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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8691/2020, CM APPLs. 28033/2020, 28090/2020, 32616/2020, 33548/2020, 33549/2020, 757/2021, 2435/2021, 5435/2021, 7815/2022 & 7816/2022

RAHUL MEHRA

..... Petitioner

Through: Petitioner in person along with Mr. Chaitanya Gosain and Mr. Amanpreet Singh Advocates.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Anil Soni, CGSC for UOI.
Mr. Aditya Vikaram Singh, Advocate for NRAI.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

% **02.06.2022**

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. The previous order dated 26.05.2022, had issued specific directions to the Secretary, Ministry of Youth Affairs and Sports, Union of India ('UOI'). There is no compliance of the said order. The government is conscious of the fact that Sports Code has to be implemented as it embodies the regime governing sports and sports administration in India. Various timelines have been given by the courts in various orders, in this case as well to ensure compliance. Mandamus has been



sought apropos compliance with the Sports Code by all NSFs. The Government's own earlier affidavit is to the effect that 10% or about 6 of the 56 NSFs, recognised by the Government, are in compliance of the Sports Code. That being the position, there could hardly be any occasion for granting recognition to an association or a registered society purporting to be a NSF. It is logical that no monies could be expended or financial grant could be extended to non-complying NSFs.

2. According to the petitioner, the Government has spent approximately Rs.14,391.49 crores in sporting activities from 2009-2010 till 2018-19 and nearly Rs.1,237.56 crores has been disbursed directly to the NSFs, including IOA from 2009-10 till 2019-20 on the explicit, statutory understanding that the NSFs, including IOA will comply with the Sports Code. The sums mentioned by the petitioner are only till the financial year 2019-20. Thereafter, more monies must have been expended on the recognised NSFs. The expenditure on NSFs or grants to them or on the Office Bearers is embodied in the Objective of Guidelines of the National Sports Development Code of India, 2011 ('Sports Code') which reads as under:

“....

5. Objectives of Guidelines

5.1 The objective of these Guidelines are three fold:

5.1.1 Firstly to define the areas of responsibility of the various agencies involved in the promotion and development of sports.

5.1.2 Secondly, to identify NSFs eligible for coverage



under these guidelines, to set priorities, and to detail the procedures to be followed by the Federations, to avail of Government sponsorship and assistance.

5.1.3 Thirdly, to state the conditions for eligibility to receive government recognition and grant.

... ”

(Emphasis supplied)

3. Admittedly, the Government had issued notices to 57 NSFs on 07.08.2020 that they had to comply with the Sports Code. Reference was made to the previous judicial orders of this court. Progress, if any, is not known to the court. The e-mail sent to each NSF required them to give reply/furnish information in respect of compliance/status regarding the issues raised by the petitioner, apropos compliance of various provisions of the Sports Code. Responses were received from the majority of addressee-NSFs within the time specified. The issue was examined by the Government, and it was largely found that the most of the NSFs had not complied with the Sports Code. That being the factual position, the logical sequitur would have been to suspend recognition of all non-compliant NSFs and to put them to notice to comply within the time.
4. According to the affidavit of the UOI dated 18.05.2022, it has recognised 46 NSFs for the year 2022 also this includes Hockey India, in which anomalies were found by the court, the said NSF was found to be non-compliant and its affairs have been entrusted to a Committee of Administrators headed by a former Judge of the Supreme Court, to assist in making the said NSF compliant with the Sports Code. It is now known whether the Government examined the



Constitution and the administrative structure of all the NSFs in terms of Annexure 3 of the Sports Code, i.e. “Procedure for Suspension/Withdrawal of Recognition and Consequences Thereof”. There is nothing on the record to show that clause 3.20 of Annexure 2 of the Sports Code, has been complied with. The said stipulation, under the heading the “Guidelines for Recognition of National Sports Federations”, states as under:

“...3.20 Inclusion of prominent sportspersons of outstanding merit as members of the respective sports federations on a tenure basis. The strength of such prominent sportspersons with voting rights should be a certain minimum percentage (say 25%) of the total members representing the federation and selection of such sportspersons should be in consultation with this Department....”

5. Other aspects, also which require examination are contained in Annexure-3 of the Sports Code, which reads *inter-alia* as under:

“ ...

Annexure-III

PROCEDURE FOR SUSPENSION/WITHDRAWAL OF RECOGNITION AND CONSEQUENCES THEREOF

I. SUSPENSION

In the event that serious irregularities in the functioning of a National Sports Federation are detected, the recognition of a Federation will be suspended as an interim measure until a complete and full inquiry is completed. The grounds for suspension will be as follows:



(i) Suspension by the concerned International or Asian Federation on any grounds whatsoever.

(ii) Suspension by the IOA.

(iii) Legal action taken against a NSF by the concerned Registrar of Societies or other legal authority.

(iv) Failure to hold elections as prescribed in the Constitution of the NSF or in accordance with the government guidelines or gross irregularities in election procedures.

(v) Failure to submit annual audited accounts, as prescribed.

(vi) Misuse, or unauthorised diversion, of Government assistance.

(vii) Failure to provide accurate information to the Department as and when called for.

(viii) Failure to abide by the conditions upon which recognition has been granted.

(ix) Non-compliance with the conditionalities laid down by the Government.

(x) On a report from the concerned Registrar of Societies alleging gross irregularities in the internal functioning of NSF.

(xi) In the public interest, in the event of any other serious irregularities being detected.

(xii) Non-renewal of annual recognition due to default on the part of the NSF



II. WITHDRAWAL OF RECOGNITION:

Recognition may be withdrawn in case of any of the following:

- (i) the same has been obtained by misrepresentation of material information or by fraudulent means;*
- (ii) violation of the terms and conditions of recognition or of Government Guidelines or of the provisions of their own constitution;*
- (iii) in the judgment of the Government of India, the Federation is not functioning in the best interest of development of sports for which the Federation was granted recognition;*
- (iv) an inquiry confirms serious irregularities regarding the functioning of the Federation;*
- (v) the concerned International or Asian Federation permanently derecognises or disaffiliates a National Federation. Similarly, derecognition may take place in the event that the IOA permanently derecognises or disaffiliates National Federation. Before withdrawal of recognition, the concerned NSF will however, be given reasonable opportunity to present their defence.*

III. CONSEQUENCES OF SUSPENSION/WITHDRAWAL OF RECOGNITION

Upon withdrawal of recognition the NSF will cease to exercise the functions of the NSF for the concerned sport discipline. It shall forego the right to regulate and control the sport in India and select the national teams and represent India in international sports events and forums. It will also become ineligible to use India in its name or receive any benefit or concession meant for an NSF as detailed in clause 3.6 of the National Sports Development Code 2011.

... ”



6. In view of the above, the aforesaid affidavit is not of much assistance. For reasons best known, status of follow-up action, if any, in terms of the court's directions dated 22.01.2021 has not been filed. Surely, no monies should be expended nor assistance should be extended to the entities which are non-compliant to the Sports Code. It would be prudent that no further assistance be given and no more monies be spent on any of the NSFs, which do not put their house in order.
7. In the affidavit dated 16.02.2021 by UOI, it is stated *inter-alia* as under:

“ ...

11. Information furnished by 57 NSFs in response to Ministry's email dated 7.8.2020 in respect of Annexures K and L of Shri Rahul Mehra along with a tabular statement indicating the provisions of Sports Code which require categorical affirmation in the constitution of NSFs (NSF-wise), for which the NSFs have been given time of 6 months/one year time to amend their constitutions have already been submitted to High Court on 16.1.2021 in compliance of Delhi High Court's Order dated 6.11.2020. The same was emailed by the Registry to the Petitioner on 22.1.2021 during the course of hearing of the instant Writ Petition.

12. Now, in compliance of directions contained in the High Court's Order dated 22.1.2021 directing the respondents to file an affidavit along with tabulation in the formats contained in Annexures K and L to the writ petition in respect of each of National Sports Federation, tabulated statements in respect of each of 52 NSFs, whose recognition has been renewed by the Ministry as on date from amongst 57 NSFs (which have been indicated in the annexures to the instant petition filed by the Petitioner), indicating the position given by Shri Rahul Mehra, information furnished



by the NSFs in response to Ministry's email dated 7.8.2020 asking NSFs to furnish information in respect of issues mentioned by Shri Rahul Mehra in K and L Annexures, the Ministry's comments with regard to compliance of Sports Code provisions by the NSFs have been prepared and are placed at Annexure R-6 (Collectively).

13. On the issue of bringing out Compendium of Instructions on Scheme of Assistance to NSFs, it is submitted that first volume was issued on 6.8.2014, 2nd volume on 1.1.2016, 3rd volume on 13.4.2017 and 4th volume in January 2018. Petitioner has attributed motives on part of the Respondent as to why the next volume of compendium has not been brought out and the respondent wants to hide something. Petitioner's allegations are baseless. Instructions issued by the Ministry are in any case uploaded on the website of the Ministry. Practice of bringing out Compendium was started so that relevant instructions are available at one place. Compendium of instructions from February 2018 to 31st January 2021 has been brought out and uploaded on the website of the Ministry.

14. It would be seen that the Ministry is serious in enforcing the adherence of Sports Code provisions by NSFs and the Ministry is taking necessary steps to ensure that NSFs will amend their constitutions/byelaws to bring them in line with Sports Code provisions before the timelines given to them. Recognition of any Federation, which has not amended its constitution/bye-law before the given time line will not be renewed. Recognition will stand withdrawn until the said NSF amends its constitution/bye-law in line with Sports Code.

15. It is prayed that, as the intent of the Government is clear in enforcing adherence of Sports Code provisions by NSFs and the Government has filed all relevant documents, the Writ Petition may be dismissed."



8. In the subsequent affidavit dated 11.11.2021, the Government had stated that they have recognised 59 NSFs. Surely, the Government would have ensured that each of them was entitled to receive the monies as per law. If it was otherwise, then the monies should be recovered from them. There can be no latitude apropos expending monies on entities who do not qualify for it in law. In terms of the aforesaid affidavit, recognition to the non-compliant NSFs should have ceased a long time ago. There is no scope for any further extensions.
9. For some reason the respondent has not ensured compliance of the previous orders. Let an Officer of the rank of Joint Secretary be present in court on the next date to assist in the matter.
10. The learned Standing Counsel for UOI seeks time to obtain instructions. At his request, list on 03.06.2022.

NAJMI WAZIRI, J.

VIKAS MAHAJAN, J.

JUNE 2, 2022
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