

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 471 of 2023

Partha Sarathi Gupta and Anr.

---Petitioner(s)

Versus

The State of Tripura and 20 Ors.

---Respondent(s)

WP(C) 473 of 2023

Subrata Dey and 3 Ors.

--- Petitioner(s)

Versus

The State of Tripura and 4 Ors.

---Respondent(s)

For Petitioner(s) in

WP(C) No.471 of 2023 : Mr. P. Sharma, Advocate,

WP(C) No.473 of 2023 : Mr. B. Majumder, Advocate

For Respondent(s)

in both the Writ Petitions :

Mr. S. S. Dey, Advocate General

Mr. S. Lodh, Advocate

Mr. S. Majumder, Advocate

Mr. Samarjit Bhattacharjee, Advocate

Mr. Sumit Debnath, Advocate

Mr. Kohinoor N. Bhattacharyya, Advocate

Ms. Ayantika Chakraborty, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH

Order

16/01/2024

Heard Mr. P. Sharma, learned counsel appearing for the petitioners in WP(C) No.471 of 2023 and Mr. B. Majumder, learned counsel appearing for the petitioners in WP(C) No.473 of 2023. Also heard Mr. S. S. Dey, learned Advocate General assisted by Ms. Ayantika Chakraborty, learned counsel appearing for the respondents-State, Mr. S. Lodh, learned counsel appearing for the respondent nos. 3, 5 and 7 in WP(C) No.471 of 2023, Mr. S. Majumder, learned counsel appearing for

the respondent nos.8 to 16 in WP(C) 471 of 2023, Mr. Samarjit Bhattacharjee, Mr. Sumit Debnath, Mr. Kohinoor N. Bhattacharyya, learned counsel appearing for the respondents.

2. Present writ petition bearing no. WP(C) No.471 of 2023 has been filed praying for following reliefs:-

“That the humble petitioner has no other adequate, equally efficacious, and alternative remedy and the remedy sought for is complete and adequate.

PRAYER

In the premises aforesaid it is humbly prayed before Your Lordship that Your Lordship may be so pleased to consider that above facts and issue RULE NISI calling upon the respondents to show cause as to why a writ of mandamus appointing Administrator to administer and manage the day-to-day affairs of Tripura Cricket Association.

AND

(i) *As to why a writ of mandamus shall not be issued directing respondent no.2 to constitute a Special Investigation Team for investigating the matter of financial irregularity in procurement of High Mast L.E.D. Flood Light in M.B.B. Stadium under Tripura Cricket Association.*

AND

(ii) *As to why a writ of mandamus shall not be issued directing a fresh election to be conducted to the TCA and Apex Council of the Tripura Cricket Association.*

AND

(iii) *As to why any other orders/writ or writs shall not be this Hon'ble Court may deem fit and proper in the given facts and circumstances of the case.*

AND

As to why a any other Writ/ Order shall not be issued for granting all and adequate relief to the petitioner."

3. By means of filing the present writ petition, the petitioners, being the life members of Tripura Cricket Association, have urged this Court to save the Tripura Cricket Association (TCA) from mass-scale financial irregularities, nepotism and corruption. The petitioners have

stated in their petition that there is serious mistrusts and distrusts among the members of the General Body as well as the members of the Office Bearers.

At Para-17, the petitioners have stated *“That, the petitioners are aggrieved by the recent conflict between the elected office bearers of TCA and the resultant impasse within the association. Petitioners are primarily seeking appointment of an Administrator to solve the urgent administrative exigency created as a result of the said impasse. Petitioners are also seeking an SIT/SFIO enquiry and a forensic audit into the books of TCA to understand the veracity of the allegation of corruptions and illegalities against officials of TCA”*.

It is further stated in the petition that the members of the Committee have failed to discharge their obligation towards promotion of Cricket in the State and there is ugly fight between the Office Bearers which has ultimately resulted to disruptions in the functioning of the TCA and currently the functioning of TCA is in jeopardy and requires urgent actions from the Hon’ble Court so that the dispute between the Office Bearers of TCA does not affect the players, tournaments, and above all, the cricket as a game in the State of Tripura.

4. Upon hearing the controversies raised in this petition, this Court, in the interest of cricket, had made an initiative to resolve the disputes in the manner as under, which is reflected in the order dated 03.08.2023, passed in WP(C) No.471 of 2023:-

“The discussions and interactions between the parties were held at a cordial atmosphere. After prolonged discussions with the parties to the petition and the members of General Body, it is resolved thus:

(i) The members of the Apex Council shall be limited to 5(five) members i.e. the President, Vice-President, Secretary, Joint Secretary and Treasurer. The participants have decided to dissolve the present Apex Council of Tripura Cricket Association(‘TCA’, for short), except those 5(five) Office Bearers

to maintain the supremacy of the General Body as envisaged in Rule 5 of Memorandum of Association and Rules & Regulations of Tripura Cricket Association(for short, Rules of TCA).

Accordingly, from now, there will be no Apex Council of TCA, and its functioning shall be performed by the General Body;

(ii) The participants have agreed to constitute the Apex Council comprising of 9(nine) members consistent with the spirit of the directions passed by the Hon'ble Supreme Court in the case of **Board of Control for Cricket in India vs. Cricket Association of Bihar and others** [Civil Appeal No.4235 of 2014];

(iii) The Association shall amend the rules of TCA accordingly.

(iv) In the present situation, it is resolved that the bank of the TCA shall be operated by President and Treasurer of TCA. In case of emergent situation or in the event of any vacancy, the President shall delegate/authorize the power of such operation of bank account to the next available Officer Bearers in terms of Rule 7 read with Rule 22(2) of the Rules of TCA;

(v) The status and position of Office Bearers are restored as it was prior to 19.07.2023. The parties to the petition and the participants have agreed that General Body is the Supreme Body of TCA. Further, the General Body also can review any decision of the Apex Council.

(vi) The General Body meeting will be held on 09.08.2023 at 12.00 hrs at M.B.B. Stadium Club House. The representatives of the full members must bring authorization letters. The President, Secretary and Joint Secretary shall scrutinize the authorization letters. The authorization letters must be submitted to the President on or before 08.08.2023 during office hours of TCA;

(vii) The Office Bearers have submitted their respective undertakings that they shall abide by the Rules of TCA and the decision of the General Body.

(viii) The TCA shall be functional in all respects smoothly henceforth from the premises of TCA.

(ix) It is further resolved and undertaken that they will work together for the interest of Cricket of the State without creating any hindrance. The Office Bearers have no objection if any investigation is carried out as regards any affairs of the functioning of TCA;

(x) *Agenda of the General Body meeting shall be decided by the President and Secretary of TCA;*

(xi) *Mr. B.K. Ray, IPS, now retired, has been appointed as Commissioner with immediate effect to monitor and supervise the day to day affairs of TCA on behalf of this Court. Mr. Ray may submit report to this Court if he feels and desires it necessary;*

(xii) *The General Body shall take a decision for appointment of Ombudsman and Ethics Officer within a reasonable period of time.”*

5. Being aggrieved by the order dated 03.08.2023, passed by this court, the members of the Apex Council had preferred an intra-court appeal, which was registered as **WA No.96 of 2023** titled as ***Shubham Roy and Ors. Vs. Partha Sarthi Gupta and Ors.*** A Division Bench of this Court vide its order dated 09.08.2023 directed the writ appellants to make an appropriate application for their impleadment and praying for recalling the impugned directions. Accordingly, the writ appeal was dismissed as withdrawn. Thereafter, the members of the Apex Council had filed an interlocutory application before this Court for their impleadment. This Court having heard the learned counsel vide its order dated 06.10.2023 had impleaded the members of the Apex Council as respondent nos. 8 to 16. Subsequently, this Court had passed an order directing the State authorities to constitute a Special Investigation Team (SIT) and in compliance of the said order, SIT was constituted and the matter is still under investigation by the SIT.

6. In terms of the order of this court dated 03.08.2023, the TCA was trying to function its affairs, but, there was continuing distrusts and lack of adequate confidence amongst the members of the Committee.

7. The Annual General Meeting(for short, “AGM”) was convened firstly, on 07.10.2023, 01.11.2023, 01.12.2023 and lastly, on 04.12.2023. On 07.10.2023, the first AGM was held. There were adjournments in the subsequent dates due to absence of some members, and on 04.12.2023, the Office Bearers of the Association failed to

approve the budget placed before the General Body. In other words, the General Body disapproved the proposed budget furnished by the Office Bearers. From the minutes recorded in the meeting, it is evident that the members of the General Body expressed their distrusts towards the members of the Office Bearers. Then, the General Body resolved that there must be a fresh election and in the meantime, they proposed to appoint administrators to administer and function the affairs of the Association smoothly.

8. Sri Tapan Lodh, the President of TCA had made a communication to the Court appointed Commissioner indicating the discussions held in the AGM and the resolutions taken on 04.12.2023 and informed him that since they failed to pass the budget, there was obvious no-confidence against the present Office Bearers of the Association.

It was expressed by the members of the General Body that the Office Bearers tried to regularise some irregular expenditure; and added to it, huge expenditures were made without mandatory approval of the President of the TCA, keeping him in dark.

9. Mr. B. K. Ray, the appointed Commissioner has forwarded this communication dated 04.12.2023 to this Court which has been kept with the record under an order by this Court.

10. In the aforesaid background, today, the matter has come up on the question of validity of the dissolution of the Committee of the Office Bearers as well as various aspects for conducting a fresh election to run the TCA.

11. Mr. Majumder, learned counsel for the respondent nos.8 to 16 has submitted that there was no ground at all to dissolve the present Committee of Office Bearers. He has also submitted that non-approval of the budget in the Annual General Meeting cannot be a ground to dissolve the entire Committee of the Association as well as the Office Bearers. Mr. Majumder, learned counsel referring to a decision of the Hon'ble

Supreme Court in the case of *The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal and Ors.* reported in AIR 1962 SC 1044 has submitted that since no legal or constitutional rights of the petitioners has been infringed, they are not entitled to file the instant writ petition. In other words, what Mr. Majumder, learned counsel has tried to persuade this Court that the petitioners have no *locus standi* to file the present writ petition. As regards the question of locus of the petitioners raised by respondent nos. 8 to 16, the Division Bench has already observed in the W.A. No.96 of 2023 stated supra that the petitioners have *locus standi* to file the present writ petition since they are the members of the TCA and their names appeared at serial nos. 126 and 162 of the final list of life members. Moreso, having gone through the decision passed in *The Calcutta Gas Company (Proprietary) Ltd. (supra)*, in the opinion of this Court, the discussion of this point in the said judgment has no relevance to the context of the present case.

In view of this, I repel this submission of learned counsel for the respondent nos.8 to 16 as regards to his submission on *locus standi* of the petitioners to file the instant writ petition.

12. Mr. Lodh, learned counsel appearing for the respondent nos. 3, 5 and 7 in WP(C) No.471 of 2023 has adopted the submission of Mr. S. Majumder, learned counsel for respondent nos.8 to 16 in WP(C) No.471 of 2023. In addition, Mr. Lodh, learned counsel has submitted that in the TCA constitution, there is no provision for placing the budget and if budget is not passed, the Committee should be declared as non-functional Committee and that it can be dissolved. Mr. Lodh, learned counsel has further submitted that in the TCA Constitution, there is no provision for initiation of no-confidence motion. Hence, the no-confidence motion is bad in law.

13. I have considered the said submission of Mr. Lodh, learned counsel for the respondent nos.3, 5 and 7. The above submission of Mr.

Lodh, learned counsel leads me to take note of the business to be transacted at AGM of the General Body as laid down in Chapter-3 of the Memorandum of Association. It is stipulated that the following business shall be transacted at every AGM of the General Body:-

- “(i) Confirmation of the minutes of the previous General Meetings.*
- (ii) Adoption of the Report of the Secretary of the year under review.*
- (iii) Adoption of the Treasurer’s Report and the audited accounts for the year under review.*
- (iv) Adoption of the Annual Budget.*
- (v) * * * * **
- (vi) * * * * **
- (vii) * * * * **
- (viii) * * * * **”

As per above stipulations, budget shall be placed before the General Body, but it was not approved by the General Body. The outcome is obvious that the General Body expressed its no-confidence upon the Office Bearers. Moreso, the General Body in terms of the requirements of the Memorandum of Association decided to dissolve the Committee of Office Bearers of the TCA.

Resultantly, the Committee of the Office Bearers became non-existent.

14. Now, the main question to be dealt at this stage as regards the future administration of the affairs of the TCA. There is no quarrel in the bar that it is the peak season of cricket. Number of tournaments at many levels are going on, including the Ranji Trophy. Integrity and sanctity of the Association must prevail. There must be an environment so that the people of the State may repose faith on the persons responsible to run and govern the Association. No doubt, players are concerned with the day-to-day affairs of the Association. Distrust amongst the members and mis-management of the affairs of the Association must have an adverse impact on the players.

15. At this juncture, I have perused the object and purposes of the formation of TCA. Some of which are as under:-

“(a) To control and improve quality and standards of the game of Cricket in Tripura, lay down policies, road maps, guidelines and make rules and regulations (and amend or alter them) in all matters relating to the game of Cricket, recognizing that the primary stakeholders are the players and Cricket fans in Tripura, and that accountability, transparency and integrity of the Game are the core values;

(b) To provide for measures necessary for promotion and development of the game of Cricket, welfare and interest of Cricketers and elimination of unethical and unfair practices in the Game of cricket; and for that purpose, organize coaching schemes, established coaching academies, hold tournaments, exhibition, matches and any other matches and take all other required steps;

(c) To strive for sportsmanship and professionalism in the game of Cricket and its governance and administration; inculcate principles of transparency and ethical standards in players, team officials, umpires and administrators; and in ban doping, age fraud, sexual harassment and all other forms of inequity and discrimination

(d) To foster the spirit of sportsmanship and the ideals of cricket amongst school, college and university students and others and to educate them regarding the same”

16. In the Memorandum of Association (MoA) it is also stipulated that *“the income, funds and properties of the TCA, however acquired, shall be utilized and applied solely for the promotion of the objects of the TCA as set forth above to aid and assist financially or otherwise and to promote, encourage, advance and develop and generally to assist the game of cricket or any other sport throughout the State”*. It is further stipulated in the MoA that *“The TCA shall not be dissolved unless the dissolution is decided upon in a resolution passed at a General Meeting of the TCA convened for the purpose, by majority of*

3/4th the Members present and entitled to vote. The quorum for such meeting shall be 2/3rd of the members who have a right to vote.....”

Under Rule 1(A)(m) of Chapter 1 “*General body is the supreme body of the TCA which is constituted by its Members*”.

Under Rule 5 of Chapter II which deals with Constitution and functions of the TCA, it is clearly stipulated under sub-rule(1) that “*(1) The General body which is the Supreme Body of the TCA is constituted of all the Members of the TCA*”. It is also stipulated that “*all powers of governance, management and decision-making shall vest in the General Body.....*” [sub-rule (3) of Rule 5]. In addition, the General Body shall have the power to do such other acts and things as may appear to the General Body to be expedient, convenient and/or conducive to the carrying out of various functioning of the TCA [sub-rule (4)(c)].

To summarize, what has been gathered, the General Body is the supreme authority and its decision shall be final as regards all matters relating to the affairs and aspects of the TCA. Chapter-3 of the MoA deals with *AGM of the General Body*. It is stipulated that the *AGM of the general body shall be held every year, not later than 30th September*.

In the instant case, the AGM of the General Body was commenced with the serving of notice dated 15.09.2023 upon all the eligible members. There is no dispute that the AGM has necessary quorum. Out of 33 members 27 members were present on 04.12.2023.

17. In the resolution taken by all the members of the Tripura Cricket Association which has been reflected at para-5 of the order dated 03.08.2023 it was resolved that the parties to the petition and the participants have agreed that the General Body is the Supreme Body of the TCA. In the TCA Constitution also it is clearly written that the General Body is the supreme of all the Committees and its decision will be final. The General Body also has the power to review the decision taken by the Apex Council. In the instant case, in terms of the resolution

dated 03.08.2023, there is no existence of the Apex Council. The Constitution of TCA has already been amended.

18. Since the General Body is the supreme body, and since it held that the present Committee of Office Bearers should be dissolved and since in the minutes it is recorded that TCA has been dissolved and fresh election is to be held, in my opinion, this court has no power to over power or to act contrary to the decision of the General Body of TCA.

19. Mr. Majumder, learned counsel has strenuously argued that the General Body of the TCA has no reason to dissolve the present Committee of the Office Bearers.

20. I have consciously taken into consideration the submission of Mr. Majumder, learned counsel for the respondent nos.8 to 16. It is evident from various proceedings recorded in the meeting of the AGM that was commenced on 07.10.2023 that there were serious mistrusts and distrusts among the members of the Committee. Even this Court was forced to pass an order to constitute the SIT to investigate the financial irregularities. The Commissioner appointed by this Court has furnished a preliminary report highlighting the various irregularities committed by the Office Bearers of the TCA. In spite of that, this Court has tried its best to pacify the members of the Committee to run the affairs of the association keeping in mind the interest of the Cricket of the State. But, they failed to discharge their obligations towards the interest of the Cricket as well as to show respect to the directions passed by this Court as well as the resolutions taken by this Court which are reflected in the order dated 03.08.2023. Furthermore, when all the members of the Association have taken a unanimous decision to dissolve the entire Committee of the Association, then, this Court does not feel it necessary to take note of the plea of the members of the Apex Council i.e. the respondent nos.8 to 16 praying for continuation of the Committee.

21. Added to it, at the cost of repetition, as I said earlier, at present there is no existence of the Apex Council. The resolution taken by the members of the General Body as well as the Office Bearers in presence of the General Body vide order dated 04.12.2023 remained unchallenged.

22. Since the supremacy of the General Body is unquestionable, then, their decision to dissolve the Apex Council cannot be interfered with by this Court.

23. In view of the aforesaid facts and circumstances and keeping in mind the present and future of the cricket in the State of Tripura, this Court deems it fit to appoint a Committee of Administrators to look after the affairs of the Tripura Cricket Association.

24. Since, it is a peak season of Cricket, in my opinion, any person alien to the administration of TCA may face difficulties to achieve the object and purposes of the Association.

In view of this, I would like to appoint Sri Tapan Lodh, a former Chief Engineer of PWD, Government of Tripura, Sri Basudeb Chakraborty, a member of Blood Mouth Club associated with cricketing affairs and former honorary Secretary of TCA and Dr. Pallab Das Gupta, Level-B Coach of BCCI and senior cricket coach of SAI, Kolkata as three-members Committee of Administrators. At the same time, Sri B. K. Ray, IPS (Retd.) will continue as Commissioner to supervise the affairs of the Association. The Committee of the Administrators, as constituted here-in-above, shall take over the charge with immediate effect.

25. Simultaneously, I deem it fit to appoint an Electoral Officer to conduct the election of TCA. Accordingly, I request Mr. Kishore Ambuly, IAS(Retd.) as an Electoral Officer to conduct and hold election of the Tripura Cricket Association. I have considered his name for the reason that in the earlier occasion, in the similar situation Mr. Kishore Ambuly had conducted the election of the TCA as he had experience to

conduct the election of the TCA. Mr. Ambuly is requested to complete the entire process of election within a period of 1(one) month from the date a copy of this order is furnished to him.

26. The Registry is directed to forward a copy of this order to Mr. Ambuly (Electoral Officer appointed by this court) and the members of the above-mentioned Committee of Administrators as well as in favour of Sri B. R. Ray, the Court appointed Commissioner within 2(two) days from today.

27. List the matter on **27.02.2024**.

HIGH COURT OF TRIPURA

JUDGE



सत्यमेव जयते

Rohit