

All India Football Federation vs Rahul Mehra on 3 August, 2022

Author: D.Y. Chandrachud

Bench: D.Y. Chandrachud

SLP(C) 30748-49/2017

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ITEM NO.1

COURT NO.3

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) Nos.30748-30749/2017

(Arising out of impugned final judgment and order dated 31-10-2017 in CM No.19815/2012 31-10-2017 in CM No.46919/2016 passed by the High Court of Delhi at New Delhi)

ALL INDIA FOOTBALL FEDERATION

Petitioner(s)

VERSUS

RAHUL MEHRA & ORS.

Respondent(s)

(With IA No.132863/2020 - APPLICATION FOR EXEMPTION FROM FILING TYPED DOCUMENTS, IA No.136529/2020 - APPLICATION FOR PERMISSION, IA No.132356/2020 - APPLICATION FOR VACATION OF INTERIM ORDER, IA No. 120057/2020 - APPROPRIATE ORDERS/DIRECTIONS, IA No.52821/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No.25119/2020 - CLARIFICATION/DIRECTION, IA No.91992/2021 - EARLY HEARING APPLICATION, IA No.132355/2020 - EARLY HEARING APPLICATION, IA No.118219/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.131744/2020 - INTERVENTION APPLICATION, IA No.98733/2022 - INTERVENTION APPLICATION, IA No.98631/2022 - INTERVENTION APPLICATION, IA No.120713/2017 - MODIFICATION OF COURT ORDER and IA No.118222/2017 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 03-08-2022 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE J.B. PARDIWALA

Signature Not Verified

Digitally signed by
Chetan Kumar
Date: 2022.08.05
14:25:43 IST
Reason:
SLP(C) 30748-49/2017

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For Petitioner(s)	Mr. Gopal Sankaranarayanan, Sr. Adv.
For CoA	Mr. Samar Bansal, Adv.
	Mr. Nagarkatti Kartik Uday, AOR
	Mr. Siddharth Nath, Adv.
	Mr. Madhav Gupta, Adv.
	Ms. Jhanvi Dubey, Adv.
	Ms. Khushboo Hora, Adv.

Mr. Premtosh Mishra, Adv.
Mr. Debmalya Banerjee, Adv.
Mr. Kartik Bhatnagar, Adv.
Mr. Rohan Sharma, Adv.
Mr. Anmol, Adv.
Mr. Nicholas Choudhury, Adv.
Mr. Shreesh Chadha, Adv.
M/s. Karanjawala & Co.

For Respondent(s)	Mr. Rahul Mehra, Caveator-in-person
	Mr. Chaitanya Gosain, Adv.
	Mr. Amanpreet Singh, Adv.
	Mr. Anand Thumbayil, Adv.

Mr. Sanjay Jain, ASG
Mr. Apoorv Kurup, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Padmesh Mishra, Adv.
Ms. Tanya Aggarwal, Adv.
Mr. Nishank Tripathi, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Amrish Kumar, AOR

Mr. Nar Hari Singh, AOR
Mr. Hemant Phalphor, Adv.

Dr. Amaresh Kumar, Adv.
Mr. Anshuman Amaresh, Adv.
Mr. Shuvodeep Roy, AOR

Mr. K.V. Vishwanathan, Sr. Adv.
Mr. Ritin Rai, Sr. Adv.
Mr. Sanjeev Kapoor, Adv.

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Mr. Sahil Naran, Adv.
Mr. Dhritiman Roy, Adv.
Mr. Madhavam Sharma, Adv.
Mr. Ayushman Kacker, Adv.
Ms. Samriddhi Shukla, Adv.
M/s. Khaitan & Co.

Dr. Menaka Guruswamy, Sr. Adv.
Mr. Prateek K Chadha, AOR
Mr. Yash S. Vijay, Adv.
Ms. Ayushi Rajput, Adv.
Mr. Utkarsh Pratap, Adv.

Mr. Prashant Bhushan, Adv.
Mr. Harsh Vardhan Kotla, Adv.
Mr. Kshitij Maneshwari, Adv.
Mr. N. Sai Vinod, AOR

UPON hearing the counsel the Court made the following
O R D E R

1 On 10 November 2017, this Court while constituting a Committee of Administrators¹ observed that its remit would, among other things, be to (i) formulate the Constitution of the All India Football Federation² in consonance with the National Sports Code and the Model Guidelines; and (ii) conduct elections and ensure the constitution of the Executive Committee. Thereafter, by an order dated 18 May 2022, the constitution of the CoA was modified.

2 The CoA consists of a former Judge of this Court; a former Chief Election Commissioner who has held the post of Secretary in the Ministry of Youth Affairs & Sports; and a former captain of the Indian football team. The order of this Court empowered the CoA to provide its inputs to facilitate the adoption of the Constitution of the AIFF under the directions of the Court¹ “CoA”² “AIFF” SLP(C) 30748-49/2017 after considering suggestions/objections. The CoA was also directed to prepare the electoral college for the purpose of conducting elections to the Executive Committee in accordance with the provisions of the Constitution as proposed subject to further directions of this Court.

3 On 21 July 2022, this Court noted that the CoA had received nearly 215 comments from objectors, including the State Associations and FIFA-AFC. The CoA accepted nearly 98% of the objections. The CoA has interacted with a delegation of the FIFA which visited India.

4 On 11 October 2022, the FIFA Under-17 Women’s World Cup 2022 is due to commence. India is to host the World Cup. FIFA has indicated to the CoA that the inaugural of the Under-17 tournament should be carried out under the auspices of a democratically elected body of AIFF. From this perspective and bearing in mind the legitimate concerns of FIFA, it is necessary to expedite the

elections.

5 During the course of the previous hearing on 28 July 2022, there was a general consensus that with this end in view the Court should issue specific directions in regard to the holding of elections. The finalization of the Constitution may take some more time since all the objectors would have to be given an adequate opportunity of being heard. However, a need has been expressed uniformly that the holding of the elections should not be delayed any further.

6 There is a consensus that the elections should be conducted in a manner which is in consonance with the National Sports Code and the draft Constitution.

7 We have heard Mr Gopal Sankaranarayanan, senior counsel appearing on behalf of the CoA, Mr Sanjay Jain, Additional Solicitor General representing the Ministry of Youth Affairs and Sports, Mr Rahul Mehra, caveator in-person, SLP(C) 30748-49/2017 Dr Menaka Guruswamy, senior counsel representing 35 out of 36 State Associations, Mr K V Vishwanathan, senior counsel appearing on behalf of the FSDL and Mr Prashant Bhushan and Dr Amaresh Kumar for the intervenors.

8 Dr Menaka Guruswamy, senior counsel has submitted before the Court that the 35 State Associations whom she represents, in turn, represent the interest of 7000 clubs, 700 district Associations and 5,00,000 football players across the country.

9 Broadly speaking, the scheme which has been proposed by the CoA for conducting the elections can now be analyzed. For the purpose of the ensuing elections, the electoral college will comprise of (i) representatives of State Federations; and (ii) representatives of eminent players. There are 36 State Federations, each of whom would select one representative to represent the State Federation in the electoral college for AIFF. Each of them would have one vote. Article 26 of the draft Constitution prescribes the term, tenure, age limit and other conditions of eligibility. The CoA has proposed that for the ensuing elections, a list of 36 eminent player representatives will form a part of the electoral college. Initially, it was proposed that a national players' association can be constituted for selecting the representatives of eminent football players, but at this stage, due to the exigencies of time, the representatives of eminent players will be chosen on the basis of their seniority, based on the number of international matches played while representing India. Of the 36 players' representatives, there will be 24 male football players and 12 female players for the first election. The CoA proposes to draw up a consolidated list of eminent players for this purpose within ten days by taking the assistance of existing associations, clubs and stakeholders so as to ensure that the list of eminent players is as comprehensive as possible.

SLP(C) 30748-49/2017 10 At this stage, it would be necessary for the Court to deal with the submission urged by Dr Menaka Guruswamy appearing on behalf of the State Associations. The submission is that in terms of the National Sports Code 2011, sports persons are entitled to voting only in the management of national sports federations. In this context, senior counsel relied on clause 9.3(12). It has been submitted that clauses 3.9, 3.10 and 3.20 of the Model Guidelines indicate that State Associations exclusively have the right to vote in the elections to the Executive Committee. Moreover, it has been submitted that the Model Election Guidelines contemplate that it

is only the State Associations who would be entitled to vote in the ensuing elections. Hence, it has been urged that allowing eminent players to vote in the elections would not be consistent with the National Sports Code.

11 In order to appreciate the submission, we have analyzed the provisions of the National Sports Code. Clause 9.3 envisages that in order to be eligible for assistance from and for continuation of the recognition of government, national sporting organizations must meet several criteria. Included among them is sub-clause xii, which envisages the inclusion of sports persons (say 25%) with voting rights in the management of national sports federations. Sub-clause xiii envisages that elections have to be held in terms of the Model Election Guidelines. Clause 3.9 and 3.10 are extracted below:

“3.9 The membership of the Federation should be confined to the corresponding State/UT and other special units affiliated (like Sports Control Boards etc.) and where Federation grant membership to individual clubs or individual persons, such membership does not confer on such members the right to vote in any of the Federation’s meetings.

3.10 At the National level, there will be only one recognised federation for each discipline of sport. Only the duly recognised National Sports Federation would be entitled to financial grants as admissible. Only one State/UT SLP(C) 30748-49/2017 Association from each State/UT shall be admitted as a member of the Federation, provided it has a minimum of 50% of the District level Associations affiliated to it. Any organisation of an all India standing and connected with the Sport may be given the status as that of a State or that of a U.T. and admitted as affiliated Member. Other categories of membership may also be given but while each affiliated State/UT Unit shall have a right to cast vote in the General Body Meetings, no other class of Members shall have any right to vote in the Federation’s meetings. While granting recognition/affiliation to a State/UT Association, the National Federation should take into consideration the representative character of the State/UT Association so as to ensure that only truly representative body of the game gets the recognition/affiliation.”

12 Clause 3.9 envisages that membership of the Federation should be confined to the corresponding States or as the case may be, Union Territories and to other affiliated special units. Where a Federation grants membership to clubs or persons, this would not confer a right to vote on them. Similarly, clause 3.10 envisages that apart from the State Associations other categories of membership may also be given, but while each affiliated State/Union Territory unit would have a right to vote in the General Body Meetings, no other class of members would have a right to vote. These provisions would have to however be read together with clause 3.20 which provides as follows:

“3.20 Inclusion of prominent sports persons of outstanding merit as members of the respective sports federations on a tenure basis. The strength of such prominent sports persons with voting rights should be a certain minimum percentage (say 25%)

of the total members representing the federation and selection of such sports persons should be in consultation with this Department.” 13 Clause 3.20 therefore envisages the inclusion of prominent sports persons as members of sports federations on a tenured basis. Their voting rights should SLP(C) 30748-49/2017 be fixed at a certain minimum percentage, say 25% of the total members representing the Federation. The selection of such sports persons should be in consultation with the Department of Youth Affairs and Sports. In other words, there are two specific provisions which contemplate the inclusion of sports persons. There is on the one hand clause 9.3(12) which specifically contemplates the inclusion of sports persons (say 25%) with voting rights in the management of national sports federations. On the other hand, clause 3.20 also provides for the inclusion of prominent sports persons with a certain minimum percentage of voting rights (say 25%) of the total members representing the Federation. The use of the expression “say 25%” indicates that 25% is only an indicative figure and the extent of the voting rights has to be decided upon deliberation with the Ministry of Youth Affairs and Sports.

14 Appearing for the Ministry, Mr Sanjay Jain, Additional Solicitor General submitted that the Sports Code is an enabling document and not a restrictive document. The Union Ministry has specifically endorsed the need for including 36 eminent players who have represented India in at least one international match.

15 The National Sports Code cannot be read in the manner of a statute. A holistic understanding of its provisions has to be arrived at in order to effectuate both its intent and purpose. In this backdrop, consistent with the need for the healthy development of the sport of football in India, the inclusion of eminent players who have represented the country would be of immense benefit. The administration of the affairs of football will benefit from the experience, knowledge and concerns of the players themselves.

They are vital stakeholders. Apart from the above analyses, we have also taken note of the fact that the model statutes which are being notified by FIFA do also contemplate due representation to sports players. SLP(C) 30748-49/2017 The CoA has proposed the following time schedule for conducting the elections:

Date	Days from Day 0	Event	Applicable of Schedule
3rd August, 2022	Day 0	Order of this Hon’ble Court	

12th August, 2022 Day 10 AIFF to prepare consolidated list of Eminent Players and send to the Returning Officer State Associations to select their representatives and send to the Returning Officer
13th August, 2022 Day 11 Returning Officer shall issue the Article 3.4 Election Notice specifying the

Election Date as determined this Hon'ble Court.

The Returning Officer shall Article 4.3 scrutinize and prepare the final List of Voters (comprising State Associations' and Eminent Players' representatives as indicated above) forming the Electoral College in Form 1.

The Returning Officer will take up objections raised, if any, and decide on the same within 3 (three) days.

17th August, 2022 Day 15 Nomination Paper proposing Article 5.4 to 19th August, to Day and seconding a candidate for SLP(C) 30748-49/2017 2022 17 election as Office Bearer shall be delivered to the Returning Officer either by post or in person by the candidate himself/herself only in a period between Day 15 and Day 17 between 11.00 AM and 1.00 PM.

20th August, 2022 Day 18 As soon as may be after 1:00 Article 5.7 P.M. on Day 18, the Returning Officer shall prepare a list of all nominations received by him, post wise, in Form 3; and publish the same in a conspicuous place in his office and also on the website of the AIFF.

21st August, 2022 Day 19 At 11:00 A.M., the Returning Article 6.1 Officer shall scrutinize each nomination paper, one by one, received by him, and determine its validity or otherwise.

22nd August, 2022 Day 20 Each candidate whose Article 7.1 to 24th August, to Day nomination has been found 2022 (until 22, 1:00 valid on scrutiny shall be 1:00PM) PM. entitled to withdraw his/her candidature, from Day 20 until 1:00 P.M. on Day 22.

25th August, 2022 Day 23 As soon as may be after 11:00 Article 7.5 AM on Day 23, the Returning Officer shall prepare the final list of contesting candidates in Form 6, display a copy of the said list in a conspicuous place in his office and on the AIFF SLP(C) 30748-49/2017 website. Returning Officer shall also furnish a copy of the same to each of the candidates / their authorised representatives, if they so demand.

Article 8.1 28th August, 2022 Day 26 Where the number of candidates for any post is equal or lesser to the number of posts they shall be deemed to have been elected unopposed.

On Day 26, the Poll for the Article 9.1 remaining posts shall be taken post-wise, and shall commence at a suitable time decided and declared in advance by the Returning Officer, in the headquarters of the AIFF at New Delhi.

28th / 29th August, Day 26 / The Returning Officer shall 10.1 (counting) & 2022 27 count the votes and declare the 11.1 (declaration) results.

16 We approve the proposed time-lines.

17 For the above reasons, we order and direct that:

(i) The elections to the Executive Committee of AIFF should be held expeditiously and shall be concluded in terms of the time schedule which has been indicated in the tabulated statement set out above;

(ii) The elections shall be conducted in a manner consistent with the provisions of Article 26 of the draft Constitution. The persons chosen as representatives shall have to conform to Article 26.

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(iii) This would be an interim arrangement without prejudice to the rights and contentions of the parties;

(iv) The interim Body would continue for a period of three months subject to further orders of this Court till the Constitution is finalized;

(v) The interim Body shall not claim any equities on the basis of this order and the present arrangement would be subject to further orders;

(vi) The CoA shall be apprised of the decisions of the elected Body; and

(vii) Each of the associations representing the State/UTs would nominate one representative to the electoral college. The 36 member electoral college of eminent football players shall consist of 24 male and 12 female players. Each of them would be subject to the requirement of having represented India in at least one international match and should have retired from international football at least 2 years prior to the date of the notification of the elections.

18 Since the above order is confined to the process of conducting the ensuing elections, all other issues, including the interlocutory application which is filed by FSDL, will be considered separately.

19 List the Special Leave Petitions on 20 September 2022.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master