

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

WP (C) No.

of 2017

PETITIONER:

Gokul Viraj A.,
S/o. Ayadathil Mukundan,
Ayadathil House,
Ayadathil Mukundan Road,
Talap, Kannur-670 002.

Vs.

RESPONDENTS:

1. The Kerala Cricket Association,
KCA Complex, T C- 24/131 (1),
Sasthamkovil Road, Thycaud,
Thiruvananthapuram-695014,
Rep. by its Secretary.
2. The Cannanore District Cricket Association,
Bengla, Near Municipal Stadium,
Thalassery, Kannur District-670 101,
Rep. by its Secretary.
3. The Ernakulam District Cricket Association,
Sector-A, Jawaharlal Nehru Stadium,
Kaloor, Kochi-682 017,
Rep. by its Secretary.
4. The Board of Control for Cricket in India,
4th Floor, Cricket Centre, Wankhede Stadium,
'D' Road, Churchgate, Mumbai- 400 020,
Rep. by its Secretary.

**WRIT PETITION (CIVIL) FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA**

*The address for service of notices, processes etc. on the petitioner is that of its counsel **SUNIL V. MOHAMMED, BHAGYESH K.P., P.M. MOHAMMED HASSAN & AJITHA APPU**, Advocates, Lawyers' Arcade, Mathai Manjooran Road, Kochi-682018 and that of the respondent is as shown above.*

STATEMENT OF FACTS

1. The petitioner is a citizen of India. The petitioner is the Secretary of Kannur United Cricket Club, Kannur, which is a member affiliated to the 2nd respondent District Association coming under the 1st respondent State Association. The true copy of the communication dated 26.07.2006 issued by the 2nd respondent granting affiliation to Kannur United Cricket Club, Kannur and the receipts issued for renewal of affiliation till the year 2017-2018 is produced herewith and marked as **Exhibit P1 and P2**, respectively. The 2nd respondent is affiliated to the 1st respondent. The 1st respondent is a registered body under the Travancore Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 with Reg. No. 468/88 and affiliated to the 4th respondent Board of Control for Cricket in India (in short BCCI) as one of its member State Cricket Association. In view of the decisions reported in **(2005) 4 SCC 741 (Board of Control for Cricket in India and Another Vs. Netaji Cricket Club and Others, (2005) 4 SCC 649 (Zee Telefilms Ltd. and Another Vs. Union of India and Others and (2015) 3 SCC 251 (Board of Control for Cricket in India Vs. Cricket Association of Bihar and Others)**, the 3rd respondent, which renders 'important public functions' is declared to be amenable to writ jurisdiction under Article 226 of the Constitution of India. In the light of the law laid down in the above decisions, affiliated member State Cricket Associations being the units of the 4th respondent entrusted with several 'functions of public importance' and its sub-units (District Cricket Associations), which also perform similar 'public functions', is amenable to writ jurisdiction under Article 226 of the Constitution of India.

2. The petitioner is highly aggrieved by the fact that elections in the member District Cricket Associations under the 1st respondent is proposed to be held in blatant violation of the recommendations of Justice Lodha Committee accepted

and ordered to be implemented by the Hon'ble Apex Court. The said election is immediately proposed in the 3rd respondent District Cricket Association under the auspicious of the 1st respondent, with malafide motives and this will follow the elections in the other member District Cricket Associations in the state.

3. It is humbly submitted that the registered bye-law of the 1st respondent clearly specifies that District Association is a body recognized by the 1st respondent and affiliated to it and that the rules and regulations of the 1st respondent shall be binding on all the District Associations under it. The affairs of the 1st respondent are governed and controlled by its General Body and managed by its Central Council. The General Body of the 1st respondent comprises of secretaries of the member District Associations and two representatives from each member District Cricket Association duly elected. The member District Cricket Associations are the one and only affiliated unit of the 1st respondent. The Central Council of the 1st respondent consists of the President, four Vice Presidents, Honorary Secretary, Honorary Joint Secretary, Honorary Treasurer, Two Honorary Assistant Secretaries and Honorary Secretaries of the District Associations. The office bearers starting from the President to the two Honorary Assistant Secretaries are elected in the Annual General Body meeting of the 1st respondent. It is pertinent to note that as per the bye-law of the 1st respondent, the District Cricket Associations are bound by the rules and bye-laws and the regulations of the 1st respondent and any action against it will result in disaffiliation from the 1st respondent. A model bye law for the member District Cricket Associations provided by the 1st respondent is adopted by the 3rd respondent and others. As evident from the said bye-law, the District Association shall be bound to achieve the aims and objects of the bye-law of the 1st respondent and abide by it and the rules and regulations of the 1st respondent. It also says that once the member District Cricket Association is dissolved, its asset will be transferred to the 1st respondent. The true copy of the

registered Memorandum of Association of the 1st respondent is produced herewith and marked as **Exhibit P3**. That apart, the 1st respondent had earlier vide communication dated 20.02.2008 intimated all the District Cricket Associations under it that the District Associations are affiliated as its units and further that the clubs registered with the District Cricket Associations are also its affiliated units and therefore separate registration under the Travancore Cochin Literary, Scientific and Charitable Societies Registration Act is unnecessary. The true copy of the said communication dated 20.02.2008 of the 1st respondent is produced herewith and marked as **Exhibit P4**. Therefore, from the above narrated facts and going by Ext. P3 and P4, it is clear that the member District Cricket Associations and clubs under the 1st respondent are its units entrusted to perform similar 'public functions' as that of the 1st respondent.

4. It is further submitted that the Hon'ble Apex Court in Civil Appeal No. 4235/2014 and connected cases (**Board of Control for Cricket in India Vs Cricket Association of Bihar and Others**) happened to appoint a three member committee consisting of Justice R.M. Lodha, Justice Ashok Bhan and Justice R.V. Reveendran to submit a detailed report recommending necessary reforms in the structure, organization and working of BCCI in order to make it transparent, objective and accountable. Consequently, Justice Lodha Committee submitted a detailed report dated 18.12.2015 with recommendations before the Hon'ble Apex Court, which passed judgment dated 18.07.2016 accepting the said recommendations with necessary modifications. The Hon'ble Apex Court was thereafter pleased order that Justice Lodha Committee is tasked with overseeing of the implementation of the said judgment.

5. The recommendations of Justice Lodha Committee as approved by the Hon'ble Apex Court contained revised disqualification criteria applicable to all office bearers, representatives, nominees, patrons, advisors and/or members of

any committee of council of a state/member of Associations, in the light of lot of complaints in respect of the conduct of elections and the deals, negotiations and horse-trading at the time of elections. Vide order dated 21.10.2016, the Hon'ble Apex Court by has directed all the member State Cricket Associations to adopt the recommendations of Justice Lodha Committee, including the disqualification criteria fixed for office bearers.

6. It is submitted that reluctance shown by of the 1st respondent and other similar member State Cricket Associations resulted in the Committee of Administrators of the 3rd respondent categorically clarifying the scope and extent of the orders dated 02.01.2017, 03.01.2017 and 20.01.2017 of the Hon'ble Apex Court to the effect that the disqualification recommended by Justice Lodha Committee and accepted by the Hon'ble Apex Court is applicable to all office bearers, representatives, nominees, patrons, advisors and/or members of any committee of council of a state/member of Associations. Based on such instruction and in compliance of the order dated 07.10.2016 and 21.10.2016 of the Hon'ble Apex Court, the 1st respondent association had passed resolutions adopting the recommendations of Justice Lodha Committee and resolved to amend its bye-law in terms of the said recommendations. In view of the revised qualification to hold the post of office bearers, the disqualified office bearers of the 1st respondent had to quit their posts. The Hon'ble Apex Court has made the 1st respondent to bring on record all these affairs along with affidavits dated 01.03.2017 of its office bearers before the Court. The true copy of the relevant pages of the response submitted by the 1st respondent and its office bearers before the Hon'ble Apex Court with the details of the resolution passed and affidavits dated 01.03.2017 is produced herewith and marked as **Exhibit P5**.

7. The Hon'ble Apex Court was very much dissatisfied in the manner in which the 4th respondent and the member Cricket Associations have deliberately

flouted its various orders as well as the directions of Justice Lodha Committee. Viewing it seriously, the Hon'ble Apex Court has passed order dated 02.01.2017 in Civil Appeal No. 4235/2014 and connected cases interalia issuing strict direction to the 4th respondent as well as its affiliated State Cricket Associations, who have failed to meet the norms recommended by Justice Lodha Committee and accepted by the Hon'ble Apex Court, to forthwith demit and cease to hold office following the amended disqualification criteria. The true copy of the said order dated 02.01.2017 in Civil Appeal No. 4235/2014 and connected cases of the Hon'ble Apex Court is produced herewith and marked as **Exhibit P6**.

8. In view of the fact that the term of the present office bearers of the 1st respondent will be completed by June 2017, a fresh election is proposed during June, 2017. In that regard, the 2nd respondent has served on the petitioner's club notice dated 27.05.2017 intimating about its General Body meeting proposed during June, 2017. The true copy of the said notice dated 27.05.2017 issued by the 2nd respondent to the petitioner's club is produced herewith and marked as **Exhibit P7**.

9. Eventhough the 1st respondent was constrained to apply the aforementioned orders of the Apex Court as evident from Ext. P5, it is still keen to act in total derogation of the same as evident from the fact that now election of office bearers of the Member District Cricket Associations under it is proposed based on the respective bye-laws of the concerned District Cricket Association. Now, an Election Notice dated 20.05.2017 was issued by the returning officer for election of the office bearers of the 3rd respondent based solely on its bye-law, overlooking the disqualification criteria fixed by the Hon'ble Apex Court based on the recommendations of Justice Lodha Committee. The true copy of the said Election Notice dated 20.05.2017 and the Election Rules of the 3rd respondent is produced herewith and marked as **Exhibit P8**.

10. The result would be that, those persons who are disqualified to become office bearers of the 1st and 4th respondents would place themselves in the member District Cricket Associations and thereby gain majority in the member District Cricket Associations of the state, so that they can control the 1st respondent, which is not otherwise possible after the interference of Hon'ble Apex Court. This is being done with the tacit connivance of the 1st respondent. Eventhough, the petitioner and his club had submitted objection against the said violation as early as on 06.01.2017, the respondents 1 and 2 have kept the same in cold storage. The true copy of the said objection dated 06.01.2017 submitted by the petitioner is produced herewith and marked as **Exhibit P9**.

11. Despite Ext. P9, the 1st and 2nd respondents have declared that election will be in accordance with the bye-law of the member District Cricket Associations. The illegalities like sporting frauds, malpractices, conflict of interests etc. sought to be curtailed by the Hon'ble Apex Court is intended to be perpetuated by the said act. In the circumstances, the interference of this Hon'ble Court is highly necessary in the matter, in the best interest of justice.

Being aggrieved as above, the petitioners have no other alternative than to approach this Hon'ble Court under Article 226 of the Constitution of India on the following among other:

GROUND

A. The Hon'ble Apex Court as per the decision in **(2015) 3 SCC 251 (Board of Control for Cricket in India Vs. Cricket Association of Bihar and Others)** has appointed Justice Lodha Committee to bring in reforms in the structure, organization and working of BCCI, in order to make it transparent, objective and accountable. The recommendations of the said Committee contained various suggestions including the measures to prevent the illegalities like sporting frauds, malpractices, conflict of interests etc. and also such other

measures in the light of lot of complaints in respect of the conduct of elections and the deals, negotiations and horse-trading at the time of elections. The Hon'ble Apex Court has issued strict directions, including Ext. P6 to implement the same. The 1st respondent is duty bound to implement the recommendations of Justice Lodha Committee and the orders of the Hon'ble Apex Court by applying it to the member District Cricket Associations as well.

B. The 1st respondent was actually constrained to apply the orders of the Apex Court as evident from Ext. P4. Still it is keen to act in total derogation of the same as evident from Ext. P8. This is only with a clear intention to dilute and flout the recommendations of Justice Lodha Committee and the orders of the Hon'ble Apex Court. The result would be that those persons who are disqualified to become office bearers of the 1st and 4th respondents would place themselves in the Member District Cricket Associations and thereby gain majority in the Member District Cricket Associations, so that they can control the Member State Association, which is not otherwise possible after the interference of Hon'ble Apex Court.

C. The above illegal act is being done with the tacit connivance of the 1st respondent. Despite the objections raised in that regard, the 1st and 2nd respondents have declared that election will be in accordance with the bye-law of the member District Cricket Associations. Elections in other member District Cricket Associations will immediately take place following the identical modality of election adopted by the 3rd respondent. The illegalities like sporting frauds, malpractices, conflict of interests etc. sought to be curtailed by the Hon'ble Apex Court is intended to be perpetuated by the said act.

For these and other grounds to be urged at the time of hearing, it is most humbly prayed that this Hon'ble Court may be pleased to: -

RELIEFS

- i) Issue a writ of Mandamus or any other appropriate writ, order or direction directing the respondents 1 to 3 to strictly implement the recommendations of Justice Lodha Committee and the orders of the Hon'ble Apex Court and conduct the election of office bearers of the member District Cricket Associations under the 1st respondent, including the 3rd respondent, accordingly;

And,

- ii) issue such other reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

INTERIM RELIEF:

For the reasons stated in the Writ Petition and in the accompanying affidavit, it is most humbly prayed that this Hon'ble Court may be pleased to stay all further proceedings pursuant to Ext. P8, forthwith, pending disposal of the above Writ Petition.

Dated this the day of June, 2017

Petitioner

Counsel for the Petitioner

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

WP (C) No.

of 2017

Gokul Viraj A.

: Petitioner

Vs.

Kerala Cricket Association & Others :

Respondents

AFFIDAVIT

I, Gokul Viraj A., aged 40 years, S/o. Ayadathil Mukundan, Ayadathil House, Ayadathil Mukundan Road, Talap, Kannur District, do hereby solemnly affirm and state as follows: -

1. I am the petitioner in the above Writ Petition. I am conversant with the facts of the case and competent to swear this affidavit.
2. The submissions made in the Writ Petition are as instructed by me and the documents produced in the Writ Petition are the copies of the originals they represent.
3. The reliefs sought for in the Writ Petition are highly necessary in the interest of justice.
4. I have not filed any similar Writ Petition for identical reliefs as prayed for in the circumstances of the case.

All the facts stated above are true and correct.

Dated this the day of June, 2017

Deponent

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the day of June, 2017 at my office at Ernakulam.

Advocate
SUNIL V. MOHAMMED

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

WP (C) No. _____ **of 2017**
Gokul Viraj A. : Petitioner

Vs.

Kerala Cricket Association & Others : Respondents

SYNOPSIS

The petitioner is the Secretary of Kannur United Cricket Club, Kannur, which is a member affiliated to the 2nd respondent District Association coming under the 1st respondent State Association. The 1st respondent is affiliated to the 4th respondent Board of Control for Cricket in India as one of its member State Cricket Association. The petitioner is highly aggrieved by the fact that elections in the member District Cricket Associations under the 1st respondent is proposed to be held in blatant violation of the recommendations of Justice Lodha Committee accepted and ordered to be implemented by the Hon'ble Apex Court, as evident from Ext. P8 Election Notice dated 20.05.2017, overlooking Ext. P89objection dated 06.01.2017 submitted in that regard. The above illegal act is being done with the tacit connivance of the 1st respondent with an intention to dilute and flout the recommendations of Justice Lodha Committee and the orders of the Hon'ble Apex Court. The result would be that those persons who are disqualified to become office bearers of the 1st and 4th respondents would place themselves in the Member District Cricket Associations and thereby gain majority in the Member District Cricket Associations, so that they can control the Member State Association, which is not otherwise possible after the interference of Hon'ble Apex Court. Hence, this Writ Petition.

Dated this _____ day of June, 2017

Counsel for the Petitioner

Filed on: .06.2017

Sub: - Miscellaneous - Against the elections in the member District Cricket Associations under the 1st respondent proposed to be held in blatant violation of the recommendations of Justice Lodha Committee accepted and ordered to be implemented by the Hon'ble Apex Court.

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

WP (C) No. of 2017

Gokul Viraj A. : Petitioner

Vs.

Kerala Cricket Association & Others : Respondents

**WRIT PETITION (CIVIL) FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA**



**SUNIL V. MOHAMMED (S-1410)
BHAGYESH K.P. (B-547)
P.M. MOHAMMED HASSAN (M-929)
&
AJITHA APPU (A-1526)
Counsel for the Petitioner**

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INDEX

Sl. No.	Particulars	Page No.
1.	Synopsis	A
2.	Writ Petition	1 – 9
3.	Affidavit	10
4.	<u>Exhibit P1</u> : True copy of the communication dated 26.07.2006 issued by the 2 nd respondent granting affiliation to Kannur United Cricket Club, Kannur.	
5.	<u>Exhibit P2</u> : True copy of the receipts issued for renewal of affiliation till the year 2017-2018.	
6.	<u>Exhibit P3</u> : True copy of the registered Memorandum of Association of the 1 st respondent.	
7.	<u>Exhibit P4</u> : True copy of the communication dated 20.02.2008 of the 1 st respondent.	
8.	<u>Exhibit P5</u> : True copy of the relevant pages of the response submitted by the 1 st respondent and its office bearers before the Hon'ble Apex Court with the details of the resolution passed and affidavits dated 01.03.2017.	
9.	<u>Exhibit P6</u> : True copy of the order dated 02.01.2017 in Civil Appeal No. 4235/2014 and connected cases of the Hon'ble Apex Court.	

10.	<u>Exhibit P7:</u> True copy of the notice dated 27.05.2017 issued by the 2 nd respondent to the petitioner's club.	
11.	<u>Exhibit P8:</u> True copy of the Election Notice dated 20.05.2017 and the Election Rules of the 3 rd respondent.	
12.	<u>Exhibit P9:</u> True copy of the objection dated 06.01.2017 submitted by the petitioner.	

Dated this day of June, 2017

Counsel for the Petitioner

APPENDIX

Petitioner's Exhibits:

- Exhibit P1:** True copy of the communication dated 26.07.2006 issued by the 2nd respondent granting affiliation to Kannur United Cricket Club, Kannur.
- Exhibit P2:** True copy of the receipts issued for renewal of affiliation till the year 2017-2018. .
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