

Whistle to Gavel: Examining the Supreme Court’s intervention in All India Football Federation’s governance

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Abstract

In August 2022, the Supreme Court of India (SC) passed an order that terminated the mandate of the committee of administrators that was governing the day-to-day administration of the All India Football Federation (AIFF), in response to the suspension of the federation by Federation Internationale de Football Association (FIFA). The authors provide a background to the non-compliance of AIFF with the National Sports Development Code of India, 2011. They further analyse the subsequent intervention of the Delhi High Court and the Supreme Court to address governance issues within the federation, and the circumstances that ultimately led to its suspension by FIFA. The case commentary will explore how the approach of the Supreme Court in terminating the Committee of Administrators differs from past intervention by courts in India. The authors also provide a comparative analysis of the kinds of court intervention taken in respect of other sports federations. Finally, the authors trace the impact of the decision of the Supreme Court on similar disputes pertaining to the administration of sports federations in India.

Keywords

All India Football Federation, FIFA, Football, Committee of Administrators, Governance, Court Intervention

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1. Introduction

Rising concerns of administrative irregularities and non-compliance with the National Sports Development Code of India, 2011 (Sports Code) by the All India Football Federation (AIFF) led the Supreme Court of India (SC), by an order dated 18 May 2022, to appoint a three-member Committee of Administrators (CoA) to undertake day-to-day administration of the AIFF while a new constitution for the AIFF was prepared and elections held thereunder. The appointment of this CoA and its functioning as an unelected governing body for the AIFF were seen by Federation Internationale de Football Association (FIFA) to constitute ‘third party interference’, which led to the AIFF’s suspension by FIFA. In light of such suspension of the AIFF by FIFA, the SC, by an order dated 22 August 2022, terminated the mandate of the CoA and set out a path of reform for the AIFF.

Recent years have seen a rise in the intervention of courts in the affairs of several National Sports Federations (NSFs) through the appointment of CoAs to oversee the administrative affairs of such NSFs. This case commentary will focus on SC intervention in the administration of the AIFF and the decision by the SC to terminate the CoA in response to the suspension by FIFA, and will consider the merits of this revised approach and its impact on other NSF administration disputes that may be presented before courts in India.

2. Background

October 2017: The elections to the AIFF Executive Committee (EC) were set aside by the Delhi High Court (Delhi HC) in its judgment dated 31 October 2017,³ on grounds that the elections were not in compliance with the Sports Code and the Model Election Guidelines.

To remedy the defect in the conduct of elections, the Delhi HC appointed Mr. SY Quraishi, former Chief Election Commissioner as the Administrator-cum-Returning Officer, and ordered for the elections to be conducted in accordance with timelines and conditions set out in the judgement.⁴ In the same year, the SC stayed the operation of the Delhi HC judgement through an interim order and appointed a two-member CoA comprising Mr. Quraishi and Mr. Bhaskar

³ Rahul Mehra v. Union of India and Ors, 2017 SCC Online Del 11391.

⁴ Ibid.

Ganguly, former Indian football captain and international football player. The CoA was directed to draft a constitution in compliance with the Sports Code and Model Election Guidelines, and conduct elections in line with the Sports Code.⁵

May 2022: On account of continued non-compliance with the Sports Code by the AIFF, as well as irregularities in the election process, the SC reconstituted the CoA to a three-member committee comprising former Justice Anil Dave, Mr. Quraishi and Mr. Ganguly. It was ordered that the reconstituted CoA would take charge of the governance of the AIFF until the conduct of elections to the EC in accordance with the new constitution and the Sports Code.⁶

July 2022: FIFA took notice of the appointment of the CoA to oversee the governance of the AIFF. AIFF stakeholders and the CoA assured FIFA that the new constitution would be finalised by July 2022, and the elections would be conducted by September 2022. FIFA stated that failure to adhere to these timelines would attract a ban of the AIFF.⁷

In light of FIFA's involvement, the final draft of the AIFF Constitution was presented before the SC. However, member associations of the AIFF raised several objections, specifically in respect of the composition of the electoral college. Despite the uncertainty surrounding the composition of the electoral college, the SC ordered the CoA to promptly conduct elections, setting a deadline of 28 August 2022.⁸ However, as the new constitution had not been finalised as per the timeline agreed to by FIFA, on 6 August 2022, FIFA threatened to suspend the AIFF and revoke the hosting rights of India to the FIFA Under-17 Women's World Cup 2022, due to the perceived third-party influence in the governance of the AIFF.⁹

August 2022: Due to continued delays in the finalisation of the constitution and uncertainty in the administration of the AIFF, FIFA officially announced the suspension of the AIFF on 16 August 2022. FIFA cited violation of FIFA statutes by AIFF, on the grounds of third party interference in the administrative and governance affairs of the AIFF. Shortly after the

⁵ All India Football Federation v. Rahul Mehra and Ors., Special Leave to Appeal (C) No(s).30748-30749/2017, order dated 10 November 2017.

⁶ All India Football Federation v. Rahul Mehra and Ors. Special Leave to Appeal (C) No(s).30748-30749/2017, order dated 18 May 2022.

⁷ Vasudevan (2022).

⁸ Menon (2022).

⁹ Ibid.

suspension, the SC suspended the mandate of the CoA and restored administrative control to the AIFF.¹⁰

3. Decision of the Supreme Court

Taking note of the suspension by FIFA, the SC changed its approach towards exercising administrative control over the AIFF. This was to ensure that FIFA's concerns were effectively addressed and the suspension of the AIFF was lifted. In its interim order dated 22 August 2022,¹¹ the SC heard the Solicitor General's summary of FIFA's concerns pertaining to the governance of Indian football.

The Solicitor General contended that FIFA considered it essential for the elected representatives of the AIFF to conduct its day-to-day administration, and the electoral college of the EC to comprise representatives from member associations belonging to each State and Union Territory in India. It was contended that the AIFF constitution must be compliant with FIFA and Asian Football Confederation requirements. Finally, he also stated that FIFA required the elections to constitute a new EC to take place at the earliest, to ensure that an elected body governs the administration of the AIFF.¹²

To effectively address the aforementioned concerns, the SC issued directions to govern the path forward. The SC directed the elections to be held within a week of the order and appointed Mr. Umesh Sinha and Mr. Tapas Bhattacharya as Returning Officers to conduct the elections. With respect to the administration and management of the AIFF, the SC terminated the mandate of the CoA and directed that an Acting Secretary General of the AIFF shall exclusively look after the day-to-day management of the AIFF.¹³

¹⁰ All India Football Federation v. Rahul Mehra and Ors., Special Leave to Appeal (C) No(s).30748-30749/2017, order dated 22 August 2022.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

4. Analysis of the decision

4.1. Why did the SC decide to terminate the CoA?

In the statement issued by FIFA while suspending the AIFF, it stated that the lifting of the suspension was dependant on the termination of the CoA's mandate entirely and restoration of the governance of the AIFF to the EC.¹⁴

With the ultimate suspension of the AIFF, the SC recognised the impact of the suspension on Indian football. The SC observed that suspension would result in the revocation of India's hosting rights to the FIFA Under-17 Women's World Cup 2022 and would also affect Indian teams selected by the AIFF from participating in international football matches or tournaments. In light of this, the SC appreciated the need for a change in its approach, and accordingly terminated the mandate of the CoA, and directed that the AIFF to take responsibility of the administration and day-to-day management of the AIFF.

4.2. Why did the SC decide to intervene in the day-to-day administration of the AIFF?

It is important to understand the rationale behind the constitution of the CoA to address the governance issues of NSFs. In the initial stages of the five-year period of uncertainty with the AIFF, court intervention was restricted to ensuring that the constitution of the AIFF was compliant with the Sports Code. With growing issues regarding the irregularities within the AIFF, the orders of the courts began to take on the colour of increased intervention in the administrative and governance processes of the AIFF. In the 2017 order of the SC,¹⁵ discussed earlier, the SC appointed a two-member CoA with a specific mandate to prepare a draft constitution and conduct elections in accordance with the constitution and the Sports Code. The intent of this order was not to have the CoA intervene in the day-to-day administration of the AIFF.

¹⁴ Press Trust of India (2022).

¹⁵ All India Football Federation v. Rahul Mehra and Ors., Special Leave to Appeal (C) No(s).30748-30749/2017, order dated 10 November 2017.

The appointment of the three-member CoA by the SC in May 2022 was an attempt to rectify governance issues of the AIFF externally, in the interests of Indian football, while also addressing concerns regarding the non-compliance of the AIFF constitution with the Sports Code. Here, the SC referenced its 2017 order¹⁶ which set aside the elections of the EC. The SC observed that the consequence of the order was that the EC continued to govern the affairs of the AIFF, despite the expiry of its four-year term in December 2020. It was held that the decision to appoint a 3-member CoA to govern the affairs of the AIFF was in response to its state of affairs not being in the interest of proper governance or Indian football.

The appointment of a CoA to address governance issues is not exclusive to the AIFF. Similar situations were observed in the Table Tennis Federation of India (TTFI)¹⁷ and the Hockey Federation of India (HFI),¹⁸ with the Delhi HC appointing CoAs to temporarily govern both entities and bring them in line with the Sports Code.

4.3. Historical approach to correcting irregularities in NSF administration

It is interesting to note that the appointment of a CoA as a mode of rectifying governance issues is a relatively recent occurrence. In the instance of the suspension of the Indian Amateur Boxing Federation (IABF) by its international counterpart, the International Boxing Association (IBA) previously known as Association Internationale de Boxe Amateur (AIBA) in 2012, due to irregularities in its elections, Indian courts did not attempt to intervene or enforce compliance with AIBA Regulations or organise fresh elections. Courts did not intervene even after the IABF failed to comply with repeated requests by the AIBA and the Ministry of Youth Affairs and Sports (MYAS) to conduct fresh elections, which culminated in derecognition by the IABF in 2014 by the MYAS.¹⁹ In place of the suspended IABF, the AIBA granted provisional recognition to Boxing India (BI), as the boxing federation in India. However, BI was not recognized by the Indian Olympic Committee (IOC) which resulted in Indian boxing not having a recognized governing body. Accordingly, the AIBA provisionally suspended BI and appointed an ad-hoc body to address issues related to boxing in India. In

¹⁶ Ibid.

¹⁷ Press Trust of India ([2022a](#)).

¹⁸ Aslam Sher Khan v. Union of India and Ors., Writ Petition (C) No. 5703 of 2022.

¹⁹ LawInSport ([2015](#)).

light of the fact that an ad-hoc committee of the AIBA was governing boxing in India, a petition was filed before the Delhi HC to resolve the matter.

In 2015, a single bench of the Delhi HC directed the Indian Olympic Association (IOA) to intervene to ensure that either BI or IABF regained international recognition to govern Indian Boxing.²⁰ As a result of the intervention by the Delhi HC, the AIBA, MYAS and the IOA formally recognized the Boxing Federation of India, a newly constituted body, as the governing body of Indian Boxing.²¹

The difference between the approaches followed by courts in these instances is clear pertaining to the level of administrative control exercised over the day-to-day functioning of an NSF, in response to the threat of or actual international derecognition. In the case of the IABF, the Delhi HC did not intervene to constitute a CoA which would govern the day-to-day affairs of the IABF when irregularities related to the conduct of elections was in clear violation of the Sports Code. The eventual intervention by the Delhi HC was to merely ensure clarity with respect to the governance of Indian boxing, and the responsibility of doing so was handed to the IOC, instead of the court exercising administrative control in the affairs of the federation.

5. Conclusion - Impact of the revised approach on further National sport federation administration disputes

The appointment of a CoA to address governance issues in the AIFF was a significant step in ensuring that it complies with the Sports Code. However, the negative international impact of CoA intervention in the AIFF's functioning has made Indian courts reconsider their reliance on appointment of CoAs as a tool to ensure effective governance practices among NSFs in the future.

The AIFF suspension by FIFA caused the SC to immediately alter its approach with respect to intervening in the administrative functioning of other NSFs. Notably, the SC ordered status quo pertaining to the Delhi HC's decision to appoint a CoA to take over the affairs of the IOA. The SC noted that the appointment of a CoA could result in the suspension of the IOA by the IOC,

²⁰ Harshpreet Sehrawat v. Union of India and Ors., Writ Petition (C) No. 7874 of 2015.

²¹ Boxing Federation of India v. Indian Amateur Boxing Federation and Ors., CS (COMM) 120/2019.

which could have severe consequences pertaining to the participation of athletes from different sports disciplines in international competitions under the Indian flag. This step taken by the SC is a sign of its recognition of the fact that the appointment of a CoA to fix administrative issues plaguing NSFs ran the risk of international derecognition.

As discussed earlier, Indian courts have mandated the appointment of a CoA to administer the governance of NSFs such as the TTFI and the HFI, among others. Indian courts must now consider whether such intervention in the administration of NSFs should continue in order to bring them in compliance with the Sports Code. As seen in the above instance of the IOA, courts may decide to avoid constituting CoAs to govern the administration of NSFs and limit their intervention to specific constitutional matters, such as ensuring the adoption of a Sports Code compliance constitution and holding of elections in a transparent and time-bound manner. This mid-way approach would mitigate the risk of de-recognition by placing the overall administration of the NSF in the hands of elected officials, while ensuring that principles of fair representation, transparency and accountability are built into the practice of the NSF.

As seen in Indian boxing, the decision of the Delhi HC to not interfere with the day-to-day administration of boxing in India did ultimately bear fruit. The IOC and the MYAS worked together with the AIBA to find a solution, ultimately recognizing the BFI as the governing body of Indian boxing, which was compliant with the Sports Code. This sets the template for future interventions, and it is hoped that it is sustainable and leads to fewer governance related interventions in the administration of NSFs.

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