

## **K. Murugan Etc. Etc vs Fencing Assn. Of India, Jabalpur & Ors. ... on 22 February, 1991**

**Equivalent citations: 1991 SCR (1) 658, 1991 SCC (2) 412, 1991 AIR SCW 774, (1991) 1 SCR 658 (SC), (1991) 2 MAD LW 335, 1991 (2) SCC 412, 1991 UJ(SC) 1 589, (1991) 1 JT 676 (SC)**

**Author: Rangnath Misra**

**Bench: Rangnath Misra, M.H. Kania, Kuldip Singh**

PETITIONER:

K. MURUGAN ETC. ETC.

Vs.

RESPONDENT:

FENCING ASSN. OF INDIA, JABALPUR & ORS. ETC. ETC.

DATE OF JUDGMENT 22/02/1991

BENCH:

MISRA, RANGNATH (CJ)

BENCH:

MISRA, RANGNATH (CJ)

KANIA, M.H.

KULDIP SINGH (J)

CITATION:

1991 SCR (1) 658

1991 SCC (2) 412

JT 1991 (1) 676

1991 SCALE (1) 259

ACT:

Societies Registration Act, 1860 -Section 3-Indian Olympic Association-Rules and regulation regarding election of President-Sports Association-Responsibility placed on society held not responded.

Constitution of India, 1950-Article 136-Appeal against High Court order-Indian Olympic Association-Election to office of President-Rule relating to meetings and rights appurtenant to elective office-Inapplicability of.

HEADNOTE:

The Indian Olympic Association was a society registered under the Societies Registration Act, with the principal object to sponsor, supervise, finance, regulate and control

all aspects of sports activity in relation to the Asian, Commonwealth, Olympic and International competitions. The Society had a set of rules and regulations. There are five categories of members described in Rule 3. The management of the affairs of the Association is entrusted to an Executive Council defined in Rule 1(v). Rule 8 provided that the Executive Council shall have (i) a President, (ii) 9 Vice Presidents, (iii) a Secretary-General, (iv) 6 Joint Secretaries, (v) a Treasurer and (vi) 19 Members. The terms of the Executive Council was to be 4 years, while Rule 11 provides the voting procedure.

The Indian Olympic Association was reconstituted with effect from 28 of October, 1984, with the appellant in C.A. No. 852 of 1991, Shri V. C. Shukla as the President, K. Murugan, the appellant in C.A. No. 848 of 1991 as one of the 6 Joint Secretaries.

In November, 1988, one of the Vice-President of the 1984 Executive Council, Shri B.S. Adityan, the appellant in C.A. No. 849/91 was elected as President for a term of four years.

On 16th of May, 1990, there was a requisition of 17 Members for a special general meeting for considering the move of a no confidence

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motion against the aforesaid Shri B.S. Adityan and his Executive Council. This initiated a period of confrontation between the two groups in the Association.

In May 1990, the Executive Council overruled the aforesaid requisition as invalid and President Adityan called a meeting of the General Assembly at Madras for 15th of June, 1990. For the same day the other group summoned a meeting at New Delhi. This aforesaid situation led to Court proceedings, and the Delhi High Court restrained the requisitionists from holding their meeting at New Delhi and appointed a retired Judge of the Delhi High Court as an observer for the meeting to be held at Madras. At this meeting Shri V.C. Shukla, the appellant in C.A. No. 852/91 claimed to have been elected.

The matter was taken to Court and a Single Judge decided in favour of Shri B.S. Adityan, the appellant C.A.No. 8549/91, but when the matter came up before the Full Bench of the High Court, it remitted the matter to a Single Judge who appointed a retired Judge of this Court to discharge the function of the President of the Association as an interim measure. This Order has been challenged by the appellants in Civil Appeals Nos. 852-853/91.

The Fencing Association of India filed a civil suit at Jabalpur for the declaration that Shri V. C. Shukla had been duly elected. The application for injunction from having been rejected by the Trial Judge, an appeal had been taken to the High Court where the Single Judge ordered status quo. Two Civil Appeals were also filed against this order.

It was contended on behalf of the appellants that under

the rules the term of the President and the Executive Council was four years and in the absence of a clear provision for a vote of no confidence which would curtail the period, there could be no reduction of the period of office, and that the entire Executive Council could not be voted out of office by a motion of no confidence.

Disposing of the appeals, this Court,

HELD: 1. Sports in modern times has been considered to be a matter of great importance to the community. International sports has assumed greater importance and has been in the focus for over a few decades. [664D-E]

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2. It is unfortunate that the highest body incharge of monitoring all aspects of such sports has got involved in group fight leading to litigation and the objectives of the I.O.A. have been lost sight of. The representation of India in the I.O.A. has been in jeopardy. [664E-F]

3. The grooming of amateurs has been thrown to the winds and the responsibility placed on the Society has not been responded. This, therefore, does not appear to be a situation where rights to office will have to be worked out by referring to the provisions of the law relating to meetings, injunction and rights appurtenant to elective offices. [664F-G]

4. What seems to be of paramount importance is that healthy conditions must be restored as early as possible into the working of the Society and a fresh election has to be held as that seems to be the only way to get out of the malady. [644G-H]

5. The entire nation is looking up to the results of the competitions at the international games when they are held. I.O.A. has great responsibilities to discharge in organising and streamlining the national sport activities intended for international events. The monitoring has to be a continuous one and unless the scheme is ongoing and is made result-oriented, the international performance cannot be up to any appreciable level. [664G-665B]

6. This does not appear to be a matter where individual rights in terms of the rules and regulations of the Society should engage attention. [664D-E]

7. It is appropriate that all the litigations now pending should abate, and for appropriate functioning of the Society the litigation outside the headquarters of the Society should not be permitted. [665B-C]

8. A fresh Executive Council should be set up and for that purpose, elections should be held within two months hence; a retired Judge of this Court is appointed to conduct the elections keeping the provisions of the rules and regulations of the I.O.A. in view. All the proceedings in the different High Courts abate. [665C-D, G]

9. It is directed that the Union of India should take greater interest in organising sports both for national and international purposes. Sports have a role to play in

building up good citizens. That

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aspect should be kept in view, while a lot of money is allotted for the purpose of improvement of sports, the result has been considerably poor and deceptive. This aspect of the criticism hear from everywhere in this country shall also be given due consideration. [666A-B]

JUDGMENT :

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 848 of 1991 etc etc. From the Judgment and Order dated 14.12.1990 of Madhya Pradesh High Court in M.A. No. 227 of 1990.

Kapil Sibal, H.N. Salve, J.B. Dadachanji, Mrs A.K. Verma and S. K. Mehta for the Appellants.

K.K. Venugopal, P. Chidambaram, S.S. Ray and P.P. Tripathi for the Respondents.

The Judgment of the Court was delivered by RANGANATH MISRA, CJ. The Olympic games are ancient in origin. According to the Encyclopaedia Britannica they commenced some 3,500 years ago and the name came from its association with the place known as Olympia in Greece. These games were played once in every four years and were abolished in 393 AD by the Roman Emperor Theodosius-I. In recent times, they were revived in 1896 and have until now been held at the turn of every four years excepting during the first and the second world wars. The Olympic games are one of the biggest international events and provide great opportunities to amateur sportsmen in the different classifications.

Indian participation in the Olympic games dates back to 1900 when a single representative had joined the Olympics at Paris. Gradually, such participation became more systematic and broad-based. While the Ministry of Youth Affairs and Sports of the Union Government looks after development of sports within the country, the management of the Olympic participation has been entrusted to a society registered under the Societies Registration Act (21 of 1860) known by the name 'Indian Olympic Association' (for short IOA') The Memorandum of Association of this society indicates that the principal objects of the society, inter alia, are:

- (i) to develop and promote the Olympic movement and amateur sport, (2) to promote and encourage the physical, moral and cultural education of the youth of the nation for the development of character, good health and good citizenship, (3) to enforce all rules and regulations of the International Olympic Committee (hereinafter referred to as 'IOC') and the IOA; (4) to be the official organisation in complete and sole charge of all Olympic matters in the country, (5) to educate the public of the country as to the value of amateurism in sports; (6) to maintain the highest ideals of amateurism and to promote interest therein, particularly in connection with the Olympic games and other games under the patronage of the IOC as well as the IOA, (7) to have full and complete jurisdiction over all matters pertaining to the

participation of India in the Olympic games and other games under the patronage of the IOC as well as the IOA, (8) to assist in cooperation with National Sports Federations/Associations the selection, training and coaching of the teams that will represent Indian in the Asian, Commonwealth, Olympic and other international competitions and tournaments, under the patronage of the teams in the said competitions and tournaments after selection, (9) to undertake with the assistance of National Sports Federations/Associations the financing, management, transportation, maintenance and welfare of teams from India taking part in the Olympic games and other games under the patronage of the IOC as well as the IOA; and (10) to stimulate the interest of the people of the country in the promotion of sports and games in the Olympic programme, and to that end the formation of State Olympic Association for the development of sports and games within a State and National Sports Federations for games and sports in the Olympic programme.

We have quoted most of the important objectives to bring it to the forefront that the I.O.A. has been brought into existence to sponsor, supervise, finance, regulate and control all aspects of sports activity in relation to the Asian, Commonwealth, Olympic and international competitions and tournaments under the patronage of the IOC. While its funding is partially out of membership fee, bulk of it comes from Government contribution.

The society has a set of rules and regulations. There are five categories of members as described in rule 3. The management of the affairs of the Association is entrusted to an Executive Council defined in rule 1(v). Rule 8 provides that the Executive Council shall have (i) a President (ii) 9 Vice-Presidents (iii) a Secretary-General (iv) 6 Joint Secretaries (v) a Treasurer (vi) 7 Members elected from among representatives of State Olympic Associations and

(vii) 12 members elected from among the representatives of National Sports Federation/Association/ SSCB. Rule 8 provides the manner of elections to be held for the Executive Council. The term of the Executive Council is 4 years. Rule 11 provides the voting procedure. Clause (b) of that rule requires that voting if necessary in the IOA Executive Council, IOA Emergency Executive Council and/or at the annual general or special general meetings of the IOA shall be by show of hand. However, if in a particular case the procedure has to be changed, the same will be done by a resolution of the concerned body passed by majority vote. The very rule provides as to the voting power of the different units composing the IOA.

Rule 12 deals with the office-bearers like the President, the Vice-President, the Secretary-General, the Joint Secretaries, the Treasurer etc. For the resolution of the dispute before us perhaps reference to the other rules is not necessary.

The IOA was reconstituted with effect from 28th of October, 1984, with appellant Shri V.C. Shukla as the President. K. Murugan, appellant in C.A. No. 848 of 1991 (arising out of SLP 1064/91) was one of the 6 Joint Secretaries.

In November, 1988, Shri B.S. Adityan, one of the vice- President of the 1984 Executive Council was elected as President for a term of four years. On 16th of May, 1990, there was a requisition of 17 Members for a special general meeting for considering the move of a no confidence motion against Shri Adityan and his Executive Council. With this started a period of confrontation between the two groups in the Association. In May, 1990, the Executive Council overruled the requisition as invalid and President Adityan called a meeting of the General assembly at Madras for 15th of June, 1990. For the same day the other group summoned a meeting of the general assembly at New Delhi. This led to Court proceeding and the Delhi High Court restrained the requisitionists from holding their meeting at New Delhi and appointed a retired Judge of the Delhi High Court as an observer for the meeting to be held at Madras. In the convened meeting of 15th of June, minutes of the proceedings whereof have been seriously disputed Shri Shukla claimed to have been elected.

A little before the meeting of the 15th of June at Madras, further proceedings were taken in Court which have been labelled as collusive and manipulations for obtaining an order for the manner of voting. The warring factions lost sight of the laudable goals of the IOA and the purpose for which the Association had been set up and put their entire attention on winning control over the affairs of the IOA in their grip through litigation.

A Single Judge of the Madras High Court having decided in favour of Shri Adityan, the matter ultimately came before a Full Bench which by its order dated 3rd of January, 1991, remitted the matter to the learned Single Judge and appointed Justice Natarajan, a retired Judge of this Court, to discharge the functions of the President of the IOA as an interim measure. This order is challenged in the appeal by Shri Murguan and Shri V.C. Shukla by two different appeals being Civil Appeals Nos. 852.853 of 1991 (arising SLPs 1599 and 1787/91). Not content with the litigation in the Delhi and Madras High Courts, the Fencing Association of India filed a civil suit at Jabalpur asking for declaration that Shri Shukla had been duly elected as President. An application for injunction in support of Shri Shukla having been rejected by the trial Judge an appeal had been taken before the High Court where a learned Single Judge made a status quo order. The other two appeals arise out of proceedings including contempt taken therein.

Long arguments have been advanced before us by Mr. Venugopal for Shri Adityan and by Mr. Sibal for Shri Shukla. The main contention of Mr. Venugopal is that under the rules the terms of the President and the Executive Council is four years and in the absence of a clear provision for a vote of no. confidence, which would curtail the period, there could be no reduction of the period of office. It has also been contended that the entire Executive Council could not be voted out of office by a motion of no confidence and, therefore, Shri Adityan had rightly overruled the requisition. Serious challenge has been advanced by Mr. Sibal against the proceedings taken before the Madras High Court and particularly, the learned Judge making an order changing the manner of voting from show of hands to one by ballot in what is stated to be a collusive proceeding.

This does not appear to us to be a matter where individual rights in terms of the rules and regulations of the Society should engage our attention. Sports in modern times has been considered to be a matter of great importance to the community. International sports has assumed greater importance and has been in the focus for over a few decades. In some of the recent Olympic games

the performance of small States has indeed been excellent and laudable while the performance of a great country like India with world's second highest populations has been miserable. It is unfortunate that the highest body in charge of monitoring all aspects of such sports has got involved in group fight leading to litigation and the objectives of the Society have been lost sight of. The representation of India in the IOA has been in jeopardy.

The grooming of amateurs has been thrown to the winds and the responsibility placed on the Society has not been responded. This, therefore, does not appear to us to be a situation where rights to office will have to be worked out by referring to the provisions of the law relating to meetings, injunction and rights appurtenant to elective office. What seems to be of paramount importance is the healthy conditions must be restored as early as possible into the working of the Society and a fresh election has to be held as that seems to be the only way to get out of the malady. The entire nation is looking up to the results of the competitions at the international games when they are held. As we have already pointed out, IOA has great responsibilities to discharge in organising and streamlining the national sport activities intended for international events. The monitoring has to be a continuous one and unless the scheme is ongoing and is made result-oriented, the international performance cannot be up to any appreciable level.

The question for consideration, therefore, is not as to which of the two factions should succeed. On the other hand, it is appropriate that all the litigations now pending should abate. In the interest of the appropriate functioning of the Society the litigation outside the headquarters of the Society should not be permitted. We accordingly direct that any litigation, if at all, should only be within the jurisdiction of the Delhi High Court and no Court in India would entertain litigations relating to the functioning of IOA in any aspect. A fresh Executive Council should be set up and for that purpose elections should be held within two months hence. The general assembly should be convened to meet at Calcutta on 28th of April, 1991. We appoint Mr. Justice A.D. Koshal, a retired Judge of this Court to conduct the elections keeping the provisions of the rules and regulations of the IOA in view. Voting shall be by secret ballot. The list of voters should be finally settled within four weeks from now and if it is necessary to have any hearing in the matter we authorise such hearing to be undertaken by Mr. Justice Koshal. Until then, Mr. Justice Natarajan will continue to exercise his powers as conferred by the order of the Madras High Court. Once the results of the elections are announced, Mr. Justice Natarajan would cease to be in office and the Association would take over.

To enable Mr. Justice Koshal to discharge the obligations cast upon him by this decision, the Ministry of Youth Affairs and Sports is directed to place at his disposal a sum of Rs.25,000 (Twenty five thousand) within two weeks and a small group of assistants as he may need. Payment of remuneration for the work done shall be fixed by the Court later.

All the proceedings in the different High Courts abate; the suit in the Jabalpur High Court shall stand dismissed. The contempt proceedings now pending shall not be proceeded with.

In the course of arguments some criticism was advanced against the order of the High Court providing monthly remuneration to Mr. Justice Natarajan. We leave this aspect to be considered by Mr. Justice Natarajan himself and do not propose to deal with it in our order.

Before we leave this matter we would like to point that the Union of India should take greater interest in organising sports both for national and international purposes. Sports have a role to play in building up good citizens. That aspect should be kept in view. We have a feeling that while a lot of money is allotted for the purpose of improvement of sports, the result has been considerably poor and deceptive. We hope and trust that this aspect of the criticism heard from everywhere in this country shall also be given due consideration.

V.P.R.

Appeals disposed of.