

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO . 4235 OF 2014

BOARD OF CONTROL FOR CRICKET

APPELLANT(S)

VERSUS

CRICKET ASSOCIATION OF BIHAR & ORS. RESPONDENT(S)

WITH

CIVIL APPEAL NO. 4236 OF 2014

AND

CIVIL APPEAL NO. 1155 OF 2015

ORDER

1. Heard in part.
2. Post on 17.10.2016 at 2.00 p.m. for continuation.
3. By our Order dated 18.07.2016, we had while accepting the report submitted by Justice Lodha Committee and the recommendations made therein requested the Committee to supervise the transition from the old to the new system in the wake of the reforms proposed by the Committee. We had hoped that this transition will be completed within a period of four months or at best six months from the date of the order and requested the

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SHASHI SAREEN
Date: 2016.10.07
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Committee headed by Justice Lodha to draw appropriate timelines for the implementation of the recommendations and supervise the process. We

had, at the same time, directed the BCCI and all concerned to co-operate with the Committee and to act in aid of its directives. Anticipating possible impediments in the process of implementation we had reserved liberty to the Committee to seek appropriate directions from this Court by filing a status report in that regard. Justice Lodha Committee has now submitted a status report in which it has set out the developments that have taken place after 18th July, 2016 till the date of the submission of the report. The BCCI has responded to the status report and filed a reply.

4. We have today heard Mr. Gopal Subramaniam, learned Amicus, Mr. Vikas Mehta and M/s. Kapil Sibal and Arvind Datar at considerable length. The sequence of events that have taken place since 18th July, 2016 and referred to in the status report prima facie give an impression that BCCI has far from lending its fullest cooperation to the Committee adopted an obstructionist and at times a defiant attitude which the Committee has taken note of and described as an impediment undermining not only the Committee but even the dignity of this Court with several statements and actions which according to the Committee are grossly out of order and may even constitute contempt. The Committee, it appears, had by an e-mail dated 21.08.2016 directed that the AGM of the BCCI proposed to be held on

21.09.2016 may transact routine business concerning the year 2015-2016 but any business or matter relating to the next year namely 2016-2017 may be dealt with only after the adoption of MOA and the Rules as per the recommendations of the Committee. This direction according to the Committee was issued to ensure that the recommendations are implemented in letter and spirit and that the Committee is not presented with a fait accompli. An AGM was, accordingly, held on 21.09.2016, but decisions at serial No. 2, 3, 5, 6, 8 and 9 set out in the Status report were taken in violation of the directives issued by the Committee acting as impediment in the implementation of the judgment of this Court. In addition, the Committee has in para 5 enumerated the following impediments in the implementation of the judgment of this Court:

“5. Apart from the above, the events narrated would reveal the following impediments:

a). It was stated in the BCCI report dated 25.8.2016 that an EGM would be called “not later than 28th September” for the “formal adoption” of the new memorandum. The BCCI did not honour this assurance, and on the other hand, at the AGM of 21.9.2016 took decisions contrary to the said assurance by deciding that the EGM would be on 30th September “to consider” the amendments to the Rules and Regulations.

b). The BCCI has not issue directives to the member associations despite the express directions from the SC Committee on at least 4 separate occasions.

c). *The Selectors of Men, Women and Junior cricket are announced contrary to the norms approved by this Hon'ble Court.*

d). *The BCCI has prescribed an undertaking for nomination to the post of BCCI Secretary which is not in accordance with the norms approved by this Hon'ble Court.*

e). *No second status report has been furnished although it was undertaken to do so within a fortnight after 25.8.2016.*

f). *Despite continually claiming that all steps taken would be subject to the Review Petition filed, it transpires that the same is in defects with Diary NO.27369/2016 even as of date, and there has been no effort to rectify the same and have it numbered and listed.”*

5. The Committee has also noted that several e-mails sent to the President of the BCCI as well as a direction issued to him to appear on 09.08.2016 has not evoked even a single response from him. The Committee has, in the above backdrop, recommended following action against the BCCI:

“(a) Supersede the present Office Bearers of the BCCI with immediate effect; and appoint in their place a Panel of Administrators of the BCCI to ensure the smooth transition from the old to the new system recommended by the Committee; and

(b) Direct that all decisions of the BCCI taken after 18.7.2016 which are contrary to the judgment dated 18.7.2016 of this Hon'ble Court and/or the directives of the SC Committee for implementing the same are non est and ineffective; and

(c) Any other direction as may be deemed fit for the implementation

of the judgement dated 18.7.2016.”

6. Mr. Subramaniam has raised several issues for our consideration but we do not, for the present, propose to deal with the same. All that we need mention is that in the implementation of the recommendations of the Committee, the BCCI appears to be non-cooperative in its attitude. It has, despite directions issued by the Committee, released in favour of the State Cricket Associations substantial amounts running into crores of rupees without the permission of Justice Lodha Committee and in defiance of the direction issued by it. Mr. Kapil Sibal was at pains to argue that release of the amount in favour of State Associations was a routine matter which was not forbidden by the orders of the Committee. He submitted that BCCI had received nearly Rs.2500 crores towards compensation on account of termination of Champion League T 20 out of which BCCI had disbursed an amount of Rs.1500 crores towards taxes and other liability leaving a net amount of Rs.1036.78 crores with it. He submitted that in terms of a decision taken in the AGM held on 09.11.2015, 70% of balance amount of Rs.718.24 crores was to be disbursed to 25 Associations in the country @ Rs.28.73 crores per Association. A sum of Rs.12 crores out of the said amount was released to each one of the Associations pursuant to the said resolution leaving the balance amount of Rs.16.73 crores unpaid. It was

urged that the release of the balance amount was an ordinary and routine matter and that Justice Lodha Committee was not justified in finding fault with the same.

7. Mr. Subramaniam, however, contended that the disbursement of such large amount was not a routine matter and that the said disbursement was, it appears, intended to present the Committee with a *fait accompli*. It was also argued that the disbursement was made without formulating any Disbursement Policy whatsoever and on ad-hoc basis only with a view to appease the State Associations and possibly induce them to oppose the reforms suggested by Justice Lodha Committee.

8. We do not at this stage propose to express any final view on the true intention behind the disbursement of the amount in favour of the State Associations and whether, and if so what, action is called for against BCCI and its office holders. All that we wish to say is that the BCCI could and indeed ought to have avoided the disbursement of such a huge amount while Justice Lodha Committee was still examining the need for formulating a Disbursement Policy. What is more important is that one of the reasons given by Mr. Sibal for the non-adoption of the Memorandum of Association (MOA) proposed by Justice Lodha Committee is the reluctance of the State

Associations in subscribing to the same. If that be the position, there is no reason why the State Associations that are opposed to the reforms suggested by Justice Lodha Committee and accepted by this Court should either expect or draw any benefit from the release of grants by the BCCI.

9. Mr. Arvind Datar argued that as against 25 Associations only 13 Associations have so far received the balance amount of Rs.16.73 crores each. The remaining 12 Associations have not so far received the said amount, argued Mr. Datar. In that view, we issue the following interim directions:

i) No further amount in terms of the Resolution passed in AGM on 09.11.2015 or any subsequent resolution by the BCCI or its Working Committee shall be disbursed to any State Association except where the State Association concerned passes a proper resolution to the effect that it is agreeable to undertake and to support the reforms as proposed and accepted by this Court in letter and spirit. Upon such a Resolution being passed, a copy of the same shall be filed before Justice Lodha Committee with an affidavit of the President of the State Association concerned unequivocally undertaking to abide by the reforms as proposed by the Committee and accepted and modified by this Court. A similar affidavit with

a copy of the Resolution shall be filed before this Court also. It is only after such affidavits are filed, that BCCI may transfer the balance amount of Rs.16.73 crores payable to the State Associations.

As regards the 13 State Associations to whom the payment has already been disbursed, we direct that the State Associations concerned shall not appropriate the said amount except after they have passed a resolution and filed an affidavit as mentioned above before Justice Lodha Committee and before this Court. In case the affidavits are not filed, the amount disbursed to the State Associations shall be invested by the Associations in a term deposit subject to further directions of this Court.

ii) Mr. Ratnakar Shivaram Shetty, General Manager, Admin and Game development shall, in the meantime, place on record a copy of the authorisation/resolution passed by the BCCI on the basis of which he has filed the affidavit supporting the response of the BCCI to the status report.

iii) Mr. Anurag Thakur, President of the BCCI shall file a personal affidavit whether he had asked the CEO of the ICC to state that the appointment of Justice Lodha Committee was tantamount to Government interference in the working of the BCCI.

iv) Mr. Arvind Datar, learned Senior Counsel to produce the original record

on the basis of which the affidavit by Mr. Ratnakar Shivaram Shetty on behalf of BCCI has been filed.

Needful shall be done within 10 days.

.....CJI.
[T.S. THAKUR]

.....J.
[A.M. KHANWILKAR]

.....J.
[D.Y. CHANDRACHUD]

**NEW DELHI;
OCTOBER 07, 2016**

ITEM NO.1

COURT NO.1

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).4235 of 2014

BOARD OF CONTROL FOR CRICKET

Appellant(s)

VERSUS

CRICKET ASSOCIATION OF BIHAR & ORS.

Respondent(s)

WITH

C.A. No. 4236 of 2014C.A. No. 1155 of 2015

Date : 07/10/2016 These appeals were called on for pronouncement
of orders today.

Mr. Gopal Subramaniam, Sr. Adv. (A.C.)

Ms. Radha Rangaswamy, Adv.
Ms. Ranjeeta Rohatgi, Adv.
Mr. Abhinav Mukerji, Adv.

(CA No.4236/2014)

Mr. Gagan Gupta, Adv.

(CA No.1155/2015)

Mr. Vikas Mehta, Adv.

For Respondent(s)

Mr. Vikas Mehta, Adv.

Ms. Radha Rangaswamy, Adv.
Ms. Ranjeeta Rohatgi, Adv.
Mr. Abhinav Mukerji, Adv.

Ms. Neela Gokhale, Adv.
Ms. Kamakshi S. Mehlwal, Adv.

Mr. Mukesh Kumar Maroria, Adv.
Mr. Shreekant N. Terdal, Adv.

(I.A. NO.10/2016)

Mr. Anshuman Ashok, Adv.
Mr. Amit A. Pai, Adv.

Mr. Venkita Subramoniam T. R., Adv.

Mr. V. K. Biju, Adv.

Ms. Liz Mathew, Adv.

Mr. Amol Chitale, Adv.

Mr. Nirnimesh Dube, Adv.

Mr. M. Yogesh Kanna, Adv.

Mr. S. Nithya Srinivasan, Adv.

Ms. Manju Sharma, Adv.

Mr. Vikas Singh Jangra, Adv.

Ms. Pooja Dhar, Adv.

Mr. Praveen Swarup, Adv.

Mr. Anish R. Shah, Adv.

Mr. Shree Pal Singh, Adv.

Mrs Lalita Kaushik, Adv.

Mr. Raghavendra S. Srivatsa, Adv.

Mr. E. C. Agrawala, Adv.

Mr. A. S. Bhasme, Adv.

Ms. Sonia Mathur, Adv.

Mr. Gaurav Sharma, Adv.

Mr. Gagan Gupta, Adv.

Ms. Rashmi Singh, Adv.

Mr. Chirag M. Shroff, Adv.

Mr. Hari Shankar, Adv.

Mr. Vipin Nair, Adv.

Mr. Rahul Pratap, Adv.

Mr. Mishra Saurab, Adv.

Mr. Deeptakirti Verma, Adv.

Ms. Pragya Baghel, Adv.

Ms. Tamali Wad, Adv.

Mr. Gaurav Sharma, Adv.

Hon'ble the Chief Justice pronouncement the order of the Bench comprising Hon'ble the Chief Justice, Hon'ble Mr. Justice A.M.Khanwilkar and Hon'ble Dr. Justice D.Y.Chandrachud.

After issuing certain directions in terms of the signed order, the Court directed to list these appeals on 17.10.2016 at 2 P.M.

(SHASHI SAREEN)
AR-cum-PS

(VEENA KHERA)
COURT MASTER

(Signed order is placed on the file)