

Kulvinder Singh Gill Residing At: 501A, ... vs 8. The Averments Made By The Petitioners ... on 16 February, 2023

Author: Purushaindra Kumar Kaurav

Bench: Purushaindra Kumar Kaurav

\$~73 & 74

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 1915/2023 and CM APPL. 7291/2023
KULVINDER SINGH GILL
RESIDING AT:
501A, GULMARG VELLY GULMOHAR,
INDORE, MADHYA PRADESH, 452018.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

..... PETITIONER NO. 1

NORMAN SWAROOP ISAAC
RESIDING AT:
H NO. 10-3-67, TEACHERS COLONY,
EAST MARREDPALLY, SECUNDERABAD,
HYDERABAD, ANDHRA PRADESH 500026.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

..... PETITIONER NO. 2

RALIN DE SOUZA
RESIDING AT:
H NO. 559, UBB0-DANDO,
BEHIND DEMPO HOUSE, TISWADI,
SANTA CRUZ, GOA 403005.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

..... PETITIONER NO. 3

T CHENGALRAYA NAIDU,
RESIDING AT:
NAIDU BUILDINGS, MITTU, CHITTOOR,
ANDHRA PRADESH 517001.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

..... PETITIONER NO. 4

PRADIP KUMAR AUDDY
RESIDING AT:
58, DHIREN DHAR SARANI,
HIND CINIMA, BOWBAZAR,

Signature Not Verified
Signed By:PRATIMA
Signing Date:17.02.2023
14:02:08

KOKATA, WEST BENGAL 700012.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

..... PETITIONER NO. 5

AEZAZ AHMED,

RESIDING AT:

388/4, L BLOCK, HIG FLATS,

GREEN GARDENS, ANNA NAGAR EAST S.O.,

CHENNAI, TAMIL NADU 600102.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

..... PETITIONER NO. 6

LALRINAWMA HNAME,

RESIDING AT:

A-50, BIAL-II, NEAR PRESBYTERIAN CHURCH,

DAWRPUI VENGHTHAR,

AIZAWL MUNICIPAL COUNCIL,

AIZAWL, MIZORAM 796009.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

..... PETITIONER NO. 7

DONALD STEVEN WAHLANG

RESIDING AT:

LUMBHALANG, HILLY COTTAGE,

NONGTHYMAI LAWJYNRIEW,

EAST KHASI HILLS, NONGTHYMAI,

MEGHALAYA 793014.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

..... PETITIONER NO. 8

PRAKASH P. SANDOU

RESIDING AT:

NO. 15, GF-1, MUKESH PALACE,

THIRUVALLUVAR STREET, MUDALIARPET,

PUDUCHERRY 605004.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

..... PETITIONER NO. 9

Signature Not Verified

Signed By:PRATIMA

Signing Date:17.02.2023

14:02:08

G. CHAKRAVARATHI,
RESIDING AT:
26, RAMACHANDRAPURAM MANDALAM,
VINAYAKA TEMPLE STREET, BEHIND HP PETROL BUNK,
ANDHRA PRADESH 533255.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;
..... PETITIONER NO. 10

SENTININGSANG LONGKUMER,
RESIDING AT:
H/NO-77, WARD-6,
CHUMUKEDIMA, DIMAPUR,
NAGALAND, 797103.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;
..... PETITIONER NO. 11

T BRAJABIDHU SINGH
RESIDING AT:
LALAMBUNG MAHOKING TAKHELLAMBAM LEIKAI,
IMPHAL MUNICIPAL COUNCIL, LAMPHELPAT,
IMPHAL WEST, MANIPUR 795004.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;
..... PETITIONER NO. 12

AADHAV ARJUNA
RESIDING AT:
19 MAHARANI CHINNAMMAL ROAD,
VENUS COLONY, ALWARPET,
TEYNAMPET, CHENNAI
TAMIL NADU 600018.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;
..... PETITIONER NO. 13

ASHOK KUMAR SAHU,
RESIDING AT:
NEAR GANESH TEMPLE, HILLPATNA,
BRAHMAPUR SADAR,
GANJAM, ODISHA 760005

Signature Not Verified
Signed By:PRATIMA
Signing Date:17.02.2023
14:02:08

4

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;
..... PETITIONER NO. 14

SHAFIQAHMED SHAIKH,
RESIDING AT:
JAMMANSHAH PARK,
OPPOSITE SANJARI RESIDENCY,
2 MUSLIM SOCIETY,
AHMEDABAD, GUJARAT 380009
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

..... PETITIONER NO. 15

Through: Dr. Abhishek Manu Singhvi & Mr.
Sandeep Sethi, Senior Advocates
alongwith Mr. Rishi Agrawala, Mr.
Ankit Banati and Mr. Shravan
Niranjan, Advocates.

Versus

BASKETBALL FEDERATION OF INDIA,
THROUGH ITS PRESIDENT,
DR. K. GOVINDARAJ, MLC,
HAVING ADDRESS AT:
148, BARAKHAMBHA ROAD, B-1,
LOWER GROUND FLOOR, STATESMAN HOUSE,
NEW DELHI 110001
EMAIL: BASKETBALLFEDERATIONINDIA@GMAIL.COM;

..... RESPONDENT NO. 1

UNION OF INDIA,
MINISTRY OF YOUTH AND SPORTS AFFAIRS
ROOM NO. 401, C-WING, SHASTRI BHAWAN,
NEW DELHI, DELHI 110001.
EMAIL: UOIHHC@GMAIL.COM;

..... RESPONDENT NO. 2

MR. MALLESHPA, RETURNING OFFICER,

Signature Not Verified
Signed By:PRATIMA
Signing Date:17.02.2023
14:02:08

5

BASKETBALL FEDERATION OF INDIA ELECTIONS,
HAVING ADDRESS AT:
148, BARAKHAMBHA ROAD, B-1,
LOWER GROUND FLOOR, STATESMAN HOUSE,
NEW DELHI 110001
EMAIL: BASKETBALLFEDERATIONINDIA@GMAIL.COM;

..... RESPONDENT NO. 3

MR. AJEET SINGH RATHORE,
HAVING ADDRESS AT:
RATHORE BHAWAN, NEAR VETINARY HOSPITAL,
DIDWANA, DISTT. NAGPUR,
RAJASTHAN 341303
EMAIL: AJEETSINGHRATHORE08@YAHOO.CO.IN;

..... RESPONDENT NO. 4

Through: Mr. Atmaram NS Nadkarni, Senior Advocate alongwith Mr. Darpan KM Ms. Amrita Sharma, Mr. Rajat and Mr. S. Santosh, Advocates for R- Mr. Chetan Sharma, ASG alongwith Mr. Anil Soni, CGSC with Mr. Devvrat Yadav, Advocate and Mr. Sahaj, G.P. for R-2/UOI. Mr. Amit Sibal, Senior Advocate alongwith Mr. Rajesh Inamdar, Mr. Javedar Rahman, Mr. Nizamuddin Pasha and Mr. Darpan Sachdeva, Advocates for R-3.

+ W.P.(C) 1982/2023 and CM APPL 7557/2023
AADHAV ARJUNA
RESIDING AT:
19 MAHARANI CHINNAMMAL ROAD,
VENUS COLONY, ALWARPET,
TEYNAMPET, CHENNAI
TAMIL NADU 600018.

Signature Not Verified
Signed By:PRATIMA
Signing Date:17.02.2023
14:02:08

6

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 1

TAMIL NADU BASKETBALL ASSOCIATION
THROUGH ITS PRESIDENT,
MR. AADHAV ARJUNA
RESIDING AT:
19 MAHARANI CHINNAMMAL ROAD,
VENUS COLONY, ALWARPET,
TEYNAMPET, CHENNAI

TAMIL NADU 600018.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 2

AEZAZ AHMED,

RESIDING AT:

388/4, L BLOCK, HIG FLATS,

GREEN GARDENS, ANNA NAGAR EAST S.O.,

CHENNAI, TAMIL NADU 600102.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 3

MIZORAM BASKETBALL ASSOCIATION

THROUGH ITS PRESIDENT,

DR. LALRINAWMA HNAME

RESIDING AT:

A-50, BIAL-II, NEAR PRESBYTERIAN CHURCH,

DAWRPUI VENGTHAR,

AIZAWL MUNICIPAL COUNCIL,

AIZAWL, MIZORAM 796009.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 4

LALRINAWMA HNAME,

RESIDING AT:

A-50, BIAL-II, NEAR PRESBYTERIAN CHURCH,

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AIZAWL MUNICIPAL COUNCIL,

Signature Not Verified

Signed By:PRATIMA

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7

AIZAWL, MIZORAM 796009.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 5

PONDICHERY BASKETBALL ASSOCIATION

THROUGH ITS SECRETARY,

MR. V. RAGOTHAMAN

RESIDING AT:

NO. 15, GF-1, MUKESH PALACE,

THIRUVALLUVAR STREET, MUDALIARPET,

PUDUCHERRY 605004.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 6

PRAKASH P. SANDOU
RESIDING AT:
NO. 15, GF-1, MUKESH PALACE,
THIRUVALLUVAR STREET, MUDALIARPET,
PUDUCHERRY 605004.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 7

ANDHRA PRADESH BASKETBALL ASSOCIATION
THROUGH ITS PRESIDENT
MR. T CHENGALRAYA NAIDU,
RESIDING AT:
NAIDU BUILDINGS, MITTU, CHITTOOR,
ANDHRA PRADESH 517001.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 8

T CHENGALRAYA NAIDU,
RESIDING AT:
NAIDU BUILDINGS, MITTU, CHITTOOR,
ANDHRA PRADESH 517001.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 9

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G. CHAKRAVARATHI,
RESIDING AT:
26, RAMACHANDRAPURAM MANDALAM,
VINAYAKA TEMPLE STREET, BEHIND HP PETROL BUNK,
ANDHRA PRADESH 533255.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 10

NAGALAND BASKETBALL ASSOCIATION
THROUGH ITS SECRETARY,
MR. SENTININGSANG LONGKUMER,
RESIDING AT:
H/NO-77, WARD-6,
CHUMUKEDIMA, DIMAPUR,
NAGALAND, 797103.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 11

MR. SENTININGSANG LONGKUMER,
RESIDING AT:
H/NO-77, WARD-6,
CHUMUKEDIMA, DIMAPUR,
NAGALAND, 797103.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 12

T BRAJABIDHU SINGH
RESIDING AT:
LALAMBUNG MAHOKING TAKHELLAMBAM LEIKAI,
IMPHAL MUNICIPAL COUNCIL, LAMPHELPAT,
IMPHAL WEST, MANIPUR 795004.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 13

TELANGANA BASKETBALL ASSOCIATION
THROUGH ITS GENERAL SECRETARY
MR. NORMAN SWAROOP ISAAC
RESIDING AT:

Signature Not Verified
Signed By:PRATIMA
Signing Date:17.02.2023
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H NO. 10-3-67, TEACHERS COLONY,
EAST MARREDPALLY, SECUNDERABAD,
HYDERABAD, ANDHRA PRADESH 500026.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 14

MR. NORMAN SWAROOP ISAAC
RESIDING AT:
H NO. 10-3-67, TEACHERS COLONY,
EAST MARREDPALLY, SECUNDERABAD,
HYDERABAD, ANDHRA PRADESH 500026.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 15

MADHYA PRADESH BASKETBALL ASSOCIATION
THROUGH ITS PRESIDENT,
MR. KULVINDER SINGH GILL
RESIDING AT:
501A, GULMARG VELLY GULMOHAR,
INDORE, MADHYA PRADESH, 452018.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 16

MR. KULVINDER SINGH GILL
RESIDING AT:
501A, GULMARG VELLY GULMOHAR,
INDORE, MADHYA PRADESH, 452018.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 17

MEGHALAYA BASKETBALL ASSOCIATION
THROUGH ITS SECRETARY
MR. DONALD STEVEN WAHLANG
RESIDING AT:
LUMBHALANG, HILLY COTTAGE,
NONGTHYMMAI LAWJYNRIEW,
EAST KHASI HILLS, NONGTHYMMAI,
MEGHALAYA 793014.

Signature Not Verified
Signed By:PRATIMA
Signing Date:17.02.2023
14:02:08

10

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 18

DONALD STEVEN WAHLANG
RESIDING AT:
LUMBHALANG, HILLY COTTAGE,
NONGTHYMMAI LAWJYNRIEW,
EAST KHASI HILLS, NONGTHYMMAI,
MEGHALAYA 793014.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 19

MR. RALIN DE SOUZA
RESIDING AT:
H NO. 559, UBB0-DANDO,
BEHIND DEMPO HOUSE, TISWADI,
SANTA CRUZ, GOA 403005.
EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 20

PRADIP KUMAR AUDDY
RESIDING AT:
58, DHIREN DHAR SARANI,
HIND CINIMA, BOWBAZAR,
KOKATA, WEST BENGAL 700012.

EMAIL: TMAHENDHRAN.INC@GMAIL.COM;

.....PETITIONER NO. 21

Through: Mr. Mukul Rohatgi, Dr. Abhishek Manu Singhvi, Mr. Rajiv Nayar, Mr. Sandeep Sethi and Mr. Dayan Krishnan, Senior Advocates alongwith Mr. Rishi Agrawala, Mr. Ankit Banati & Mr. Shravan Niranjana, Advocates.

Versus

Signature Not Verified
Signed By: PRATIMA
Signing Date: 17.02.2023
14:02:08

11

BASKETBALL FEDERATION OF INDIA
THROUGH ITS PRESIDENT,
DR. K. GOVINDARAJ, MLC,
HAVING ADDRESS AT:
148, BARAKHAMBHA ROAD, B-1,
LOWER GROUND FLOOR, STATESMAN HOUSE,
NEW DELHI 110001
EMAIL: BASKETBALLFEDERATIONINDIA@GMAIL.COM;

....RESPONDENT NO. 1

UNION OF INDIA,
MINISTRY OF YOUTH AND SPORTS AFFAIRS
ROOM NO. 401, C-WING, SHASTRI BHAWAN,
NEW DELHI, DELHI 110001.
EMAIL: UOIHDC@GMAIL.COM;

....RESPONDENT NO. 2

MR. MALLESHPA, RETURNING OFFICER,
BASKETBALL FEDERATION OF INDIA ELECTIONS,
HAVING ADDRESS AT:
148, BARAKHAMBHA ROAD, B-1,
LOWER GROUND FLOOR, STATESMAN HOUSE,
NEW DELHI 110001
EMAIL: BASKETBALLFEDERATIONINDIA@GMAIL.COM;

....RESPONDENT NO. 3

Through: Mr. Aryama Sundaram, Senior Advocate alongwith Mr. Darpan KM, Ms. Amrita, Mr. Zafar & Mr. Rajat,

Advocates for R-1.
Mr. Chetan Sharma, ASG alongwith
Mr. Anil Soni, CGSC with Mr.
Devvrat Yadav, Advocate and Mr.
Sahaj, G.P. for R-2/UOI.
Mr. Devadatt Kamat, Senior
Advocate alongwith Mr. Rajesh
Inamdar, Mr. Javedar Rahman, Mr.
Nizamuddin Pasha and Mr. Darpan
Sachdeva, Advocates for R-3.

Signature Not Verified
Signed By:PRATIMA
Signing Date:17.02.2023
14:02:08

12

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV
ORDER

% 16.02.2023
1. Heard.
2. Issue notice.

3. Mr. Darpan K.M., Advocate accepts notice on behalf of the respondent No.1-Basketball Federation of India.

4. Mr. Anil Soni, CGSC accepts notice on behalf of the R-2-Union of India.

5. Mr. Rajesh Inamdar, Advocate accepts notice on behalf of the R-3- Returning Officer.

6. Mr. Dayan Krishnan, learned Senior Counsel prays for deletion of the name of respondent No.4 from the memo of parties in W.P.(C) 1915/2023. The prayer is accepted. Let amended memo of parties be filed by the end of the day.

7. These are two writ petitions relating to conduct of election of office bearers of Basketball Federation of India-respondent No. 1. In the petition being W.P.(C) 1915/2023, there are 15 petitioners and in the petition being W.P.(C) 1982/2023 there are 21 petitioners.

8. The averments made by the petitioners with respect to petition being W.P.(C) 1915/2023 is that the petitioner Nos.1 to 13 have been unceremoniously prohibited from contesting the upcoming elections of office bearers of respondent No.1-Basketball Federation of India. The petitioner Nos.14 and 15 are supporting their right to propose their candidates for the election of respondent No.1-Basketball Federation of India. It is the case of the petitioners in the petition being W.P.(C)

1915/2023 that they have been prohibited on a wholly perfunctory and hyper-technical ground to contest the election. Their nomination forms have been rejected on the ground that they were not submitted in the prescribed format. The petitioners state that they had filled up the form, which was delivered by respondent No.3/Returning Officer and surprisingly the forms given to other contestants were accepted, who belong to the incumbent President group. It is submitted that the entire election is sham. Despite the fact that there is no essential difference between the form submitted to the respondent No.3-Returning Officer and the form notified by respondent No. 2 in the Model Election Guidelines, en bloc rejection of the nominations has been done, which has resulted in exclusion of the contested candidates. The petitioners are, therefore, praying for various reliefs. For the sake of clarity the prayer clauses of the petition being W.P.(C) 1915/2023 are reproduced as under:-

"i. Pass a Writ of Certiorari or any other Writ/Order/Direction of like nature setting aside the Impugned Letter dated 10.02.2023 whereby the Petitioners nomination have been rejected by Returning Officer- Respondent No.3 and direct the Returning Officer to accept the said nomination forms of the Petitioners by rectifying the list of validly nominated candidates in Form 4/Form 6 by including the names of the Petitioners;

ii. Pass a Writ of Mandamus or any other Writ/Order/Direction of like nature directing the Respondent No. 3 to allow the Petitioner Nos. 1 to 13 to contest the elections for the respective posts of Respondent No.1 on 18.02.2023;

iii. Pass a Writ of Mandamus or any other Writ/Order/Direction of like nature directing the Respondent No.1 to appoint any retired Judge from this Hon'ble Court or Hon'ble Supreme Court of India to supervise and monitor the conduct of the Election of the Respondent No. 1, the Basketball Federation of India (BFI) in a fair, impartial and transparent manner, which is scheduled to be held on 18.02.2023;

iv. Pass a Writ of Mandamus or any other Writ/Order/Direction of like nature directing the appointment of any retired Judge from this Hon'ble Court or Hon'ble Supreme Court of India by this Hon'ble Court to conduct the Election of Basketball Federation of India in a fair, impartial and transparent manner, which is scheduled to be held on 18.02.2023;

v. Pass a Writ of Mandamus or any other Writ/Order/Direction of like nature directing the observer appointed by this Hon'ble Court to approve and announce the results of the Election under his own signatures;

vi. Pass a Writ of Certiorari or any other Writ/Order/Direction of like nature directing the deletion of the name of Mr. Ajeet Singh Rathore from the List of Validly Elected Nominations for the posts of Vice- President, Treasurer and Secretary-General being in violation of Rule 6(3) of the Model Elections Guidelines;

vii. Pass a Writ of Mandamus or any other Writ/Order/Direction of like nature directing the Respondent No. 3 to open the ballot boxes in the presence of the Petitioner Nos. 1 to 13 and to conduct the election and to declare the results immediately after the counting of votes while video recording the entire election process on 18.02.2023;

viii. Pass any such further Order(s) that this Hon'ble Court may deem fit in the facts and circumstances of the present case."

9. The petition being W.P.(C) 1982/2023 has been filed by 21 petitioners challenging the declaration of result by respondent No.3-Returning Officer with respect to various positions of respondent No.1-Federation dated 13.02.2013 without holding any election. The case of the petitioners is that on 28.01.2023 the respondent No.1-Federation issued a meeting notice to all the members of respondent No.1-Federation, informing them about conduct of the election on 18.02.2023. On the same date, respondent No.1- Federation also issued letter to all affiliated units i.e. all the members of respondent No.1-Federation, requesting them to intimate respondent No. 1- Federation, the names of two representatives who are duly elected members of executive committee of each member State for forming the electoral roll. On 30.01.2023, respondent No.1-Federation intimated about the appointment of respondent No.3-Returning Officer to all the members of respondent No.1-Federation. On 04.02.2023, the respondent No.1- Federation issued a letter publishing the electoral roll for the elections to be conducted on 18.02.2023. On 04.02.2023 itself, a calendar of events was also issued in respect of the election. Between 06.02.2023 to 07.02.2023, nomination forms by various petitioners were submitted to the respondent No.3-Returning Officer for contesting the election for different positions. On 09.02.2023, the respondent No.3-Returning Officer published the list of nomination receipt in Form 3. On 10.02.2023, the respondent No.3-Returning Officer rejected the nomination forms of some of the petitioners and other candidates. It is stated that since the other petition being W.P.(C) 1915/2023 was already scheduled to be listed on 15.02.2023, a copy thereof was served on the respondents, the respondent No.3-Returning Officer hurriedly declared the result of election through e-mail in Form 6 holding therein that the candidates whose names finds place in Form 6 are in the same number as of the posts. Therefore, they are deemed to be declared as duly elected unopposed to the post mentioned in Form 6. It has also been stated therein that in view of the said position it was not necessary to take a poll for election to such post in terms of Clause 9(1) of the National Sports Development Code of India. The grievance put forth by the petitioners is that the manner in which the respondent No.3-Returning Officer has rejected the nomination forms and declared the result makes a complete mockery of the Model Election Guidelines. The respondent No.3-Returning Officer has acted in a manner to ensure that no elections should take place and the desired candidate should succeed in getting elected as unopposed. The petitioners in the petition being W.P.(C) 1982/2023 has prayed for the following reliefs:-

"i. Pass a Writ of Certiorari or any other Writ/Order/Direction of like nature setting aside the Form 6 along with its Impugned Letter dated 13.02.2023 whereby the Respondent No.3 in violation of Article 14 and 21 of Constitution of India and in violation of Rule 9 (1) of Model Election Guidelines issued by Respondent No.2, in a

hasty manner has declared the results of election of office bearers of Respondent No.1 thereby deliberately depriving the petitioners of their fundamental and democratic right of participation and voting in the said election that has been illegally concluded;

ii. Pass a Writ of Mandamus or any other Writ/Order/Direction of like nature directing the Respondent No. 1 to hold free and fair elections of the Office Bearers of Respondent No.1 through an server who is over and above the designation of the returning officer as may be appointed to monitor the proceedings of the returning officer and to conduct and announce the results of the election on the scheduled date., i.e., on 18.02.2023 or on any other date as may be fixed by this Honourable Court after directing the Respondent No. 3 to approve the names of the contestants including the petitioners to be notified in Form 4 to enable them to stand for the elections in a free and fair democratic manner;

OR iii. Pass a Writ of Mandamus or any other Writ/Order/Direction of like nature directing the appointment of a retired Hon'ble Judge of this Hon'ble Court or retired Judge of Hon'ble Supreme Court of India to freshly conduct and complete the election process of the Respondent No.1 within 30 days from the date of such direction in the presence of observer[s] appointed by this Honourable Court in a fair and transparent manner as per the Model election Guidelines issued by Respondent No. 2 at New Delhi being the registered office of Respondent No.1;

iv. Pass a Writ of Mandamus or any other Writ/Order/Direction of like nature directing the Respondent No. 3 or the retired Judge of this Hon'ble Court or retired Judge of Hon'ble Supreme Court of India as may be appointed to conduct the elections as the case may be to open the ballot boxes in the presence of the contestants including the Petitioners and to declare the results immediately after the counting of votes while video recording the entire election process AND v. Pass a Writ of Mandamus or any other Writ/Order/Direction of like nature directing the illegally declared candidates in Form 6 dated 13.02.2023 of the Respondent No. 1 not to operate their official responsibilities until the conduct and completion of election as aforesaid;

vi. Pass any such further Order(s) that this Hon'ble Court may deem fit in the facts and circumstances of the present case."

10. Learned Senior Counsel appearing in both the petitions have drawn the attention of this court to various documents and the reason for rejection of the nomination forms including the declaration of the list of contesting candidate in Form 6. Various decisions have been relied upon by learned Senior Counsel for the petitioners in the cases of Narinder Batra v. Union of India¹, BCCI v. Cricket Association of Bihar², Shyam Singh Yadav v. National Rifle Association of India³, BCCI v. Cricket Association of Bihar⁴, M.S. Manik Batra v. Table Tennis Federation of India⁵, M.S. Manik Batra v. Table Tennis Federation of India⁶, All India Football Federation v. Rahul Mehra⁷, Shambhu Prasad Sharma v. Charandas Mahant⁸, Thakur Pratap Singh v, Shri Krishna Gupta⁹, Ramesh Rout v.

(2009) 4 ILR (Del) 280 (2015) 3 SCC 251 [para 33,34] 2012 SCC OnLine Del 6402 (2016) 8 SCC 251 [para 73, 79] 2022 SCC OnLine Del 428 2022 SCC OnLine Del 3416 2022 SCC OnLine SC 771 AIR 1959 SC 308 [para 15 to 18] AIR 1956 SC 140 [para 3, 5, 8] Rabindra Nath Rout¹⁰ to contend that election of respondent No.1- Federation should have been conducted in a fair and transparent manner and the rejection of en bloc nomination of potential candidates suffers with grave legal infirmity resulting in denial of fair opportunity to participate in election process. A specific submission is made that an endeavour has been made to ensure that the present incumbent occupies the position of President of respondent No.1-Federation and his supporter should only remain in fray so that they can be declared office bearers of respondent No.1-Federation unopposed. It has been pointed out that if the nomination form submitted by the petitioners is perused, the same fulfils the essential elements of disclosure and the formalities required for submission of the nomination form. It is submitted that the reason for rejection of the nomination form is completely unacceptable; the same is de hors the principle of fairness. The doctrine of substance should have been applied and in the case where the nomination form is not the statutory requirement, the substantial compliance should have been adjudged on the basis of information submitted in the concerned nomination form. The mass exclusion suffers with arbitrariness and the same is violative of Article 14 of the Constitution of India.

11. The submissions made by learned Senior Counsel for the petitioners are strongly opposed by learned Senior Counsel appearing on behalf of the respondents.

12. Shri Amit Sibal, learned Senior Counsel appearing on behalf of respondent No.3-Returning Officer in the petition being W.P.(C) 1915/2023 submits that no motives be attributed to the respondent No.3-Returning Officer in conducting the election in question. According to him, the (2012) 1 SCC 762 [para 14 & 15] calendar of events as was already notified on 04.02.2023 required various stages to be completed as per the dates mentioned therein. He submits that the scrutiny of nomination paper was to take place on 10.02.2023 at 11:00 a.m., and the respondent No.3-Returning Officer as per his legal understanding found that the nomination form which was submitted by the candidates whose nominations have been rejected was distinct and could not have been considered to have been substantially complied with the requirement under the prescribed format. Therefore, the nomination forms have been rightly rejected. According to him, the nomination form which is prescribed in Form 2 under National Sports Code of India, 2021 mandates that the proposer and the seconder had to nominate the candidate, who in turn would give his assent. He explains that in contradiction to requirement under Form 2, the candidates whose nomination forms have been rejected directly applied for the post and mentioned the name of proposer and the seconder at a later stage. The same has been in complete departure from the prescribed format and in view of the settled legal principle that a procedure once is prescribed in a particular manner, the same has to be done in that manner and no other. He further explains that, had the nomination form which were not found to have been submitted in prescribed Form 2 were not rejected the act of respondent No.3-Returning Officer would have been questioned and the same would have invited cause for raising grievance by the other candidates. He, therefore, submits that since there is no rule for equity in an election and the same has to be strictly in compliance of what is prescribed in statute/rule/ bye laws etc. The decision of rejection of nomination form has rightly been taken.

13. Shri Devadatt Kamat, learned Senior Counsel appearing on behalf of respondent No.3-Returning Officer in the petition being W.P.(C) 1982/2023 supports the submissions made by Shri Amit Sibal, learned Senior Counsel. In addition, he has taken this court through the nomination forms submitted by the petitioners and the nomination form which was required to have been submitted as per National Sports Development Code of India and he explains that the nomination forms submitted by the petitioners could not have been accepted, as the same are in complete variance with the requirement under the applicable code. He states that the candidate cannot nominate himself for a particular post, the same has to be proposed by the proposer and is to be seconded by the seconder. He explains that in the instant case, there is a complete departure from the requirement of submission of nomination form and such a departure is not of technical in nature, the same is structural departure. Therefore, there is no reason to interfere into the decision taken by respondent No.3-Returning Officer. While taking this court through Clause 6 of Model Election Guidelines to be followed by all National Sports Federation, he explains that the nomination of a candidate for election as office bearer or member of the managing committee shall be informed to and the nomination of a candidate for election as office bearer or a member of managing committee shall be proposed by one of the representatives of member „State/Union Territories/Board/Institutions whose name is included in the electoral college list in Form 1 and also subscribed by one such representative as seconder. He, therefore, explains that the candidate cannot be allowed to nominate himself when the rule position requires the nomination of a candidate by proposer to be supported by seconder.

14. Shri Aryama Sundaram and Shri Atmaram NS Nadkarni learned Senior Counsel appearing on behalf of respondent No. 1-Federation submit that the respondent No.1-Federation is bound by the Model Election Guidelines contained in National Development Sports Code, 2011. According to them, disputed facts are involved in the instant petition and, therefore, this court should not entertain and interdict the election process which has already been set into motion. They submitted that there are allegations and counter allegations, the same required to be adjudicated once the elections are over and the results are declared. In any case, there is a remedy for the candidates whose nomination forms have been rejected to ventilate their grievances. When there is departure from the requirement under Form 2, the consequences have to necessarily follow. They submit that the petitioners have not arrayed the candidates who are deemed to have been elected as per Form 6 and, therefore, these petitions suffer with non- joinder of necessary party and must be dismissed on this ground alone. Any departure from Form 2 cannot be contained and if the same is done, the same would result in opening floodgate of grievance raised against the Returning Officers in each election. According to them, with respect to Cricket association of Bihar when some of the unsuccessful candidate tries to raise the grievance before the Hon ble Supreme Court, the same was not accepted and the electoral officer was granted liberty to notify the result giving liberty to the applicants therein to seek such remedies as are available for challenging the outcome of the election.

15. Shri Atmaram NS Nadkarni learned Senior Counsel specifically submits that in the instant case, if this court entertains the grievance at this stage, the same would cause grave prejudice to the respondent No.1- Federation. According to him, the term of the present elected body is expiring on 18.02.2023 and any interference by this court at this stage would result in creating vacuum in respondent No.1-Federation. According to him, if this court at all intends to entertain the present

petition, the appropriate course would be to direct the respondent No.3-Returning Officer to produce the result of election to be held on 18.02.2023 and the same may not be given effect without approval of this court.

16. Shri Chetan Sharma, learned ASG appearing on behalf of UOI submits that in the instant case the election of office bearer of respondent No.1-Federation ought to have been conducted in a manner dispelling all sorts of allegations so that the respondent No.1-Federation remains in the hands of duly elected people which in turn are responsible for development in promotion of the sports activities in the field of Basketball. He states that en bloc rejection of nomination on similar ground raises sufficient grounds and therefore, in exercise of power under Article 226 of the Constitution, this court should pass appropriate order.

17. Learned Senior Counsel for the respondents have relied upon the decisions of the Hon ble Supreme Court in the cases of Avtar Singh Hit v. Delhi Sikh Gurdwara Management Committee¹¹, Umesh Shivappa Ambi v. Angadi Shekara Basappa¹², Shaji K. Joseph v. V. Vishwanath¹³, N.P. Ponnuswami v. Returning Officer, Namakkal Constituency¹⁴, Arghya Kumar Nath v. Prof. D.S. Rawat & Ors.¹⁵, Himmat Singh v. State of Haryana¹⁶, Hindustan Coca Cola Beverage (P) Ltd. V. Union of India¹⁷, (2006) 8 SCC 487 [19 - 29] (1998) 4 SCC 529 [4] (2016) 4 SCC 429 [15 - 16] (1952) 1 SCC 94 [15, 25, 39] 2014 SCC OnLine Del 4622 (2006) 9 SCC 256 [18] BCCI v. Cricket Association of Bihar¹⁸, Mahipal Singh v. Union of India & Ors.¹⁹, Rahul Mehra v. Union of India and Others²⁰, Rattan Anmol Singh v. Ch. Atma Ram²¹, Prahladdas Khandelwal v. Narendra Kumar Salave²².

18. I have heard Dr. Abhishek Manu Singhvi, Shri Mukul Rohatgi, Shri Rajiv Nayar, Shri Sandeep Sethi and Shri Dayan Krishnan, learned Senior Counsel for the petitioners sand Shri Atmaram NS Nadkarni and Shri Aryama Sundaram learned Senior Counsel for respondent No.1-Federation, Shri Chetan Sharma, ASG for UOI and Shri Amit Sibal and Shri Devadatt Kamat, learned Senior Counsel for respondent No. 3-Returning Officer.

19. The petitioners in the petition being W.P. (C) 1982/2023 are part of electoral roll of respondent No.1-Federation and represent various State basketball associations, who are members of respondent No.1-Federation. The respondent No.1-Basketball Federation of India is the controlling and governing body of Basketball in India. All basketball associations are to be the members of respondent No.1-Federation. The elections of respondent No.1-Federation are to be conducted in accordance with National Elections Guidelines under National Sports Development Code, 2021. The Model Election Guidelines to be followed by all the National Sports Federation indicates that there would be seven office bearers in addition to five executive members for managing committee of any Federation. Clause 2 of Model Election Guidelines is reproduced as under:-

(2014) 15 SCC 44 [13] 2018 SCC OnLine Del 10284 [75] 2022 SCC OnLine Del 2438 [102] (1955) 1 SCR 481 [13] (1973) 3 SCC 104 [8 - 10] "2. Managing Committee:

(1) The 7 (Seven} Officer Bearers {in addition to 5 executive members} shall be as follows:-

1 President 1(one) 2 Vice-Presidents 2(2) 3 General Secretary 1 (one) 4 Treasurer 1 (one) 5 Joint Secretaries 2 (four) (Note the above number may be changed according to the Constitution of the concerned Federation)"

20. The instant case relates to alleged illegal rejection of the nomination paper and therefore, Clause 6 of Model Election Guidelines which relates to nomination of candidate requires to be understood in right perspective. Clause 7 of Model Election Guidelines relates to scrutiny of nomination and Clause 9 of Model Election Guidelines relates to uncontested returns and contested elections. Clause 11 of Model Election Guidelines relates to counting of votes and clause 12 of Model Election Guidelines relates to declaration of results. Various stages are envisaged under Model Election Guidelines. The respective forms for each step have also been prescribed in the Model Election Guidelines.

21. In the instant case, the first and foremost issue that needs to be considered is whether the respondent No. 3-Returning Officer has rightly rejected en bloc nomination on the ground of not being in prescribed format can prima facie be considered to be a valid reason. If the decision of rejection of the nomination paper is perused, the same would indicate that the respondent No.3-Returning Officer noted that there were two distinct formats of Form 2; the one which was submitted by the petitioners and the other which was required as per Model Election Guidelines. The respondent No.3-Returning Officer when compared both the forms he found that the one which was submitted by the petitioners and the other which was the required under Model Election Guidelines were completely distinct and were not substantially complying with the requirement of Form 2 in Model Election Guidelines. The scrutiny and conclusion recorded by the respondent No.3-Returning Officer is reads as under:-

"I have gone through the documents and scrutinized the same by myself. On scrutiny, it was found that the documents were substantially defective and at hence, I am of the opinion that the Nomination is to be rejected due to the reasons stated hereinbelow:

That the nomination form filed by the candidate is not in accordance with the prescribed nomination Form No. 2 as provided under the National Sports Development Code.

I have provided all the candidates with model Form No.2 as per the National Sports Development Code. Additionally, the said Form No.2 has also been appended to the "Model Election Guidelines to be followed by all National Sports Federations", which is Annexure XXXVII of the National Sports Development Code of India, 2011.

The nomination form submitted by the Kulvinder Singh Gill-Electoral College List No. 10 for the post of Secretary General has been rejected since it is not in the prescribed Form No. 2 as provided in the National Sports Code of India, 2011. On comparing the submitted Form No. 2 vis-à-vis the prescribed Form No. 2 in the Code, it is evident that the two are completely distinct and the former cannot be said to have even substantially complied with the prescribed format, which mandates that

the proposer and the seconder have to nominate the candidate, who in turn would give his assent. /In contradistinction, in the Form No. 2 submitted the candidate has himself directly applied for the post and mentioned the names of the proposer and the seconder, and as such there is a complete departure from the prescribed format, which requires otherwise. It is a well-settled legal principle that when a procedure has been prescribed for the manner in which something has to be done, then it can only be done in that manner and no other (Rattan Anmol Singh v. Ch. Atma Ram, (1955) 1 SCR 481). In any event, it is also well settled that there is absolutely no room for equity in an election and it has to be strictly in compliance of what is prescribed in the statutes/rules/byelaws etc. It is also relevant to note that the Hon'ble Supreme Court in Prahladdas Khandelwal vs. Narendra Kumar Salave, (1973) 3 SCC 104, upheld the rejection of nomination of the candidate on account of his failure to submit details in the Form in the prescribed format.

I have heard the objections of Kulvinder Singh Gill-Electoral College List No. 10 for the post of Secretary General and it is found that he has failed to prove the compliance of directions as per the National Sports Development Code in filling of nomination form.

So, it is my view that the submissions of objectors are liable to be rejected and the nomination of the Kulvinder Singh Gill-Electoral College List No. 10 for the post of Secretary General for the post of President cannot be allowed as it has also been held by the Hon'ble Supreme Court in Brijendralal Gupta And Another vs Swalaprasad And Others, 1960 SCR (3) 650 that the defects which are of substantial character cannot be cured at the stage of scrutiny.

Hence, the objection that the process at office of the R.O. was improper is liable to be rejected owing to the reason stated above".

22. The submissions which were made by potential candidates before respondent No.3-Returning Officer was that nomination paper submitted in Form 2 was supplied by respondent No.3-Returning Officer and the same nomination paper were submitted by the candidates, which were received without any objection. Although, this submissions has been disputed by learned Senior Counsel appearing on behalf of respondent No.3-Returning Officer to state that there was no reason to supply different nomination form to the selected candidates and therefore, the aforesaid aspect at this stage cannot be looked into in the instant petition. However, the facts remains whether the nomination form which has been submitted by the petitioners and the one which was required under Model Election Guidelines substantially envisage different requirements or the same can be considered to be one and the same. Form 2 of Model Election Guidelines which has been found to have not been complied with is reproduced as under:-

Name of the Federation Election of Office Bearers and Members of Managing Committee, _____ FORM 2 ELECTION OF OFFICE BEARERS AND MEMBERS OF MANAGING COMMITTEE _____ NOMINATION PAPER FOR ELECTION AS _____ (NAME OF THE POST) To (Name

and address of returning officer) The Returning Officer for above Election

----- We nominate
Shri/Smt./Ms. _____,

(name & address), whose name is entered at Sl. No. _____ in the Electoral College list for the above mentioned post.

2. Our particulars are given below:

Name of Candidate Name of Member State/Union Sl. No. in the Signature Territory/
electoral college Board/Institution list Proposer Seconder I, the candidate above
named, do hereby give my assent to my nomination for the above post.

Name of the Candidate _____ Name of Member
State/Union Territory/Board/Institution _____ Sl. No. in
the electoral college list _____ Signature _____ Place:

Date:

23. The nomination form submitted by one of the petitioners reads as under:-

BASKETBALL FEDERATION OF INDIA FORM 2 ELECTION OF OFFICE BEARERS
AND MEMBERS OF MANAGING COMMITTEE NOMINATION PAPER FOR
ELECTION AS _____ (NAME OF THE POST) To The Returning
O f f i c e r B a s k e t b a l l F e d e r a t i o n o f I n d i a I
Shri/Smt./Ms, _____
_____ (name & address) is contesting for the post of
_____.

2 My Proposer and Seconder are as below-

Name of Name of Member State/ Sl. No. in the electoral Signature Candidate Union Territory/
college list Board/Institution Proposer Seconder Name of the Candidate _____ Name of
Member State/Union Territory/Board/Institution _____ Sl. No. in the electoral
college list _____ Signature _____ Place _____ Date _____

24. If both the forms are carefully perused, there are few basic requirements featured therein. Firstly, there has to be a proposer and the seconder. Secondly, there has to be an acceptance by the candidate who desires to contest the election. Thirdly, is the name of the proposer and seconder must be from the member of „State/Union Territories/Board/ Institution . Fourthly, they all have to sign the nomination form. The ancillary requirement is that the nomination form has to be submitted on the date declared in the calendar of events and the candidate who desires to contest the election must specifically state the post. His name must also be found in the Electoral College. In

26. The Form 2 which the candidate has submitted specifically states that he desires to contest the election. The proposer and seconder have proposed and seconded and have also signed the form. Whether the name of proposer and seconder should come first in order, before the candidate accept his nomination prima-facie cannot be said to be a substantial defect to reject the nomination form en bloc. If the nomination forms submitted by candidates are perused, the same would prima facie indicate that all substantial compliances have been made. The form does not lack any of the relevant information which was required to have been submitted in Form 2 relied upon by the respondent No.3-Returning Officer.

[illegible]

Malleshappa Former District Judge, Returning Officer, Room No. 111, The Chancery Pavillion Hotel, Basketball Federation of India Mob No: 9480525055 Date: 13.02.2023 Place: Bengaluru In accordance with the National Sports Development Code of India and the Modal Election Guidelines which is to be followed by the National Sports Federations as the number of candidates is the same as the number of posts, these candidates numbering as per the above table are hereby deemed to be declared as duly elected unopposed to the post of above mentioned and it shall not be necessary to take a poll for election to such post in terms of Clause 9(1) of the National Sports Development code of India.

Shri Malleshappa Former District Judge, Returning Officer, Room No. 111, The Chancery Pavillion Hotel, Basketball Federation of India Mob No: 9480525055 Date: 13.02.2023 Place: Bengaluru

28. It is thus seen that in the instant case there is no election with respect to officer bearers of respondent No.1-Federation. What remains to be done on 18.02.2023 is to issue the Form 15 i.e. formal declaration of results. The declaration of result as can be seen has practically taken place on 13.02.2023, while declaring the candidate as unopposed deemed elected.

Therefore, the declaration in Form 15 is only a formality and on 18.02.2023 there is going to be no election. For all practical purposes, so called election stands concluded on 10.02.2023 in rejection of the nomination forms of contesting candidates and on 13.02.2023 while issuing list of contested candidates in Form 16. It is thus seen that the approach of the respondent No.3-Returning Officer in en bloc rejection of the nomination forms on singular non significant ground has not resulted in ensuring the election but the same has resulted in interdiction of the elections. As a matter of fact the decision of respondent No.3-Returning Officer cannot be prima facie upheld and the same deserves to be adjudicated in exercise of power under Article 226 of the Constitution. No doubt, the court normally should not interfere into the election matters. However, if the court finds that there is no election in the eyes of law and the procedure followed results in „selection instead of „election the constitutional courts are not powerless to exercise its discretionary power under Article 226 of the Constitution. There would be no immunity if the proceedings are held arbitrarily and in defines of well known principle of law.

29. In the instant case, the facts would clearly indicate that the election has not been held and en bloc nominations have been rejected. The non- statutory format is not sacrosanct but what is sacrosanct is the disclosure/information necessary to be mentioned in the form. This court is prima facie satisfied that a substantial compliance with the requirement of the form has been made and all departure from the prescribed format cannot therefore, be the ground for rejection of nomination paper. This view is supported by the decision of the Hon ble Supreme Court in the case of Shambhu Prasad Sharma v. Charandas Mahant & Ors²³. The format again is not the statutory format, the same is the requirement under executive instructions. The same cannot override the right of the prospective candidate to contest the election unless the candidate suffers with material ineligibility or there is substantial non compliance. Even sub-Section 4 of Section 36 of the Representation of

People Act, 1951 requires that the Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

30. Shri Aryama Sundaram, learned Senior Counsel, however, while placing reliance on the said provision states that in the instant case the departure from not submitting the information in a correct format is substantial in character. However, prima facie this court is unable to accept the said submission. This court has compared the nature of information which is required in Form 2 and the one which has been submitted by the petitioners in their nomination form. Prima facie there is no substantial departure except the structuring of the information. The respondent No.3-Returning Officer has to discharge his duty with utmost fairness and in accordance with the high standards of neutrality. The Hon ble Supreme 2012 11 SCC 390 Court in the case of Ramesh Rout v. Rabindra Nath Rout,²⁴ has held that in case of a reasonable doubt, as to the validity of a nomination paper, the benefit of such doubt must go to the candidate concerned and the nomination paper should be held to be valid. In the instant case, it is not the rejection of one candidate and then to conduct the election for remaining contested candidate but it is a case where contested candidates suffered en bloc rejection and there remains no contest.

31. The learned Senior Counsel appearing on behalf of Respondent No.1- Federation, respondent No.3-Returning Officer have relied upon decisions which laid down the principle that once an election is over the aggrieved candidate will have to pursue his remedy in accordance with the provisions of law and the High Court ordinarily should not interfere with the election under Article 226 of the Constitution of India. There is no dispute with respect to the aforesaid proposition of law. Since there is no election, therefore, it cannot be said that any interference is being made in already conducted election, as can be seen from the facts that the present is a case of "selection" while en bloc rejecting the nomination form of all other candidates. In almost all decisions relied upon by learned Senior Counsel appearing on behalf of the respondents, the law is laid down to restrict the exercise of power under Article of 226 of the Constitution in the election process once set to motion. The present case depicts a peculiar circumstance.

32. The petitioners who represent various State Federations have approached this court to ensure that the election must go on in accordance with law. So far as the decision in the case of The Yachting Association of 2012 1 SCC 762 India v. Boardsailing Association of India and Ors.²⁵ is concerned, the appellant therein was aggrieved by the order passed by the learned Single Judge staying the process of election of council members of appellant association and directions were given that the ballot box be preserved without opening the same or processing the ballots. The election result was interdicted till further orders to be passed by the writ court. The Division Bench of this court, while relying upon various decisions of the Hon ble Supreme Court has held that the principle of law relating to election of candidates under the Representation of People s Act, 1951 have been extended to elections in general also and held that election process having commenced the same ought not to have been interdicted and any challenge to the election could be pursued only after the elections were to over. In the present case, the situation is different. As noted above, on 18.02.2023 there is going to be no election. There is no question of any interdicting the election process as the decision of rejection of en bloc nomination paper by the respondent No.3-Returning Officer itself has resulted in smooth conduction of election, therefore, the same deserves

adjudication.

33. A specific objection has been raised by Shri Aryama Sundaram, Senior Counsel that since the elected candidate have not been arrayed as party, therefore, no relief can be granted to the petitioners.

34. This court has prima facie noted that the impugned declaration in Form 6 of list of contesting candidates is not the election and the same has been done while rejecting the nomination forms of the contesting candidates on flimsy ground and it is to be noted that the rights in favour of elected candidate will formally crystallise only after declaration of result takes place 2013 SCC OnLine Del 3235 in Form 15 in accordance with Clause 12 of Model Election Guidelines. Since, in the instant case that stage has not reached, the rejection of the nomination forms of petitioners candidate have prima facie been found to be invalid. The right of the other candidates who wish to contest the election has not been interdicted. Therefore, at this stage it is not found necessary to hear the candidates whose name finds place in Form 6 issued by respondent No.3-Returning Officer.

35. The respondents are directed to file their reply within three working days from today.

36. The petitioners are at liberty to file their rejoinder within three working days thereafter.

37. In the meantime, the operation of impugned letter dated 10.02.2023 in W.P.(C) 1915/2023 and impugned letter dated 13.02.2023 in W.P.(C) 1982/2023 shall remain stayed.

38. The existing officer bearers of respondent No.1-Federation whose terms is expiring on 18.02.2023, are restrained from taking any policy decisions after 18.02.2023, except with the leave of this court.

39. Needless to state that depending upon the submission to be made by the learned counsel appearing on behalf of the parties, this court would consider passing further appropriate order(s) on the next date of hearing.

40. The petitioners are directed to implead the deemed elected candidate as per Form 6 issued by Returning Officer during the course of the day. Amended memo of parties be also filed.

41. The petitioners are directed to take steps for dasti service on newly added respondent, by all permissible modes. Let the necessary steps be taken by the petitioner by the end of the day.

42. The Registry is directed to hand over the notice by 17.02.2023. The petitioners shall also serve the notice through Returning Officer.

43. Newly added respondents are at liberty to file their response before the next date of hearing.

44. List on 01.03.2023 for further consideration.

45. Dasti.

PURUSHAINDRA KUMAR KAURAV, J FEBRUARY 16, 2023 p'ma/Priya