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

+ W.P.(C) 10353/2017, CM Nos.42203/2017, 4799/2018 &
11776/2018

YASHPAL SOLANKI

..... Petitioner

Through : Mr. Pathak Rakesh Kaushik,
Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through : Mr. Kirtiman Singh, CGSC
with Mr. Saeed Qadri, Adv.
for R-1.

Mr. Anil Grover, Ms Nupur
Singhal and Mr. Shivam
Kumar, Advs. for R-2.

Mr. Ruchir Mishra and Mr.
Mukesh Kumar Tiwari,
Advs. for IOA.

Mr. Gajinder Kumar, Ms.
Kiran Jai and Mr. Chandra
Shekhar, Advs. for R-4,5 &
8.

Mr. Siddharth Vaid, Adv. for
R-10 and 11.

Mr. Varun Dewan, Adv. for
applicant in CM
No.11776/2018.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

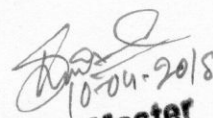
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

09.04.2018

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CM No.11776/2018


1. A request for adjournment is made on the ground that Mr. Aruneshwar Gupta, ld. arguing counsel for the applicant is out of station.
2. Time is also sought by respondent no.6 to file a reply to this application. Let the same be so done within three weeks from today. Rejoinder thereto, if any, be filed before the next date.
3. List on 21st May, 2018.

W.P.(C) 10353/2017, CM Nos.42203/2017 & 4799/2018

1. This matter relates to the affairs of the Judo Federation of India. On 24th November, 2017, certain facts relating to the affairs of the Judo Federation of India were placed before us which had been noticed by us and the following order came to be passed :

"1. We are informed by Mr. Kirtiman Singh, learned Standing Counsel appearing for the respondent no.1/Ministry of Youth Affairs & Sports that by an order dated 20th November, 2017, Ms. Divya Jeyachandran, Asstt. Director, Laxmi Bai National College for Physical Education, Trivandrum has been appointed as the Government Observer for the elections of the Executive Body of the Judo Federation of India.

2. The writ petitioner makes a grievance that in violation of the directions dated 23rd February, 2017 (at page 179) of the Ministry of Youth Affairs & Sports, the respondent no.1 has circulated a list of electoral colleges which, in the list of affiliated member State/UT/Department/Associate (at page 176), includes at serial nos. 29 to 32 organisations as the "BSF; ITBP; CRPF and the AIPSCB". It is submitted that these organizations are disentitled to form part of the electoral

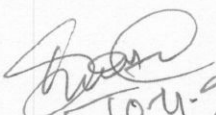

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college and therefore have no right to participate in the election or cast their vote in view of the clear directions of the Ministry in the order dated 23rd February, 2017.

3. It is submitted by Mr. Kirti Uppal, learned Senior Counsel appearing for respondent no.4 that a retired Judicial Officer has been appointed as the Returning Officer. It is submitted by Mr. Uppal that however, in order to obviate any kind of misgivings on the part of the petitioner, the respondent no.4 has no objection if an independent Returning Officer is appointed by this court instead of the appointment made by the respondent no.4.

4. In view of the above, we hereby appoint Dr. Nivedita Haran, IAS (Retd.) (Mob.No.9868579747) as the Returning Officer for elections to the Executive Body of the Judo Federation of India - respondent no.4 who shall be paid a fees of Rs.1 lakh for the time being. All expenses of air-fare, boarding, lodging, transportation and secretarial services of the Returning Officer shall also be borne by the respondent no.4.

5. We further direct the Returning Officer to scrutinise the electoral college and the list of voters which are submitted by the respondentno.4/Judo Federation of India and ensure that no person who is ineligible under the National Sports Development Code of India, 2011 as well as the directions dated 23rd February, 2017 issued by the Ministry of Youth Affairs & Sports of the Government of India is permitted to participate in the election or to cast vote. A list of the eligible members of the electoral college shall be duly circulated after such scrutiny and finalisation by the Returning Officer. Electoral list shall be finalised by the Returning Officer.


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6. *The respondent no.4 shall provide all assistance and information as may be desired by the Returning Officer.*

7. *We also give liberty to the petitioner to place all information and documents before the Returning Officer.*

8. *In case of any difficulty, liberty is given to the Returning Officer to approach this court for orders.*

9. *List this petition on 26th February, 2018.*

Dasti under signatures of the Court Master.”

2. Thereafter, certain difficulties pointed out before the Returning Officer, were placed before us by way of CM No.2/2018 on 3rd January, 2018 when we had recorded the following directions regarding the conduct of elections :

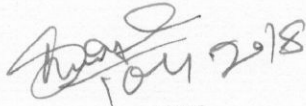
“CM No.2/2018

1. *Notice.*

2. *Mr. Pathak Rakesh Kaushik, Advocate accepts notice for the petitioner; Mr. Anil Grover, Advocate accepts notice for the respondent No.2 and Mr. Ruchir Mishra, Advocate accepts notice for the respondent No.3.*

3. *We have heard learned counsels for the parties orally.*

4. *It is submitted by the ld. counsel for the applicant-respondent No.4 that given the difficulties expressed by Dr. Nivedita Haran, Returning Officer vide her note dated 29th November, 2017 which was sent through e-mail on the same day to the respondent no.4, the respondent has no*


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objection to the Returning Officer finalizing the list of voters in terms of this Court's order dated 24th November, 2017 or even upon the completion of the verification for holding the election de novo. The submission is that the respondent no.4 is only apprehensive that the election process may get delayed or derailed. He prays for time bound directions to the Returning Officer to ensure completion of the election process.

5. It has to be noted that the Returning Officer, vide her note dated 29th November, 2017 had pointed out several difficulties to follow the election schedule and requested the respondent no.4 to seek directions from this Court to commence the election process de novo.


This application has, however, been filed after more than a month after 29th November, 2017.

6. We are informed by the ld. counsel for the respondent no.4 that the respondent no.4 has only 74 members.

7. Having regard to the several issues pointed out by the Returning Officer in the note dated 29th November, 2017, we direct that the Returning Officer shall ensure compliance of the directions made by us by our order dated 24th November, 2017 and to de novo commence the election of the respondent No.4-Judo Federation of India.

8. The respondent no.4 shall ensure that the record sought by the Returning Officer is made available to the Returning Officer within two weeks from today. The Returning Officer would verify the electoral list within a period of six weeks from the date of receipt of the records.

It is further directed that the election to the Executive Body of the Judo Federation of India shall be


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held de novo by the Returning Officer and completed as expeditiously as possible, in any case within a period of eight weeks thereafter.

This application is disposed of in the above terms.

9. *A copy of this order be sent to Dr. Nivedita Haran, I.A.S. (Retd.) (Mob. 9868579747), No.23, IFS Villas, Pocket-6, Greater Noida, U.P.*

Dasti."

3. Certain further difficulties were brought to our notice by way of CM No.4799/2018 which was filed by the respondent nos.10 and 11.


4. Inasmuch as we are of the view that elections to the Judo Federation of India required to be urgently conducted as it impacts critical aspects of national representation in the sport of Judo at international forums, on the 7th of February 2018, we had recorded the following directions in CM No.4799/2018 :

"CM No. 4799/2018 (for directions)"

5. *Issue notice to the petitioner. Mr. Pathak Rakesh Kaushik accepts notice on behalf of the petitioner.*

6. *Replies, if any, be filed within two weeks. Rejoinder thereto, if any, be filed before the next date of hearing.*

7. *By way of an order dated 24th November, 2017, we had appointed Dr. Nivedita Haran, IAS (Retd.) as the Returning Officer for conducting elections to the Executive Body of the respondent no.4-Judo Federation of India. In para 5 of the order we had directed that the Returning*


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Officer shall ensure that no person who is ineligible under the National Sports Development Code of India, 2011 as well as the directions dated 23rd February, 2017 issued by the Ministry of Youth Affairs & Sports of the Government of India is permitted to participate in the election or to cast vote.

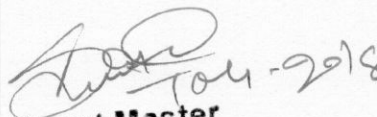
The Returning Officer was also directed to scrutinise the electoral college and list of voters, which exercise she is undertaking.

8. *Learned counsel for the applicant has placed before us a copy of the proceedings dated 16th January, 2018 (page 339) wherein, an objection was placed before the Returning Officer regarding the nominees from the Delhi Judo Council. In view of the limitations of the mandate by this Court by virtue of the aforesaid order, the Returning Officer has expressed inability to examine the objections with regard to the State units.*

9. *Our attention is drawn in this regard to a letter dated 12th January, 2015 (page 442) issued by the Government of NCT of Delhi inter alia mandating as follows:*

“Therefore, it has been decided by the Government of NCT of Delhi to request you to enforce the instructions contained in the aforesaid letter dated 01.05.2010 of Government of India, Ministry of Youth Affairs & Sports upon all the Delhi State Sports Associations recognized by the respective National Sports Federations and Delhi Olympic Association.

Hence, you are requested to ensure that the instructions contained in the aforesaid letter dated 01.05.2010 of the Government of India, Ministry of


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Youth Affairs and Sports are duly complied with by your Delhi state sports association, before they are granted recognition by your federation.”

(Emphasis supplied)

10. *The above letter has been posted on the web site of the Government of NCT of Delhi and therefore stand notified to all Sports Federation in Delhi. This communication obviously binds the Delhi Judo Council. As such the consideration of the nominees / representatives of the Delhi Judo Council for the State elections has to conform to the requirements of the National Sports Code of India and the directions issued by the Government of India.*

11. *Mr. Kaushik, learned counsel for the petitioner submits that the representative of Delhi, is only one of the participants, who is participating in the elections.*

12. *We therefore make it clear that Dr. Nivedita P. Haran, the Returning Officer shall scrutinize the electoral list ensuring that the representatives of the Delhi Judo Council strictly conform to the requirements of the National Sports Code of India, the directions of the Government of India and the Government of NCT of Delhi.*

13. *In case any objections regarding a representative from any other State is brought to the notice of the Returning Officer, we make it clear that it shall be open for her to take a view in the matter based on the requirements enforced by the concerned State Government.*

14. *Needless to state that the schedule notified by the Returning Officer for conducting of the elections be maintained.*

15. *Order dasti under signatures of Court Master.”*

5. Thereafter, on 26th February, 2018, we were informed that the elections to the respondent no.4 - Judo Federation of India stood completed and a new Managing Committee was in place.

6. A report of Returning Officer - Dr. Nivedita P. Haran, IAS (Retd.) dated 19th February, 2018 under cover of her letter of even date had been placed before us setting out the details of the entire issues and the manner in which elections were conducted.

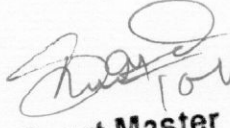
7. It appears that there was an issue relating to the representation of the Rajasthan Judo Association before the Returning Officer.

8. We are informed that sports in Rajasthan are governed by the "*Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005*". It appears that so far as Judo is concerned, the same is not one of the sports which has been detailed in Schedule B of the said enactment (*page 499*). No Judo Association is mentioned in Schedule 'B' in the Act.

9. Ld. counsel appearing for the respondent no.7 - Mr. Yashbeer Singh has drawn our attention to Section 25 of the Act which reads as follows :

"25. Prohibition to represent or to use the name of the State and Districts. - (1) No person or group of persons, either individually or collectively shall represent or be allowed to represent the State of Rajasthan in any games or sports without being authorised by a State Level Sports Association.

(2) No Sports Association shall be entitled to use the


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*description Rajasthan or use the name of a District as part of its name or Undertake any Sports activity **which results in representing the State of Rajasthan or a District, as an affiliated unit of any National Federation, Board, or Association purporting to represent India, or in any other manner whatsoever, unless such Sports Association is registered as a State Level Sports Association or a District Level Sports Association under this Ordinance.***

(3) Whoever contravenes the provisions of sub-section (1) and (2) above, shall, on conviction, be punishable with imprisonment for a term not exceeding six months or with fine or with both.


(4) No court shall take cognizance of any offence under this section, except upon complaint made in writing made by the Registrar or any officer authorised by him.

(5) The Registrar may, for the reasons recorded in writing, compound any offence punishable under this Section. On composition of any offence under this Section, no proceedings shall be taken or continued in respect of such offence.”

(Emphasis by us)

10. Inasmuch as Judo Association is not a part of the Schedule under Schedule 'B' of the Act, we fail to see as to how the provisions of this Act have an application to the sport of Judo or any body/association relating to the sport of Judo from Rajasthan.

11. For this reason, certainly the Rajasthan Sports Council would not have jurisdiction over any Sports Association, be it Judo or any other sport, which is not covered under the Schedule of the enactment. Thus the statute relied upon would have no application.


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12. Mr. Gajinder Kumar, Id. counsel for the respondent no.4 - Judo Federation of India has drawn our attention to the bye-laws of the Judo Federation of India (page 140 of the paper book). Relevant extract of the said bye-laws are reproduced hereunder :

“MEMBERSHIP

a) *The membership of the Federation shall be open to those who advocate the Art and Sport of Judo and or allied Arts and Sports and fulfil the object and other requirements of the Constitution and Bye-laws of the Federation.*


(b) *Any association or organization or institution which has been granted affiliation by the Federation shall be called ‘Member’ and/or ‘Member Unit’ of the Federation.*

(c) *The members will be of following categories :*

(i) **Patrons :** *Any eminent person may be appointed as patron of the Federation by the Executive Committee. Such persons will be patron members and will have no voting rights. No fee is payable by a patron. When a patron attends any activity of the Federation he will be accorded the same status, perks and facility as accorded to the President of the Federation.*

(ii) **Life Members :** *Any person who pays a lump sum donation, in cash or kind, exceeding Rs.25,000/- or as may be decided by the Executive Committee from time to time will be life Member of the Federation. The life Member will have no voting tight. The Life Member and/or accorded the same status, perks and facility as accorded to the office-bearers of the Federation.*

(iii) **Associate Members :** *Organizations or institutions other than state associations or departmental Units will be*


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Associate Members. An Associate Member will be entitled to only one vote and that also only on a resolution passed by the General body to that effect. The fees payable by an Association Member is Rs.5000/- Entrance fee and Rs.7000/- annual fee or as decided by the Executive Committee from time to time.


(iv) Ordinary Members : State Associations and Departmental Units (other than organisations or institutions) who actively promote the Art and Sports of judo in their State or area will be 'Members' of the Federation. Such Members will be entitled to two votes each. The fee payable by a Member is Rs.5000/- entrance fee and Rs.4000/- annual fee or as decided by the Executive committee from time to time."

13. Ld. counsel for the applicant - respondent no.7 has submitted that a *S.B. Civil Writ Petition No.2221/2018, Surrender Yadav v. The State of Rajasthan Thr. its Principal Secretary, Youth and Sports Department, Govt. Secretariat, Jaipur & Ors.* stands filed before the Jaipur Bench of the High Court of Judicature for Rajasthan, contending that the Rajasthan State Judo Association was not registered by the Rajasthan Sports Council and therefore, it was not entitled to participate in the elections of Judo Federation of India.

14. We have noted above the fact that Judo Association is not part of the Schedule 'B' to the Act. Consequently, the Rajasthan Sports Council would have no jurisdiction over this sports Association.

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This position has not been brought to the notice of the Id. Single Judge seized with *S.B. Civil Writ Petition No.2221/2018*. The respondent no.4 shall ensure that this position is brought to the notice of the court concerned with the said writ petition.


15. Sport in India is of critical importance. It is obvious that Judo has not received this recognition, so much so that it is not even a scheduled sport in the State of Rajasthan. Imperative steps in this respect need to be taken by the State Government.

16. However, it cannot be denied that the affairs of the Judo Federation of India cannot be stalled because of the controversy placed with regard to the post of General Secretary. There is no dispute at all with regard to the elections to the other posts.

17. In view of the above, Id. counsel for the respondent no.7 submits that the respondent no.7 also has no objection to the acceptance of the report of the Returning Officer and elections to all posts other than the post of General Secretary.

18. In the light of the above, we accept the report dated 19th February, 2018 of Dr. Nivedita P. Haran, IAS (Retd.) *qua* the elections to all posts except the post of General Secretary which post is kept in abeyance for the time being.

19. The Returning Officer has made certain extremely important and valuable short-term and long-term recommendations which deserve to be implemented. For expediency, we extract the short-term and long-term suggestions given by the Returning Officer


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hereunder :

“Short Term

1. Since free and fair elections have been held in JFI, MYAS may suo motu initiate the process of granting recognition to the JFI which had been withdrawn in 2015. JFI has also sent a report to MYAS in this regard (ENCLOSURE-9) This may be done based on report of the Govt. Observer and the present report of the Returning Officer.

(Action : MYAS, Govt. of India)

2. With various sporting events coming up in the near future, JFI will need to hit the ground running. They also need to draw as much funds as possible from the Government. The State Councils need to do likewise.

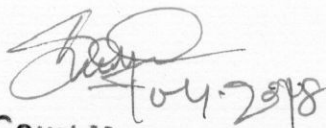
(Action : JFI)

3. The JFI will need to work towards attracting funds from other sources : CSR, private sector, sponsorship, Trust Fund etc. This should be done in a transparent manner after due diligence so that there is no cause for complaint

(Action : JFI)

Long Term:

1. The elections held at JFI were transparent, open and based on the National Sports Code, 2011, regulations and directions issued by MYAS from time to time and the Constituion of JFI. Similar elections should now be held for all state councils where not held and at the district level too. In future, holding elections regularly should become a part of the state and JFI responsibility (Action: JFI and state councils).



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2. *The existing National Sports Code needs a revisit. The proposed revised Code may be brought into operation at the earliest. (Action: MYAS, Govt. of India)*

3. *The intention should be to encourage judo in all manner possible. Many of the founding members of Judo Fed in India are now training and encouraging the sport in Maharashtra. But due to the restriction that only one council is recognized per state, and the council with at least 50% affiliated clubs will get priority, Maharashtra A team remains out of the JFI. This anomaly needs to be corrected. There is a dearth of good and efficient trainers and those available should be utilized optimally. (Action: MYAS, Govt. of India).*

4. *The new set of Office bearers may be advised to prepare a 4-year plan and strategy Map for popularizing judo, engaging more children and interested persons into it and making it a sport of national interest. They may fix targets for each quarter and review impact at regular intervals. An annual schedule may be drawn up at the beginning of each year. This will enable Judokas to start training well in advance.*

5. *The JFI needs to follow a target oriented. It also needs to delicate responsibility and fix accountability. A set of Do's and Don't's may be drawn up. If they so require, an expert may be engaged to guide, motivate and to assist in propagating the sport in every innovative way possible. Judo needs to be made popular especially among girl Judokas, students and youth which will help inculcate basic civic sense among our population."*


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20. These recommendations have to be implemented by the Ministry of Youth Affairs & Sports, Government of India as well as Judo Federation of India.

21. Let a copy of this order be sent to the Secretary, Ministry of Youth Affairs & Sports, Government of India as well as the respondent no.4 - Judo Federation of India.

22. List on 21st May, 2018.

23. Copy of this order be sent to the Returning Officer - Dr. Nivedita Haran, IAS (Retd.).

Dasti under signatures of the Court Master.




ACTING CHIEF JUSTICE



C.HARI SHANKAR, J

APRIL 09, 2018

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Attested true copy

10/4/2018

**Court Master
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