

# The Emergence of Sports Law

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## ABSTRACT:

*There is a quest for the development of sports law in our country. It is mainly created by a combination of various rules and policy decisions which is purely governed by the government of India. Some of the Indian sports enactments have been borrowed from the respective laws of other countries. The emergence of BCCI has put forwarded a staggering development in the field of sports in India. It is a massive society which governs the sport of cricket and it is a non-statutory body which do not enjoy any kind of financial assistance from the government. It acts as a private club and as such issuance of a writ against it would be completely beyond the scope of Article 226 of the Constitution of India. The emergence of men's hockey federation also played prominent role in the development of the hockey in India. In order to protect the sanctity of the sports there was a need for the commencement of the national dope testing laboratory. The emanation of various federations like Sports Authority of India, Indian Olympic Corporation etc. have led to the dire need of revenue resources to erect basic organizational structure of various national sports teams. The remuneration guaranteed to the athletes are based solely on the competition law and various federations are striving to get monopoly rights to legitimize its own rules and regulations. The sports law and the welfare association of India is a dispute resolution body fabricated to untangle the problems arising in the sports sector. With the ratification of Prasar Bharati Act the main objective was to provide a free to air basis, of sporting events of national importance through mandatory sharing of sports broadcasting signals. Sexual harassment in the sports sector has turned out to be a cardinal issue in the present scenario. Various legislations has to be promulgated to ensure safe environment for the athlete.*

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## I. INTRODUCTION

There is a need in the development of sports law in our society. It is something which showcases how the general law goes in compliance with the activity of sports. It is a form of pure law which is a blend of applied law in number of jurisdictions. In India it's an amalgamation of some landmark judgments and various policy decisions which is purely governed by the government of India. Sports law is an ideology which is likely been borrowed from the enactments from abroad. The subject matter of sports law comes under the seventh schedule, state list, entry 33 of the Indian constitution.

Various statutes like The Sports development Act 1997 (Act 576 of Malaysia) & The Amateur Sports Act of 1978 (36 U.S.C.A. § 391) are examples of sports law across various countries from which the Indian legislature have borrowed various enactments.

The emergence of BCCI was a split of development in the area of sports field in India. It is a society which is registered on 28.11.1940 under the Tamil Nadu Societies Registration Act 1860. The institution of BCCI is recognized as a state under Article 12 of the constitution of India<sup>1</sup>. It has the monopoly power to regulate the affairs of cricket in India. It is a massive society which governs the sport of cricket which is a heartthrob to many. It is a non-statutory body which do not enjoy any kind of financial assistance from the government. It

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<sup>1</sup> Zee Telefilms Ltd. & Anr Vs Union Of India & Ors 2005 (4) SCC 649

acts as a private club and as such issuance of a writ against it would be completely beyond the scope of Article 226 of the Constitution of India. The BCCI which is the basic depository of cricket in India has accomplished this “colossal” prominence through its consortium, virtuosity, the fascination for the game in India and last but not the least by the implicit compliance of the government.. Most of its powers are dealt with civic duties and functions which cannot be said to be beyond the ambit of Article 226 in all contingencies for all times to come<sup>2</sup>.

*“When the Government supports and authorizes an embodiment like BCCI assume the entitlement of being a unique spokesperson of India for cricket by enabling BCCI to handpick the team for India for appearance in events like the World Cup, then it necessarily diffuses BCCI with the public functions at least in or far as the choice of the team to represent India and India’s delegation in International Cricket. Thus the monopoly status of the above institution is indisputable. It is also clear that such monopoly status is indisputably state recognized as evident from the letter of Ministry of Culture, Youth Affairs & Sports dated 22nd December 2000 and indeed by acquiescence of the Government, can be considered state conferred.. Similarly, membership of BCCI of the International Cricket Conference (ICC) cannot ipso facto imply that it is not amenable to writ jurisdiction. In fact, BCCI represented India on this own showing and depending upon the nature of the action impugned, would be amenable to writ jurisdiction.”<sup>3</sup>*

The emergence of other prominent federations have led to the development of the Indian Hockey federation which is an autonomous body registered under the Societies Registration Act 1860 and it has got recognition from the Ministry of Youth and Affairs & Sports for the promotion of the men’s hockey in the country.

To protect the purity and validity of certain sports it regulated certain strict code of conduct to be performed which led to the creation of the National Dope Testing Laboratory which is specialized in the field of analytical testing of samples and research in the field of dope analysis. This was registered in 2008 and its main aim is to get permanent accreditation by International Olympic Commission and WADA<sup>4</sup>.

After the Sixth Asian Games held in New Delhi in 1982, The Sports Authority of India was configured as a Society registered under Societies Act, 1860 in pursuance of the Resolution No. 1<sup>5</sup> of the Department of Sports, Govt. of India with the objective of stimulation of Sports and Games.

The National Olympic Committees is to make sure that the athletes from their respective nations participate in the Olympic Games. Only a NOC<sup>6</sup> is able to select and send teams and competitors for the participation in the Olympic Games.

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<sup>2</sup>Rahul Mehera Vs Union of India (2005) 4 CompLJ 268 Del

<sup>3</sup>Ajay Jadeja v Union of India 95 (2002) DLT 14

<sup>4</sup>World Anti-Doping Agency

<sup>5</sup>1/83/SAI dated 25th January 1984

<sup>6</sup>National Olympic Committee

In terms of the Olympic-Charter, Indian Olympic Association has the absolute power for representing India at the Olympic Games at the regional, continental or multi-sports competitions patronized by the IOC<sup>7</sup>. In other words, the main function of IOA<sup>8</sup> is to act as the nodal agency for the participation of Indian sports delegation in various international sports events. Then IOA<sup>9</sup> also claims to be the pinnacle of all National level sports federations; it represents the national face of the IOC<sup>10</sup>. It has the power to confederate or affiliate other menial sports federations, which in turn can select and finance sportspersons to constitute the country in games and events. The Indian Olympic Association and National Sports Federations have been specifically listed as an item of pursuit devoted to Ministry of Youth Affairs & Sports and due to the aforesaid reasoning's it is contended that the IOA<sup>11</sup> is a public authority.

An important aspect of the economics of sports is that trends in the sources of revenue and cost play an important role in determining the organizational structure of a team. In fact, the bureaucratic composition of a team is influenced by the reciprocal importance of team management and consolidated decision-making regarding certain notable sources of revenue. Therefore, professional sports evolved from modest recreational inception into trailblazing business operations, promoting sizeable team management rather than individual team management.

## II. VARIOUS POLICIES GOVERNING THE INSTITUTION OF SPORTS IN INDIA

The National Sports Policy, 1984 was devised out of a resolution passed out with the objective of raising the opportunities in the field of sports. The main disputation of the policy was to scrutinize the policy every 5 years for the determination of further enlargement. The genuine enactment of the above said policy is yet to be accomplished. For the purpose of reformulation the policy was revised in 2001 . With the unified effort with the State Government, the Olympic Association and the National Sports Federation along with the central government modified the aforesaid policy which pursued the objectives of “*Broad-basing*” of Sports and “*Achieving Excellence in Sports at the National and International levels*”. The Government of India along with the Sports Authority of India, Indian Olympic Association and the National Sports Federations, gives special attention on the target of achieving excellence at the National and International levels. The National Sports Policy aims to pursue inclusion of “Sports” in the Concurrent List of the Constitution of India and it mainly focuses on the instigation of appropriate legislation for national and inter-state jurisdiction for solving various matters related to the sport

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<sup>7</sup> International Olympic Committee

<sup>8</sup> Indian Olympic Association

<sup>9</sup> Ibid

<sup>10</sup> Ibid

<sup>11</sup> Ibid

### III. THE RELATION WHICH PERSIST BETWEEN SPORTS AND COMPETITION LAW

Remuneration of the team members largely depends on the level of competition between the teams in a particular sport. The organization of a sport is in a kind of a 'pyramid' structure, with a single governing body controlling most regulatory and materialistic aspects of each sport, the governing body appears to be de facto 'authoritative' and therefore it deals with the claims relating to the abuse of monopoly.

Sports governing bodies such as BCCI, attempts to preserve for themselves to get sole monopoly right to formulate rules and regulations and also to organize events. There has always been conflict between different federations governing the same game in order to prevent the development of rivalry between the organizations, they have sought to tie players in by prohibiting them from competing in other events, on pain of exclusion from 'official' events, and this has led to a subject of challenge under competition law.

Some practices on part of the BCCI may attract liability under the provisions of the Competition Act, 2000 if any enterprise "*indulges in practice or practices resulting in denial of market access in any manner*", then it shall be liable for abuse of dominant position<sup>12</sup>..

### IV. SPORTS LAW AND THE ROLE OF WELFARE ASSOCIATION OF INDIA

The sports law and the welfare association of India is a non-profit organization which promotes the development in the area of sports and it brings the legal practitioners and the sports persons together for resolution of disputes arising in the area of sports. It acts as a consultancy dispute resolution body in solving regulation of sports governing bodies, general sport and law issues, intellectual property issues in sport, online advocating in legal disputes of sports in court on behalf of sports persons and sports bodies, etc. The main aim of the organization is to further the discussion of legal problems affecting sports and to promote the exchange of a variety of perspectives and positions of sports law and provide a forum for lawyers representing athletes, teams, leagues, conferences, civic recreational programs, educational institutions and other organizations involved in professional, collegiate, Olympic, physical education and amateur sports.

### V. SEXUAL HARASSMENT IN THE AREA OF SPORTS

Sexual harassment has ceased the quality of sports in many ways. It has turned out to be a dejecting fact that a lot of women athletes are facing grievous problems in the sports sector .It is mainly due to the relationship between the trainers and the athletes and also due to the sports ensemble which is provided to them which turns out to be a bit vulnerable. Various organizations have given statements on the progression of harassment in the field of sports.

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<sup>12</sup>Section 4(2)(c)

.There is a need to make strict rules and procedures for the protection of women and for making a safe environment for girls to excel in sports. Recognizing the problem of sexual harassment in sports, various organizations have adopted resolutions that urges:

## **VI. SUGGESTIONS FOR THE PREVENTION OF SEXUAL HARASSMENT IN SPORTS**

- Enactment of strict rules and procedures to safeguard the interest of sportspersons
- Implementation of code of ethics and code of conduct for all the trainers , coaches and players.
- Providing training on the ways how to tackle the situations arising out of sexual harassment in the field of sports.
- Development of strict complaint procedures
- Construct emergency cells and call centers in need of an emergency
- Foster a climate of open discussion about the issues of sexual harassment and abuse so that athletes with problems feel confident enough to speak out;

## **VII. CONCLUSION**

Both laws and administrative regulations play a role in the emergence of sports law in the form of collegiate athletics. Various sports federations must comply with a throng of federal and state laws as well as governing body regulations when they conduct athletics programs. These regulations should cover everything from equal opportunities to banned substances, practice schedules and other regulations for the health and safety of athletes.