it is not clear if the letters dated 07.04.2018 and 09.04.2018 placed on record by the objectors are in the handwriting of Minu Saha Chowdhury particularly when she has denied her signatures over it.

The Association sent its status report vide letter dated 08.10.2018 and it reveals that last election of Office Bearers of the Association was held on 25.09.2016. Documents of that election were annexed. As regard "Term" for which the President and Secretary were in respective posts, it is informed that President Mr. R.C Bhowmik was in 7th "Term", holding post since 1993 and Secretary Ms. Minu Saha Chowdhury was in her 2nd "Term" holding post since 2013. The age of President is about 76 years as his date of birth is 24.03.1942. General

Secretary is about 53 years of age as her date of birth is 15.07.1965. Treasurer is about 56 years of age as his date of birth is 12.10.1962.

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 Good Governance of the Sports Bodies. Transparency in their functioning and Promotion and Development the 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 Tripura Amateur 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 TAKA 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