

From autonomy to accountability for the Indian Olympic Association: Decoding the decision of Rahul Mehra v. Union of India case

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Abstract

Rahul Mehra, a sports activist, initiated a Public Interest Litigation in 2010 that culminated in a landmark decision by the Delhi High Court in August 2022. The case centered around the Indian Olympic Association (IOA) and its non-compliance with the National Sports Development Code of India, 2011 (Sports Code). The commentary analyses the 13 pitfalls raised during the case, highlighting inconsistencies between the IOA's Constitution and the Sports Code. These issues encompassed a wide range of matters, including the appointment of Life Presidents, differential voting rights, electoral college compliance, and the inclusion of athletes and women in sports administration. The Court's decision emphasised the importance of good governance principles in sports organisations, recommending changes to enhance transparency, diversity, and democratic processes. While this judgment is a step in the right direction, it is important that these directives are enforced in practice and consistently adhered to by the IOA and sport governing bodies at all levels of the federated model in India.

Keywords

Sport governance, Indian Olympic Association, Sports Code, age and tenure limits, athlete representation, gender balance

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1. Introduction and factual background

Rahul Mehra, a sports activist, filed a Public Interest Litigation before the Delhi High Court in 2010. After more than a decade, the case received its final decision on 16 August 2022, where a division bench directed the removal of the various clauses from the Indian Olympic Association's (IOA) Constitution that were not compliant with the National Sports Development Code of India, 2011 (Sports Code). The functioning of the IOA was marred by administrative inconsistencies and it was found to be in breach of the Sports Code. The IOA's failure to comply with the Sports Code serves as just one example where National Sports Federations (NSFs) have disregarded the Sports Code.³ For example, the Supreme Court recently held that the All India Football Federation (AIFF) failed to adhere with the Sports Code, and it ordered the establishment of a Committee of Administration (CoA) to ensure compliance into the future.⁴ Similarly, the Wrestling Federation of India (WFI) was suspended by the United World Wrestling (the international governing body for amateur wrestling) for its inability to conduct elections.⁵

The IOA has continued to disregard the Sports Code, the International Olympic Committee (IOC) Charter and the Court orders. The petitioner, primarily, argued for stringent adherence of both the IOA and the NSFs to the Sports Code. 13 pitfalls were raised with respect to the IOA's Constitution, management structure and rules.⁶ It was contended that to uphold good governance, facilitate substantial sports promotion, and ensure strong safeguarding of the interests of athletes within the nation, compliance with the Sport Code is critical. This case commentary analyses the 13 pitfalls raised in this case in terms of the inconsistencies between the IOA's Constitution and the Sports Code. It is argued that a stricter enforcement of good governance principles that are enshrined in the Sports Code will only serve to strengthen sport administration and governance in India.

³ Hussain (2020); Rahul Mehra v. Union of India, W.P. (C) No. 195/2010; All India Football Federation v. Rahul Mehra and Ors, Special Leave to Appeal (C) No(s).30748-30749/2017; S. Nithya v. The Secretary to the Union of India & Ors., 2022 SCC Mad 318; Indian Olympic Association v. Union of India, 2012 DLT 389.

⁴ All India Football Federation v. Rahul Mehra and Ors. Special Leave to Appeal (C) No(s).30748-30749/2017.

⁵ The Wire (2023).

⁶ Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 19.

2. Analysing the 13 pitfalls raised in the judgement

2.1. Provision for a position such as ‘Life President’ is not permitted

The court deliberated on the IOA’s decision of 2016 to appoint two politicians facing criminal charges as ‘Life Presidents’ through a general body meeting resolution.⁷ The Court expressed its commitment to upholding the principles of ethics and good governance, in accordance with the IOC Charter, and highlighted the need to safeguard sports autonomy.

The implementation of term limits is an important aspect of good governance in sport.⁸ The concept of life presidency is inconsistent with the concept of term limits and has been criticised by judges in India, who have termed it as illegal.⁹ Allowing life presidency on a sport governing body would essentially eliminate elections, enabling the appointed life president to hold office indefinitely, leading to the monopolisation of power at the expense of a democratic process.¹⁰ Decentralisation of power is important, otherwise, decision-making tends to lean towards a more authoritative approach, lacking diversity of thought.¹¹ The longer the tenure of an office bearer, the more likely they are to accumulate greater influence leading to dominance of a few individuals, potentially harming the sport.¹² There are several instances in India where presidents of NSFs have served exceedingly long tenures. For instance, Vijay Malhotra served a 44-year tenure as the President of the Archery Association of India,¹³ and Jagmohan Dalmiya has served a 21-year term as the President of Cricket Association of Bengal.¹⁴ Imposing term limits helps minimise allegations of nepotism, bias, and favouritism.¹⁵

⁷ Ibid, para 21.

⁸ McLeod and Star (2020).

⁹ Dushyant Sharma v. Haryana Wrestling Association, 2012 SCC OnLine Del 157; Narinder Batra v. Union of India, ILR (2009) 4 Delhi 280; Mahipal Singh & Ors. vs. Union of India & Ors., 2018 SCC Online Del 10284; Aslam Sher Khan v. Union of India¹⁰, 2022 SCC OnLine Del 1569.

¹⁰ Ibid.

¹¹ Dushyant Sharma v. Haryana Wrestling Association, 2012 SCC OnLine Del 157.

¹² McLeod and Star (2020).

¹³ Hussain (2018).

¹⁴ Paul (2022).

¹⁵ Narinder Batra v. UOI ILR (2009) 4 Delhi 280.

The IOA's Constitution includes provisions for the appointment of Life President (with no voting rights).¹⁶ Such a clause contradicts the Sports Code and judicial precedents. Consequently, the Court declared the post of Life President and similar permanent posts within the IOA as illegal. In contrast, the National Olympic Committees (NOCs) of some countries, namely, Australia and USA provide for life membership and honorary President status.¹⁷ These life members have no voting rights (with exceptions made in cases when voting rights are granted). In this case, the Court's central assertion was that there should be no permanent posts in either an NSF or the IOA. The fixed tenure of executive committee members is consistent with good governance practices in sport and is in the best interest of the sports which committee members represent.

2.2. There cannot be differential voting rights

Clause 10.1 of the IOA Constitution sets different voting rights for different sports bodies. NSFs representing sports included in the program of the Olympic/Asian/Commonwealth Games NSFs and the National Federation of Indigenous Kho-Kho have three representatives with one vote to each; whereas "State Olympic Associations (SOAs) and Union Territories (with Legislative Assembly) Olympic Associations (UTOAs) have two representatives with one vote each".¹⁸ This contrasts with the Sports Code's requirement that "each permanent member is to be represented by two delegates with a vote each."¹⁹ The Court held that the differentiation in voting rights assigns varying significance to different entities, which is fundamentally inequitable and undemocratic, when the IOA's Constitution itself envisions an identical regime for SOAs.²⁰ Such fractional voting rights, such as half a vote or one-third of a vote, lack legitimacy. This discriminatory voting weightage is not supported by the Sports Code or the IOC Charter and was thus declared invalid. However, as discussed in below section 2.4, the Court held that SOAs cannot be members of the IOA, eliminating their voting rights.

¹⁶ Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 23.

¹⁷ Australian Olympic Committee (2022); United States Olympic and Paralympic Committee (2023).

¹⁸ Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 31.

¹⁹ Ibid.

²⁰ Ibid.

In Australia, the Australian Olympic Committee's (AOC) Constitution stipulates that NSFs and state organisations will each have two delegates representing them.²¹ Unlike the IOA's Constitution, each delegate of the NSFs will be entitled to one vote on any motion or amendment.²² There are no differential voting provisions in the AOC Constitution and state organisation do not possess voting rights. This is consistent with the Delhi High Court's recommendation, insofar as each NSF and eligible SOA have an equal vote.

2.3. The IOA's failure to determine the electoral college violates court orders and runs counter to the objectives of the Sports Code

Reiterating its earlier arguments, the Court emphasised that NSFs, including the IOA, must adhere to the Model Election Guidelines. Citing instances of fraudulent elections of the Archery Association and referencing the Sports Code, the Court highlighted the need for robust compliance by NSFs in conducting elections.²³

2.4. Only NSFs for Olympic disciplines should be members of the IOA with voting rights

The ruling has established a directive that calls for the exclusion of SOAs and non-Olympic NSFs from the IOA to enhance the quality of decision-making which is in compliance with the IOC Charter. A key aspect of this decision is that SOAs lack any substantial role since the NSFs for individual sports already represent the respective state units for those disciplines.²⁴ The involvement of SOAs members led to an imbalance in decision-making, particularly concerning sports administration and the selection of deserving athletes.

Out of the 56 NSFs recognised by the Government of India, only 29 pertain to Olympic sports, while the remaining 27 concern non-Olympic sports.²⁵ Each member from the latter category being granted two votes would amount to 54 votes, creating a voting bloc that could favour previous executive committee (EC) members or their factions who may have facilitated membership for these NSFs. Therefore, the Court held that the notion of voting rights for SOAs

²¹ Australian Olympic Committee ([2022](#)).

²² Ibid.

²³ Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 32.

²⁴ Ibid, para 37.

²⁵ Ibid, para 40.

should be eliminated from the Constitution and only NSFs of Olympic disciplines should be members of the IOA with voting rights.

An analogous situation can be seen in the governance of the Board of Control for Cricket in India (BCCI). In 2015, the Supreme Court established a Lodha Committee to propose governance reforms for the BCCI, which included the adoption of a ‘One State, One Vote’ policy aligned with the practices of many global sport’s governing bodies.²⁶ However, later in 2018, the Supreme Court revised its stance, recognising voting rights for states with multiple state associations. The earlier rule had inadvertently granted voting rights to states with limited cricketing prominence, leading to concerns about proxy or dummy voting.²⁷ Therefore, voting rights are to be granted to members that play an integral role in governance.

2.5. Age and tenure limits should be applied to all members of the EC of the IOA and not only to the President, Secretary and Treasurer

The draft National Code for Good Governance in Sports, 2017, and the IOC emphasise extending age and tenure limits to all office bearers. The Sports Code and the BCCI case define a 70-year upper age limit for members of the EC.²⁸ The rationale for age limits for board member relates to board refreshment, cognitive decline and representation of younger generations.²⁹ The Court notes that largely the sporting fraternity has accepted this as a reasonable limit.³⁰ However, the authors argue that there is no rationale for imposing an age limit. Contrasting views emerge regarding age limits in sport governance, as those over 70 bring experience.³¹ The honorary nature of roles often deters under-70 professionals to hold board position.³² Hence, the Court’s assessment should have focused on the underlying objective of age limits that regulations are aiming to achieve and their efficacy in achieving it. In India, if the aim is to promote youth representation, it might not be realised if 60-year-olds replace 70-year-olds. An alternative approach could be to forgo age limits and institute a quota

²⁶ Shekar and Saikia (2016).

²⁷ Mahapatra (2018).

²⁸ Board of Control for Cricket in India v. Cricket Association of Bihar & Ors. (2015) 3 SCC 251.

²⁹ McLeod and Star (2020); CEO Magazine (2020); The Wall Street Journal (2020).

³⁰ Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 50.

³¹ McLeod and Star (2020).

³² McLeod (2018).

for under-40 board members. If the goal is board refreshment, an age limit could seem redundant when term limits already exist.³³

The practice of imposing the limits on the tenure of the office-bearers of sporting bodies is internationally accepted and considered to be critical for good governance.³⁴ As discussed above, term limits curb long-term domination of few individuals, fostering democratic representation.³⁵ The tenure limit is extended to all members in line with the IOC's policy and international standards of good governance in sport.³⁶

The duration of term limits remains a subject of debate. Typically, international or national federations conduct elections every three to four years, allowing board members to serve for 9-12 years. In this instance, the Court restricted tenure to three terms, each separated by a cooling-off period, regardless of the post held within the EC. This decision stemmed from the synchronisation of Olympic Games and the IOA's EC's four-year terms. If an office bearer serves two consecutive terms, a mandatory break before re-election is imposed, resulting in a minimum 16-year duration for completing three tenures. This might appear extensive for senior roles in the NSF or the IOA. During this period, athletes from successive generations, participating in around four Olympics and international sports events, could aspire to join the IOA and contribute to sports enhancement.³⁷

The use of cooling-off periods for term limitation in India represents an innovative approach. This concept deviates from the conventional norms observed in existing sports governance codes.³⁸ While the cooling-off period could serve as an effective tool to break down entrenched power dynamics. This approach might inadvertently lead to a situation where board members install proxies to wield influence on their behalf until the cooling-off period culminates.

³³ McLeod and Star (2020).

³⁴ It is to be noted that not all jurisdictions have imposed a term limit on executive committee members. For instance, Australia does not impose a term limit. See, Australian Olympic Committee (2022).

³⁵ See also, Narinder Batra v. Union of India, ILR (2009) 4 Delhi 280; Indian Olympic Association v. Union of India, 2012 DLT 389.

³⁶ Bang (2015).

³⁷ Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 54.

³⁸ McLeod and Star (2020).

2.6. EC's size should be reasonable and not unwieldy

The IOA's Constitution currently permits the election or appointment of 32 members to its EC, contrasting from the IOC's more streamlined executive board of only 15 members.³⁹ The Government argues that the IOA's EC and General Body sizes should be reasonable, preventing unbridled discretion with the IOA to add newer categories and members.⁴⁰ In scholarly literature, while a specific ideal board size lacks consensus, a range of five to twelve directors is considered optimal for efficient decision-making, avoiding top-heavy structures, and enhancing organisational coherence and performance.⁴¹ The Model Election Guidelines for the IOA also suggest a 12-member EC with seven office bearers and five executive members.⁴² Therefore, a small board size is considered to be effective as a good governance principle.⁴³ Consequently, the Court held that "*General Body of IOA shall be restricted to 90 members i.e., thrice the number of NSFs representing Olympic sports. Its EC strength shall not exceed 15 members comprising 7 Office Bearers and 8 elected sportspersons*".⁴⁴

The Court further delved into board composition, highlighting the need for eminent sportsperson and women representation on the EC. The rationale behind inclusion of eminent sports persons is discussed below. Ensuring women's participation aligns with the IOC's Code of Ethics, which mandates women's representation. The IOA has never had a female President or Secretary General in its 95-year history.⁴⁵ Empirical research indicates that western countries exhibit over 30% female representation on NSF boards, while non-western countries like India have lower figures (8.1%).⁴⁶ McKeag et al. (2023) argues that a greater gender diversity (between 30% to 40%) in non-western countries like India can be achieved by adopting a policy approach that includes use of quotas as a potential strategy.⁴⁷ Additionally, the Court should also actively prioritise and promote for gender balance,⁴⁸ as the most

³⁹ Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 56.

⁴⁰ Ibid, para 58.

⁴¹ Taylor and O'Sullivan (2009); Ingram and O'Boyle (2018); Linck et al. (2008).

⁴² Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 60.

⁴³ McLeod et al. (2021).

⁴⁴ Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 63.

⁴⁵ Ibid, para 62.

⁴⁶ Star and McLeod (2021).

⁴⁷ McKeag et al. (2023)

⁴⁸ Star and Modi (2022) argues that the Madras Court in the Nithya v. The Secretary to the Ministry missed an opportunity to promote gender diversity, which is necessary for achieving good governance in sport in India.

impactful interventions in Indian sport governance have historically stemmed from judicial activism. The Delhi Court in this case advanced equitable representation, mandating women to comprise half of the sportsperson category with voting rights in both the General Body and EC, marking a progressive step.

2.7. No clause that imposes restrictions or undermines democracy should exist, including limitations on who can run for any position

The Delhi High Court acknowledged Clause 11.1.3 of the IOA Constitution and deemed it inherently unlawful and ‘monopolistic’.⁴⁹ This is due to its restriction on new candidates competing for the positions of President and Secretary General, creating a virtual monopoly for a select few in administrative and decision-making roles. Consequently, the Court mandated the removal of such limiting clauses from the IOA’s Constitution.

2.8. No clause that permits a person to hold offices for 20 years without undergoing a cooling-off period

“*Twelve-years in office, is when the final whistle blows.*”⁵⁰ The reasoning behind constraining tenures to three terms, with cooling-off periods as explained above, is vital. This measure is crucial to curbing power-seeking administrators. The annulment of a 20-year continuous term holds significant importance, particularly in maintaining the spirit of Indian sport through individuals motivated to enact genuine transformation through their entrusted influence.

2.9. Establishment of Ethics, Athletes, Election and Arbitration Commissions, and Ombudsman, independent from the IOA or NSF

The IOC Charter mandates the establishment of autonomous Ethics, Athletes, Election, and Arbitration Commissions, along with an Ombudsman, all of which should logically remain immune to the influence of the IOA. The current Athletes Commission of the IOA contravenes the IOC requirements due to its composition of solely ex-officio members. The Court

⁴⁹ Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 65.

⁵⁰ Ibid, para 66.

referenced the BCCI case as a precedent for the formation and functioning of such independent Commissions.⁵¹ Consequently, these Commissions shall be overseen by former judges of constitutional courts of India and funding should originate from the Government's allocation for NSFs, including the IOA.

2.10. Mandatory inclusion of 25% prominent sportspersons of outstanding merit with voting rights in General Assembly

Clause 3.20 of the 2001 Guidelines and Clause 9.3(xii) of the Sports Code stipulate the inclusion of eminent sportspersons (minimum 25%) within sports federations for a designated term.⁵² This clause ensures the presence of at least 25% prominent sports persons with voting rights within an NSF, contributing significantly to its comprehensive functioning. This athlete representation is crucial to retaining expertise and promoting informed decisions by involving sportspersons in critical decision-making process.⁵³ The United States of America, through the Ted Stevens Act Olympic and Amateur Sports Act of 1987, sets a precedent by mandating at least 20% athlete representation on the Board of Directors of NSFs. The Court noted that neglecting representation of prominent sports persons and female representatives (as discussed above) on EC perpetuates a uni-dimensional administrative framework. Even in the *S Nithya v. The Secretary to the Union of India* case,⁵⁴ the Madras High Court issued a directive that leadership positions within sports bodies should be consists of sportspersons only. Additionally, it recommended for inclusion of minimum 75% members within sports federation should be sportspersons. However, the above requirement is argued to be a significantly high threshold that could hinder board diversity within NSFs.⁵⁵

2.11. Individuals facing criminal charges should be ineligible to be a member either of the EC or the General Assembly

The petitioner brought to light a significant flaw in the IOA's administrative structure, allowing individuals charged with offenses that could lead to over two years' imprisonment to

⁵¹ Board of Control for Cricket in India v. Cricket Association of Bihar & Ors. (2015) 3 SCC 251.

⁵² Rahul Mehra v. Union of India, W.P. (C) No. 195/2010, para 72-73.

⁵³ Taylor and O'Sullivan (2009).

⁵⁴ 2022 SCC Mad 31.

⁵⁵ Star and Modi (2022).

remain IOA members. The Government had rejected two charge-sheeted persons as elected representatives of the IOA.⁵⁶ In the current case, the Court highlighted safeguarding the reputation and integrity of administrative bodies, establishing the principle of barring individuals from the IOA or NSFs if they faced charge sheets for offenses carrying imprisonment of two years or more. In contrast, the Supreme Court, through an interlocutory application, amended the BCCI Constitution, altering the disqualification clause for office bearers charged with criminal offenses.⁵⁷ The condition was changed to disqualify upon conviction, not charge.

2.12. Individuals seeking re-election for the same position must secure a two-thirds majority

The Delhi High Court upheld a 1975 Government Circular that stressed the necessity of attaining a two-thirds majority for re-election to an office bearer's position.⁵⁸ Accordingly, even if a candidate wins an election but fails to secure a two-thirds majority, they cannot be considered for a second term and will be considered to have lost re-election. Consequently, the candidate with the highest votes following the said 'second term candidate' will be deemed elected to the position. The rationale behind the provision to provide a higher threshold for re-election is most likely for promoting board refreshment.

Usually, a special majority (at least 75%) is only required for important matters, such as admission or removal of new members or office bearers. For example, Clause 7.4. of the AOC Constitution specifies that admission of a new member, other than a NSF, requires approval by a special majority in the annual general meeting.⁵⁹ Similarly, a special majority is required for removal or suspension of an office bearer⁶⁰ or a Recognised Organisation.⁶¹ The United States Olympic and Paralympic Committee also follows a similar practice where a director can be removed for cause with an affirmative vote of at least two-thirds of the voting power of the

⁵⁶ *Rahul Mehra v. Union of India*, W.P. (C) No. 195/2010, para 82.

⁵⁷ *BCCI v. Cricket Association of Bihar and Ors.*, IA No 49930 of 2020 in Civil Appeal No 4235 of 2014.

⁵⁸ *Rahul Mehra v. Union of India*, W.P. (C) No. 195/2010, para 83.

⁵⁹ Australian Olympic Committee (2022).

⁶⁰ Clause 24.3 of the Australian Olympic Committee (2022).

⁶¹ Clause 32 of the Australian Olympic Committee (2022).

director,⁶² or can be removed without cause with an affirmative vote of at least three-fourths.⁶³ Therefore, the Court mandate that board members should only be reappointed if there is two-thirds majority seems to emphasise the importance of diverse and fresh perspective on board. However, there appears to be no clear justification to opt for two-thirds majority (66.67%) instead of three-fourths (75%). The IOC has expressed its reservation over this amendment to the IOA Constitution and suggested to remove it.⁶⁴ According to the IOC, a simple majority (more than 50% of the votes validly cast) should be sufficient, like in any election process. This would be consistent with other NOCs that do not provide a higher threshold for re-election of individuals.⁶⁵

2.13. The Sports Code's applicability should extend to the IOA, all constituent NSFs, as well as State and District level associations

The Court noted that it is mandatory for the IOA to comply with the Sports Code.⁶⁶ Noting the lack of compliance spanning 47 years, the Court stressed the need to conclude this non-compliance. It underscored that various judgments have established adherence to the Sports Code as a prerequisite for NSF recognition, along with the associated benefits stemming from such status.⁶⁷

3. Conclusion

The purpose of this commentary was to analyse clauses within IOA's Constitution and the alleged violations of the Sports Code. This judgment is significant in advancing effective sports governance within India and firmly establishes the mandatory nature of complying with the Sports Code. While the protracted duration of this petition, spanning 12 years, is unfortunate, the final decision of the High Court vindicates the push – through public interest litigation – for improvements to sport governance in India. The IOA's continued lack of compliance with the Sports Code and accepted good governance principles necessitated the placing the IOA's

⁶² Section 3.8 of the Byelaws of the United States Olympic and Paralympic Committee (2023).

⁶³ Ibid.

⁶⁴ Hussain (2022).

⁶⁵ Australian Olympic Committee (2022); United States Olympic and Paralympic Committee (2023).

⁶⁶ Ibid, para 99.

⁶⁷ S. Nithya v. The Secretary to the Union of India & Ors., 2022 SCC Mad 31; All India Football Federation v. Rahul Mehra and Ors. Special Leave to Appeal (C) No(s).30748-30749/2017.

affairs under the purview of a CoA. This decision echoes the Supreme Court's directive in the case of the *All India Football Federation v. Rahul Mehra & Ors.*, pertaining to another NSF.⁶⁸ While this is a step in the right direction for good governance practices in India, it is important that these directives are enforced in practice and consistently adhered to by the IOA and sport governing bodies at all levels of the federated model in India.

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⁶⁸ *All India Football Federation v. Rahul Mehra and Ors. Special Leave to Appeal (C) No(s).30748-30749/2017.*

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