



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

Date of decision: 2nd MAY, 2024

IN THE MATTER OF:

+ **W.P.(C) 17756/2022 & CM APPLs. 56745/2022, 1828/2023, 7315/2023 & 49118/2023**

DELHI GYMNASTICS ASSOCIATION Petitioner

Through: Mr. Syed Rehan, Advocate

versus

GYMNASTICS FEDERATION OF INDIA & ORS Respondents

Through: Mr. Parth Goswami and Mr. Akshay Kumar, Advocates for R-1.
Ms. Arunima Dwivedi, CGSC with Mr. Aakash Pathak and Ms. Pinky Pawar, Advocates for UoI.

**CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

JUDGMENT

1. Challenging the communication dated 12.12.2022 issued by Respondent No.1/Gymnastics Federation of India expelling the Petitioner/Delhi Gymnastics Association from the affiliation of Respondent No.1/Gymnastics Federation of India, the instant writ petition has been filed.
2. The facts, in brief, of the case as stated in the writ petition reveal that the Petitioner was established in the year 1951 and was registered with the Registrar of Societies in the year 2002, *vide* Registration No. S/42321 of 2002. It is stated that the Petitioner is involved in the development of the



sport of Gymnastics in the State of Delhi. It is stated that the Petitioner's role was to select the teams that would represent the State of Delhi in various Gymnastics tournaments throughout the country. Material on record reveals that an intimation was given by the Petitioner to Respondent No.1 in respect of the last election of the Petitioner that was held in July, 2018 and the upcoming election that were to be held in July, 2022. Material on record further reveals that the Petitioner *vide* Notice dated 29.05.2022 intimated its office bearers and executive committee members about a meeting that was to be held on 12.06.2022 in regard to the upcoming elections. On the same day, i.e., 12.06.2022, another notice was issued, wherein the Petitioner intimated its members regarding a meeting with the agenda of the election of the Executive Committee including the schedule for the election and the nomination form. Another notice dated 15.06.2022 was issued by the Petitioner informing its members that the nomination papers would be scrutinized on 29.06.2022. In the interregnum, an Annual General Meeting was called by Respondent No.1 to amend its constitution. The constitution was amended, in March 2022, and subsequently registered on 29.06.2022. After the constitution was amended, the Petitioner was called upon by Respondent No.1 *vide* letter dated 30.06.2022 seeking clarification regarding the election to be held by the Petitioner. *Vide* the said letter dated 30.06.2022, the Petitioner was also intimated regarding the intention of Respondent No.1 to appoint an observer to supervise the election due to certain representations that Respondent No.1 had received alleging irregularities in the election process for the Petitioner Association. A second letter dated 02.07.2022 was also issued by the Respondent No.1 asking the Petitioner to respond to the letter dated 30.06.2022. *Vide* the said letter dated



02.07.2022, the Petitioner was also asked to provide the copy of Registration Certificate, Statutes, Constitution and Rules and Regulations, List of Member Units and the list of Current Officer Bearers/Executive Committee Members.

3. A show cause notice was issued to the Petitioner on 12.08.2022 stating that in terms of Clause 2(b) of the amended Regulations of the Respondent No.1, the affiliated member State/UT Gymnastics Association must hold regular elections as per their constitution and send notice of election along with a list of members forming their electoral college. *Vide* the said letter, attention of the Petitioner was also drawn to Rule 2(b)(viii), where affiliated member State/UT Gymnastics Association must undertake and supply to the Respondent No.1, a copy of their respective registration certificate, Statute, Constitution and Rules and Regulations, a list of their respective accredited member units and their Office Bearers and members as and when sought Respondent No.1. It is stated that the said information was sought from the Petitioner *vide* letter dated 02.07.2024, however, the same was not provided by the Petitioner. The show cause notice further indicates that the matter has been referred to the Disciplinary Committee of Respondent No.1 to conduct an inquiry on this matter and initiate appropriate proceedings against the Petitioner.

4. A reply to the show cause notice dated 12.08.2022 was sent by the Petitioner objecting to the legality and authenticity of the Executive Committee of Respondent No.1 by contending that the said Committee has been nominated by the President under the un-amended constitution and only the Executive Committee of the Respondent No.1 has the power to appoint special committee for specific functions and that too subject to the



approval of General Council. It is stated that since no approval of General Council has been obtained, therefore, the present Disciplinary Committee is arbitrary and illegal and has no jurisdiction to deal with the present case.

5. Since disciplinary proceedings were going on against the Petitioner, the Respondent No.1 directed the Delhi Olympic Committee to take over the work of selection of the team to represent the State for the National Championship 2022-23.

6. Disciplinary Committee asked for further information from the Petitioner on 10.11.2022. The Petitioner was intimated that the hearing would be held on 13.11.2022. The Petitioner participated in the hearing and the hearing was concluded on 06.12.2022, and the Impugned Communication was issued on 12.12.2022.

7. The Petitioner has now approached this Court challenging the Communication dated 12.12.2022 disaffiliating the Petitioner from Respondent No.1.

8. Notice was issued in the writ petition on 26.12.2022. Pleadings are complete.

9. The principal contention of the learned Counsel for the Petitioner is that the Disciplinary Committee which has been nominated to conduct the inquiry was nominated by the President under the un-amended constitution which was subsequently amended on 26.03.2022 which was prior to the show cause notice dated 12.08.2022 issued to the Petitioner. He states that the entire case proceeds on basis of un-amended constitution and therefore, the entire process of the conduct of inquiry is vitiated on this ground alone.

10. At this juncture, it is apposite to delineate the relevant provisions of the un-amended and the amended constitution as available from the records



read as under:

Article	UNAMENDED MOA	AMENDED MOA
<p>2 (a)</p>	<p>MEMBERSHIP: Membership of the Federation shall be limited to the following:</p> <ul style="list-style-type: none"> i. State Gymnastics Associations. ii. Services Sports Control Board. iii. Railway Sports Promotion Board. iv. Vocational Units v. Union Territories vi. The State/Unit which falls to participate in the National Gymnastics Championship in all the disciplines consecutively for 3 years shall automatically lose Membership of the Gymnastics Federation of India vii. - viii. The member Association must be composed wholly of amateurs and the independent and autonomous and free from their state or religious influence. Hey are to be approved by the State Olympic Associations 	<p>MEMBERSHIP: Membership of the Federation shall be open to the under mentioned, subject to the approval of the General Council and payment of Fees for admission:</p> <ul style="list-style-type: none"> i. Gymnastics Associations of States as well as Union Territories of India. ii. Services Sports Control Board. iii. Railway Sports Promotion Board. iv. Vocational Units and Sports central bodies or organizations of all India nature having gymnastics activities. <p>(b) Terms of membership</p> <ul style="list-style-type: none"> i. Only the Affiliated Gymnastics Associations of States and Union Territories will have the right to vote. All other affiliated members such as Board/Institution/Organisation of All India nature will have no voting right. ii. Only one State/UT Gymnastics Association from each State/UT shall be admitted as a member of the Federation iii. The State/Unit which fails to participate in a National Gymnastics Championship consecutively for 3 years shall automatically lose Membership of the Gymnastics Federation of India. iv. The member Association must



		<p>be autonomous and free from their State or religious influence. The Federation does not permit any political, religious or racial discrimination within its organization as well as any violation of human rights.</p> <p>v. The member Associations must be registered as a distinct entity under an appropriate act or law in their respective jurisdiction.</p> <p>vi. The affiliated member State/UT Gymnastics Association must have an affiliated registered district level association/unit in at least 50% of the districts in their respective state/territory where the sport of gymnastics is practiced. They should not have individuals as members with voting rights.</p> <p>vii. <u>The affiliated member State/UT Gymnastics Association must hold regular elections as per their constitution (tenure of elected members must not exceed 4 years) and send notice of election along with a list of members forming the electoral college to GFI.</u></p> <p>viii. <u>The affiliated member State/UT Gymnastics Association must undertake and supply to GFI, a copy of their respective registration certificate, Statute, Constitution and Rules and Regulations, a list of their respective accredited member units and their Office Bearers and members as and when sought by GFI.</u></p> <p>ix. It is mandatory for all affiliated member State/UT Gymnastics association to conduct their annual state championships and provide a copy of annual activity report</p>
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		<p>duly approved by their General Body along with a calendar for the ensuing year within six months of the closing of the financial year.</p> <p>x. <u>Failure to hold elections as per constitution or to supply the required information within the stipulated period will constitute a breach of these Rules & may render the defaulting unit to disciplinary action under these Rules.</u></p>
21	<p>AMENDMENT TO THE CONSTITUTION No amendment shall be made to this Constitution except at an Annual or special meeting of the General Council at an Annual or special meeting of the General Council, and unless supported by two-thirds of the representatives present at the meeting or provided it is an absolute majority of the total strength of the General Council. All proposed amendments must be presented to the Honorary General Secretary at least weeks before the meeting and forwarded by him to every member of the Federation at least 14 days before the meeting.</p>	<p>AMENDMENT TO THE CONSTITUTION: No amendment shall be made to this Constitution except at an Annual or special meeting of the General Council, and unless supported by two thirds of the representatives present at the meeting or provided it is an absolute majority of the total strength of the General Council. All proposed amendments must be presented to every member of the Federation at least 14 days before the meeting.</p>
26	<p>GENERAL DISCIPLINARY REGULATIONS</p> <p>i. Violent of the existing Rules cannot be excused on the grounds of ignorance of the said Rules.</p> <p>ii. Whoever incited a member unit to commit an infraction or aids and said unit's infraction, shall be sanctioned in the same manner as the unit which commits the infraction.</p> <p>iii. All units of the GFI shall undertake to supply to GFI, a copy of their respective Salute, Constitution and Rules and Regulations, a list of their respective accredited member</p>	<p>GENERAL DISCIPLINARY REGULATIONS:</p> <p>i. Violation of the existing Rules cannot be excused on the grounds of ignorance of the said Rules.</p> <p>ii. Whoever incites a member unit to commit an infraction or aids the said unit's infraction, shall be sanctioned in the same manner as the unit which commits the infraction</p>



	<p>units and their Office Bearers and members, A copy of annual report activities duly approved by their General Body withing six-months of the closing of the financial year, along with a calendar for ensuring year. Failure to supply this information within the stipulated period will constitute a breach of these Rules & may tender the defaulting unit to disciplinary action under these rules</p>	
28	<p>DISCIPLINARY SANCTIONS: The member units are liable to the following disciplinary sanctions:</p> <ol style="list-style-type: none"> i. Warning ii. Caution iii. Suspension for a specified period of time and iv. Expulsion from the GFI 	<p>DISCIPLINARY SANCTIONS: The member units are liable to the following disciplinary sanctions:</p> <ol style="list-style-type: none"> i. Warning, ii. Caution, iii. Suspension for a specified period of time and iv. Expulsions from the GFI.
29	<p>APPEAL: An appeal can be submitted to the President of the IOA in the event of any differences which may arise with regard to the functioning of the GFI within its laid down statues and regulations. Appeal to any other jurisdiction is forbidden.</p> <p>NOTES:</p> <ol style="list-style-type: none"> i. No penalty shall be imposed before the unit at fault has been heard at the interrogation specifically conducted for this purpose. ii. Should an affiliated unit fail to present itself through its accredited office-bearers at the interrogation, it shall be considered as having been interrogated. iii. As a general rule, except in the special circumstances duly appreciated suspension shall be applied as a temporary measure between the infraction of an actual penalty. 	<p>APPEAL: An appeal can be submitted to the President of the IOA in the event of any differences which may arise with regard to the functioning of the GFI within its laid down statues and regulations. Appeal to any other jurisdiction is forbidden.</p> <p>NOTES:</p> <ol style="list-style-type: none"> i. No penalty shall be imposed before the unit at fault has been heard at the interrogation specially conducted for this purpose. ii. Should an affiliated unit fail to present itself through its accredited office-bearers at the interrogation, it shall be considered as having been interrogated. iii. As a general rule, except in the special circumstances duly appreciated suspension shall be applied as a temporary measure between the infraction of an actual penalty.



<p>UNDER THE HEAD “VARIOUS COMMITTEES” 4.</p>	<p>DISCIPLINARY COMMITTEE A Disciplinary Committee shall be appointed as per the Rules of Federation for a period of 4 years after the General Elections of the Federation. The said Committee shall consist of 5 members, one of them being a Chairman. The President and the General Secretary. of the Federation shall be the ex-officio members of the said Committee.</p> <p>DUTIES</p> <p>a) To ensure that discipline is maintained at the time of National Championships amongst all the Gymnasts & officials.</p> <p>b) To ensure that Rules of Federation are observed by all the Members of GFI and the names of defaulters be reported to the Executive Committee for necessary action</p> <p>c) To recommend disciplinary action against any Gymnast, Official, State Association for misbehaviour or any other undesirable & anti Federation activity that brings discredit to the Federation activity that brings discredit to the Freedom of the Country or the Gymnastics,</p>	<p>DISCIPLINARY COMMITTEE: A Disciplinary Committee shall be appointed as per the Rules of Federation for a period of 4 years after the General Elections of the Federation. The said Committee shall consist of 5 members, one of them being a Chairman.</p> <p>DUTIES:</p> <p>a) To ensure that discipline is maintained at the time of National Championships amongst all the Gymnasts & Officials.</p> <p>b) To ensure that Rules of Federation are observed by all the Members of GFI and the names of defaulters be reported to the Executive Committee for necessary action.</p> <p>c) To recommend disciplinary action against any Gymnast, Official, State Association for misbehaviour or any other undesirable & anti Federation activity that brings discredit to the Federation of the Country or the Gymnastics.</p>
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11. A perusal of the un-amended and the amended constitution shows that the constitution and the functions of the Disciplinary Committee are identical in both the amended and the un-amended constitution. It is also relevant to mention that the powers given to the Gymnastics Association of India to initiate disciplinary action, under Section 2 (b) (vii) and 2 (b) (viii), of the amended constitution, is not a new power, but had previously been



relegated to the organization under 26 (iii) of the un-amended constitution. In any event, the process of appointment of such a disciplinary committee, in both, the amended and un-amended regulations, is the same. It is also pertinent to mention that nowhere in the rules, either amended or un-amended, does it require such a committee to be either reconstituted or revalidated post an amendment in the constitution. Hence, a brief perusal of the regulations shows that the amendment to the constitution did not mean disbanding or reconstitution of the existing Committees, and since the procedure to appoint the disciplinary committee, in both the amended and un-amended constitution, is same and the duties and the powers of the disciplinary committee are unchanged no prejudice has been caused to the Petitioner and, therefore, the very foundation of the case of the Petitioner that the nomination was there in the erstwhile Committee is of no substance.

12. This Court of the opinion that the decision making process has been fair and transparent. Opportunities have been given to the Petitioner to represent its case and the Petitioner did represent its case. What is more pertinent is that both the un-amended and the amended constitution provides for an appellate remedy. In fact, material on record discloses that after the Impugned Communication was passed, the Petitioner on 13.12.2022 did write a letter to Respondent No.1 seeking for documents to avail of the appellate remedy. The said letter dated 13.12.2022 reads as under:

*"To
The President
Gymnastics federation of Inda*

*Sub: Disciplinary proceedings against DGA
Ref: Prgfi/SGA/Dec/12/1*



Sir,

With respect to the above referred letter dated 12th December 2022 on the above stated subject I would like to state that DGA wishes to file the review petition before the GFI at the earliest and for the purpose need some documents to present its case before the Federation. I take this opportunity to reiterate that so far DGA has never been supplied with any document whatsoever even after repeated requests, which seriously affected our proper response to the questions raised and our right of defense. We once again demand the supply of earlier asked documents along with some new ones which have come into being because of developments brought about during course of proceedings, The said documents are as under:

- 1. The copy of representations / complaints on the basis of which the president, GFI wrote the letter Ref No. Prgfi/SGA/Jun/.30/1 addressed to DGA.*
- 2. The copy of report submitted by the chairman, disciplinary committee before the Executive Committee on 26-11-2022.*
- 3. The copy of resolution passed by the Executive Committee on 26-11-2022 if any resolution was passed at all.*
- 4. The copy of resolution passed by the General Council of GFI on 27-11-2022.*

The above mentioned documents are not only important but are necessary to file the review petition before GFI.

In the interim I request your good self to kindly keep the said resolution in abeyance till final decision is



taken on the review petition being filed by the DGA. The situation created due to the expulsion of DGA is very harmful to the development of gymnastics and to the carriers of budding gymnasts of Delhi. We the DGA was informed of this development only in the evening of yesterday i.e. on 12-12-2022 and the 25th senior and 26th junior Rhythmic Gymnastics National Championships 2022-23 is scheduled to be held at Bengluru from 16th-18th December 2022 followed by 57th junior National Artistic Championship (MAG & WAG) at Thiruvananthapuram, Kerala from 30th December 2022 to 2nd January 2023, the teams for these competitions have already been selected by DGA and all the arrangements including non-refundable tickets etc have been made now it would be not only amount to irreparable loss to the psyche of gymnast but will also amount to great financial loss which would be impossible to compensate.

Therefore in the circumstances I once again request your good self to allow the participation of Delhi team in the above stated competitions but also DGA should be allowed to remain the affiliated member of GFI till the final disposal of Review Petition being filed by DGA. I would just like to mention here that at Jalandhar, Punjab also two teams from Delhi participated under the banner of GFI and likewise two teams from Telangana are also participating in the various events organized by GFI from November 2021 Onwards.

The request is reiterated in the interest of natural justice and fair play and most importantly for the development of Gymnastics in Delhi looking forward for your kind Indulgence.

*Regards
Ram Dulare"*



13. During the hearing of this case, this Court repeatedly asked the Petitioner to avail of the appellate remedy which the learned Counsel appearing for the Petitioner refused to accept. In view of the fact that the learned Counsel for the Petitioner refused to avail of the appellate remedy, this Court had no other option but to decide the matter on merits. This Court does not find any substance in the argument of the Petitioner that since the nomination in the Disciplinary Committee was as per the un-amended constitution, the entire process fails as the process for appointing the Disciplinary Committee in amended and un-amended constitution are same and identical. As stated earlier, the fact that the constitution was amended does not mean disbanding of the Disciplinary Committee. The process for appointment of the Disciplinary Committee remained constant and the fact that the nomination was under the un-amended constitution is of no effect causing no prejudice to the Petitioner in the present case. This Court is of the opinion that the decision making process being transparent does not warrant any interference under Article 226 of the Constitution of India.

14. With these observations, the writ petition is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MAY 02, 2024

S. Zakir