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The Menace of Age fraud in Indian Sports: Extent and Analysis

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ABSTRACT

It is often said that the age is just a number but when it comes to sports, age plays a critical role in the professional life of athletes. Athletes have a relatively short career and in that short period, each one of them wants to hit the highest heights and maximize the same. To bypass the constraint of age various players purposefully fake their age in order to get a chance to participate in age-restricted competition; advantage of physical maturity over younger athletes; access to various opportunities likes' scholarships, government jobs, reserved seats in educational institutes; Sometimes even breaking national records etc. Age fraud in sports has turned out to be a serious matter not only at national level but at international level as well. It is not only a breach of certain laws, but rather an assault on the sports' fundamental principles of "honesty, fair play, and team spirit," as it denies deserving players an equal opportunity to participate in various competitions and gives the wrongdoer the upper hand. This practice has been thriving because of the complacency of sports governing bodies and the limited implementation & enforcement of birth registration laws. It is being more than a decade since India government took first initiative to address the problem of Age fraud by issuing "National Code against Age Fraud in Sports 2010". Increasing number of cases indicates that this well-intentioned code has largely failed to work as deterrent. Given the extent of issue, this article aims to discuss the extent of problem and analyze the efforts taken by Government of India and Sports Governing bodies to eradicate this problem.

Keywords: Age fraud, Sports, Sports Authority of India, National Code against Age Fraud in Sports, National Sports Ethics Commission Bill.

I. INTRODUCTION

It is often said that age is just a number, but it is not just a number when it comes to sports. Age plays a crucial role in the professional life of an athlete. Athletes have a relatively short career and in that short period, each one of them wants to reach the greatest heights and optimize the same. But it's also a fact that achieving fame and popularity takes years and just

¹ Author is an Assistant Professor at UPES, dehradun, India.

a few of players get the chance to represent their country or play professionally. To fight back the constraints of age some athletes take the wrong route by committing 'Age Fraud' also known as age fudging.

Age fraud means or include – 'Deliberate misrepresentation of age' by producing false documentation of school certificates, PAN cards, Aadhaar cards, passports and sometimes-even birth certificates², with an intent to get:

1. chance to participate in age-restricted competition;
2. advantage of physical maturity over younger athletes;
3. access to various opportunities likes scholarships, government jobs, reserved sheets in educational institutes
4. Sometimes even breaking national records etc.

In developing countries like India, age fraud appears to be a major problem and that may be due to lack of awareness or the limited implementation and enforcement of birth registration laws.

On 27 September 2019, Rahul Dravid highlighted the issue of age fraud in Indian junior Cricket. He stated, "Age fraud leads to an erosion of culture. It leads to a scenario where a lot of talented boys don't get to play when they should actually be playing"³. The problem of age fraud is not limited to one or two forms of sports, it spreads all across sports and this fraud is as bad as match fixing. For age manipulation, athletes alone cannot be held responsible; we have to understand the power dynamics between people who are associated with player in his career like parents, coaches and sometimes even school authorities are complicit in this.

In the long run, age fraud in sports is counterproductive as it affects the success of the country at the international level as worthy athletes are deprived of their equal chance to compete in different events. Different efforts have been made at various level to eliminate this menace of age fraud form sporting activities but recent incidents like suspension of Majot kalra the captain of India's U19 World Cup team, disqualification of Guinea team from participating in the FIFA Under-17 World Cup and etc, indicated that all attempts to eradicate this issue are unsuccessful.

² Medical tests, a national code & bans have not been able to stop age fraud in sports, The print, 29th June 2019 available at <https://theprint.in/india/medical-tests-a-national-code-bans-have-not-been-able-to-stop-age-fraud-in-sports/256016/> last accessed on October 28, 2020.

³Age fraud seriously detrimental to health of Indian cricket: Rahul Dravid, Time of India, 28th Sep. 2019 available at <https://timesofindia.indiatimes.com/sports/cricket/news/age-fraud-seriously-detrimental-to-health-of-indian-cricket-rahul-dravid/articleshow/71345033.cms> last accessed on October 28, 2020.

In view of magnitude of the problem, this article aims to discuss and analyze the current regulatory and legal structure against age fraud in India and at international level. For same, this article is divided into four Chapters. Chapter one deals with the instances of age fraud in sports in India and at International forum. Chapter two and three focuses on existing preventive framework at national level and chapter four attempts to analyze and comment.

II. INSTANCES OF AGE FRAUDS IN INDIAN

Starting with giant of the industry, Cricket has witnessed large scale of age frauds. Recently, Manjot Kalra, an Indian batsman who played and won man of the match in Under-19 Cricket World Cup 2018, was held under age fudging. His birth date was found 15 January 1998 instead of 1999. A chargesheet was filed by Delhi police against him and his parents as he was minor. Delhi & District Cricket Association (DDCA) banned him for 2 years from playing age category matches⁴.

During Indian Super League (ISL) in 2018, Jamshedpur FC's Gourav Mukhi, youngest goal scorer in ISL, was found overaged and was banned by the All India Football Federation (AIEF) for 6 months. The ban was lifted on September 2019 after Mukhi submitted correct birth certificate⁵.

The Athletics Federation of India (AFI) in 2019 during 16th National Youth Athletics Championships in Raipur disqualified Nisar Ahmed with 41 others athletes who failed in age verification test. Aditya Prakash (110m hurdles, 400m), Ashish Poonia (hammer throw), Manpreet Singh (Decathlon), Vijay Malik (High Jump) and Shyam Chaudhari (Discus Throw) were amongst these athletes.⁶

As per report published on website of outlook India on 20th December 2019, 'around 4500 boys and girls in the under-14 and under-16 age groups from 494 districts competed in the National Inter-District Junior Athletics Meet (NIDJAM) held in Tirupati from November 24 to 26, 2019. But on the basis of the age verification tests, 51 were declared over-age by the Athletics Federation of India while 124 did not turn up at the AFI counter for medical tests after entering

⁴ Why Age Fraud in Indian Sports Is So Prevalent, the Wire, 6th may 2020, available at <https://thewire.in/sport/why-age-fraud-in-indian-sports-is-so-prevalent>, last accessed on October 20, 2020

⁵ Banned for age fraud, Gaurav Mukhi cleared by AIFF, The Hindustan Time, 9th sept. 2019, available at <https://www.hindustantimes.com/football/banned-for-age-fraud-gaurav-mukhi-cleared-by-aiff/story-dI2H2KyKeGenQTg459OZ1O.html> last accessed on September 18, 2020

⁶ Age Fraud in Sports- A Serious Concerning Matter, Sports Social, 2nd Oct. 2019 <https://www.chaseyoursport.com/Sports-Social/Age-Fraud-in-Sports-A-Serious-Concerning-Matter/1342> last accessed on October 20, 2020

their names for the meet'⁷.

In this scam, Rajasthan was at the top with 15 players and Uttar Pradesh came second with 10 players. It is not first time when players from Rajasthan and Uttar Pradesh brought same to their states, both the state long with other four namely Delhi, Haryana, Bihar and Madhya Pradesh were banned by AFI in 2013 as 44 players were found to be overaged⁸.

There were various concerns about the age scam even during Khelo India Youth Games. A weightlifter whose real name was not released came up with his Aadhaar card that declared him eligible for the group of under-17 and the same individual took part in another tournament a few months earlier that declared him to be over 17 years old. Another event happened in the same tournament while in the line of registration; around 5 to 6 boys and girls attempted to use the Aadhaar trick to compete but were disqualified. The key explanation for this scam was that everyone's focus was on the scholarship worth Rs .5 lakh⁹.

Above mentioned instances are recent in nature, but does not mean that age fraud is new phenomenon in the sports activities. One of the best-known examples of a player falsifying documentations relating to age is Cameroon's international football defender Tobie Mimboe also known as 'Peter Pan' of birth certificates, who held several documents during the course of his career that indicated he became younger as time went by¹⁰. In 1989, Nigeria's youth national team was banned for fielding over-age players in youth tournaments organized by FIFA¹¹

III. THE EXISTING PREVENTATIVE FRAMEWORK IN INDIA

(A) National Code Against Age Fraud In Sports 2010

The Ministry of Youth Affairs and Sports (MYAS) issued "National Code Against Age Fraud in Sports¹²" to preserve the core values of sports such as honesty, fair play and team spirit by

⁷ Scourge Of Age Fraud In India: 51 Players Caught Over-Age In One Of World's Biggest Athletics Talent Hunt Programme, Outlook, 20th December 2019, available at <https://www.outlookindia.com/website/story/sports-news-scourge-of-age-fraud-in-india-51-players-caught-over-age-in-one-of-worlds-biggest-athletics-talent-hunt-programme/344459>, last accessed on September 18, 2020

⁸ Supra 2

⁹ Over-age athletes use Aadhaar cards to pass off as junior player, Mumbai Mirror, 21st Jan 2019, available at <https://mumbaimirror.indiatimes.com/sport/others/playing-games-with-age/articleshow/67615688.cms>, last accessed on September 18, 2020

¹⁰ 4 Footballers who lied about their age, Top Soccer blog, 13th March 2019, available at <https://topsoccerblog.com/footballers-lied-about-their-age/> last accessed on October 28, 2020

¹¹ West African youth footballers jailed for age cheating, Nine, 31st Oct. 2018 <https://wwos.nine.com.au/football/benin-players-jailed-for-age-cheating/46b8202c-33c7-4083-9a27-6f162522f3f7#:~:text=Also%2C%20Nigeria's%201989%20youth%20national,1991%20FIFA%20World%20YOUTH%20Championship.> last accessed on September 18, 2020

¹² Available at <https://yas.nic.in/sites/default/files/File824.pdf>

eliminating age fraud from sporting activities. It came into force on 1st April 2010. Under this code, all recognized National Sport Federations (NSFs) are mandated to adopt the code and take appropriate measure to check age frauds. Failing which they could lose their recognition as National sports federation or financial assistance from the government¹³. On other hand, Sports Authority of India (SAI), Sports Control Boards managed by government departments and public sector undertakings and State Governments and Union territories and their sports authorities are responsible to take suitable measures for adoption and implementation of the code¹⁴.

The code prescribe that all the player (existing as well as new) have to undergo compulsory medical examination for age determination that includes general physical examination, dental examination, radiological examination, MRI/CT scan and based on the medical report an I-Card will be issued by the National Sports Federation (NSF) or Sports Authority of India (SAI)¹⁵. This I-Card is an exclusive proof of age for participation and training in age restricted events and will be valid for entire sports career of the athlete¹⁶. The cost of medical examination shall be borne by the government¹⁷. If any athlete is found over-aged can go for appeal and as the decision player would be re-adjusted in the appropriate age group¹⁸.

At last, it the responsibility of NSFs/SAI/ Sports Control Boards/State Governments/State sports authorities to maintain an exhaustive and diligent record of age, along with proof of the age of athletes who have been issued ID Cards and who have been reported overage¹⁹.

Instances listed above indicates that this well intentioned code has largely failed to work as deterrent. Main reason could be that the code, unfortunately, does not prescribe any punishment for athletes who are guilty of age fraud. Another reason may be that MYAS does not maintain yearly record related to age fraud and hence, it becomes difficulty keep a track of habitual offenders at different levels of competitions.

(B) National Sports Ethics Commission Bill 2016

National Sports Ethics Commission Bill 2016²⁰ was introduced to provide for the constitution of a national sports ethics commission to ensure ethical practice and fair play in sports by eliminating doping, match fixing, age fraud, sexual harassment of women in sports and other

¹³ Rule 4.2 of National Code Against Age Fraud In Sports 2010

¹⁴ Rule 4.3 and Rule 4.4 of National Code Against Age Fraud In Sports 2010

¹⁵ Rule 5 of National Code Against Age Fraud In Sports 2010

¹⁶ Rule 8 of National Code Against Age Fraud In Sports 2010

¹⁷ Rule 7.4 of National Code Against Age Fraud In Sports 2010

¹⁸ Rule 5.2 of National Code Against Age Fraud In Sports 2010

¹⁹ Rule 9 of National Code Against Age Fraud In Sports 2010

²⁰ Available at <http://164.100.47.4/billstexts/lsbilltexts/asintroduced/4408LS.pdf>

matter related to sports. Section 18 of the Bill prescribes for criminal punishment for case of age fraud. It states:

“18. (1) Any sportsperson, his guardian, a coach or a member of Sports Federation who withholds the information regarding true age or gender of a sportsperson shall be—

(i) punished with rigorous imprisonment for a term which shall not be less than six months and with a fine of one lakh rupees; and

(ii) debarred by the Sports Federation from participating in any existing or future sports event in any capacity, whether as a member of any sports federation or coach or sportsperson or otherwise.

(2) Any sportsperson, not being minor, along with the guardian, coach or member of Sports Federation who internationally allows that sportsperson to participate in an athletic competition, which is not suitable for the age or gender of that sportsperson shall be—

(i) punished with imprisonment for a term which shall not be less than one year and with fine of five lakh rupees; and

(ii) debarred by the Sports Federation from participating in any existing or future sports event in any capacity, whether as a member of any sports federation or coach or sportsperson or otherwise.”

Even though this bill fulfills the gap present in the National Code Against Age Fraud In Sports 2010, by providing criminal punishment for age fraud but there is no clarity on when it will be discussed in Parliament.

(C) Sports Integrity Unit of Central Bureau of Investigation

India's Central Bureau of Investigation (CBI) established a Sports Integrity Unit (SIU) in 2014, under Special Crime Branch in Delhi. SIU aims to investigate/inquire sports fraud, match fixing, doping, illegal betting and other related offence. But it do not have a direct jurisdiction as falls under the investigative limits of Article 1.24 of CBI constitution which states that the purpose of any unit within the special crimes branch is to provide support to the regular branches. That means in practice SIU has no direct authority to charge the player without the prior permission of state to which the athlete belongs, it can only recommend a suitable action and investigate the case and it is relevant authorities, who will decide whether and how to proceed with case²¹.

²¹ Manali Kulkarni, How Effective Is India's New Sports Integrity Unit In Tackling Corruption? Available at <https://www.lawinsport.com/topics/anti-corruption/item/how-effectively-is-india-s-new-sports-integrity-unit->

The impact of it can be understood in very first case investigated by SIU in relation to age fraud in table tennis. Despite concluding that the guardians of athlete have manipulated date of birth of players misused the provision of Section 13(3) of the Registration of Birth and Death Act, 1969. They only notify and recommend the suitable action against the offenders, to the relevant state, the table tennis federation of India (TTFI), Registrar under Registration of Birth and Death Act, 1969 and to Sports ministry for further action to taken against the offenders²²²³.

(D) National sports federation and Sports Organizations

The below are the few federations which have adopted the policies against age fraud in their governing documents-

1. Board of Control for Cricket In India (BCCI): Prior to 2012, BCCI was relying on the Greulich & Pyle method (GP method) at a certified hospital, but as the margin of error in this method could be up to two years, BCCI decided to adopt the Tanner-Whitehouse 3 method (TW3) in 2012. TW3 determines the age of a child based on the growth of bones in the hand, especially the wrist. TW3 method of age verification is the most trusted and scientific method of age verification and the margin of error in this method is six months²⁴.

In 2013, Validity of application of TW3 as sole a method to verify the age of a person seeking to play Under-16 Cricket Tournament was challenged in *Yash Sehrawat & Another vs Board of Control for Cricket in India*²⁵. Here the court held that it will not interfere with the age testing policy of BCCI as the test stands reasonable for determining age of U-16 players and is not based on either irrational or extraneous criterion. The court also noted that “the Age Verification Programme has been undertaken by BCCI to ensure a level playing field for competitive participation of players in its age group tournaments by ensuring competition only between players of similar skeletal maturity²⁶”

While the age category “under-16” is the formal entry point for participation in BCCI Junior Tournaments, some players enter competitive cricket at an under-19 level without having

helping-to-tackle-corruption?category_id=114#references last accessed on October 28, 2020

²² TT players manipulated age to represent India, finds CBI, Business Standard, 16th Jan 2015 available at https://www.business-standard.com/article/beyond-business/tt-players-manipulated-age-to-represent-india-finds-cbi-115011601113_1.html last accessed on October 28, 2020

²³ CBI unit says age fraud rampant in Indian sports, The Time of India, 17th Jan 2015, available at <https://timesofindia.indiatimes.com/sports/more-sports/others/CBI-unit-says-age-fraud-rampant-in-Indian-sports/articleshow/45920150.cms> last accessed on October 28, 2020

²⁴ BCCI issues guidelines to states to tackle age-fudging, ESPN cricinfo, 7th July 2016, available at <https://www.espnricinfo.com/story/bcci-issues-guidelines-to-state-associations-on-age-fudging-1033019> last accessed on October 28, 2020

²⁵ W.P.(C) No5283/2013 & 5284/2013

²⁶ Para 3 of the case

participated in under-16 tournaments. In 2016, BCCI made it mandatory for players who enter competitive cricket, directly, at the under-19 level to submit at least three documents in support of their date of birth. Despite this check, players have managed to slip through the cracks. Jammu and Kashmir bowler Rasikh Salam, who represented Mumbai Indians in IPL 2019, was banned by the BCCI in June, 2019 for two years for submitting faulty birth certificate.²⁷

The discrepancy in his age was brought to the notice of BCCI by the Jammu and Kashmir Cricket Association. In June 2019, BCCI relaxed the age fraud rule, which mandated a ban of two years from cricket tournaments for players who were held to be guilty of age fraud, and permitted banned cricketers to participate in inter-club matches in the second year of the 2-year ban²⁸. And also, introduced an helpline center to all the cricketers, support team, staff and administrations of all the State Cricket Association²⁹.

2. Sports Authority of India: Like BCCI, SAI also relies on TW3 test for determination of age of athletes seeking to participate under Khelo India program. However, it does not ban athletes found to have committed age fraud, it just bar them from being eligible for the scholarships under the Khelo India program.³⁰

3. The Cycling Federation of India (CFI): CFI has regulation related to the prevention of age fraud where individual involved in age fraud is banned for 2 years. However, it also has a provision which mentions that those suspected of age fraud are to be send to an Orthopedic doctor for medical verification and if found overage are permitted to take part in upper age category.

In All India Tennis Association(AITA) have Age Manipulation document which aims to stop age fraud but did not mention any sanctions for it whereas it follows a strict registration process which requires a submission of two documents- Birth Certificate issued within a year by a Competent Authority and a Bonafide Certificate of the School signed and stamped by the school principle and with a picture of the player however a passport copy can submitted instead

²⁷ Rasikh Salam banned for two years for submitting faulty birth certificate, Cricbuzz, June 19, 2019, available at <https://www.cricbuzz.com/cricket-news/108569/rasikh-salam-banned-for-two-years-for-submitting-faulty-birth-certificate>, last accessed on September 16, 2020.

²⁸ BCCI relaxes age fraud rule, club cricket allowed in second year of ban, Sportstar, August 7, 2019, available at <https://sportstar.thehindu.com/cricket/jammu-and-kashmir-rasikh-salam-bcci-age-fraud-ipl-mumbai-indians-cricket-news/article28872936.ece>, last accessed on September 16, 2020.

²⁹ BCCI tightens screws to counter Age Fraud in cricket, 4th Oct. 2019 available at <https://www.bcci.tv/articles/2019/news/131416/bcci-tightens-screws-to-counter-age-fraud-in-cricket> last accessed on September 16, 2020.

³⁰ Expression of Interest (EOI) for Empanelment of Doctors on age-verification, available at https://sportsauthorityofindia.gov.in/tview1Tender.asp?tender_temp_id=3137 last accessed on September 16, 2020.

of it.

4. The Hockey India (HI) Organization has a Age fraud Policy in compliance with the Ministry of Youth affairs and NCAAFS that the players found guilty of committing age fraud will be banned from playing at any State/National/International events for a period of 2 years or up to 2 seasons. This policy also applies to its Member Units. It also conducts an additional medical test to ensure that due diligence has been kept with regards to the players by Hockey India. Such harsh penalties are seen in only few NSFs. Boxing Federation of India (BFI) also has a similar age fraud policy like Hockey India.

5. All India Chess Federation (AICF) requires players to submit their date of birth certificates that must have been registered within one year of the birth of the child to participate in age group championships organized by the AICF. Further, AICF may also require players to undergo a medical test to ascertain their age. The AICF Constitution and Bye-Laws states that, “Players found to be over-age will not be allowed to participate in any age related tournaments after they serve their punishment, except those who agree to the results of the medical test and submit the original date of Birth to the satisfaction of the AICF, who will be allowed to play in their age group after serving their suspension.” It is reported that AICF also records details of the date of birth of siblings of the player to weed out cases of fraud³¹.

IV. ANALYSIS AND COMMENTS

1. Irrespective of the fact that presenting wrong documents comes under Falsification, which is already covered as criminal offence under IPC, existing Code on age fraud do not make any reference to criminal punishment for same. Leave criminal punishment aside, the code not at all deals with any action against the wrongdoer. In absence of any sanction policy in the code, policies developed by individual NSFs relating to age verification and age fraud becomes relevant. But here as well, NSFs have opted for disciplinary punishment only such as ban and debarment from scholarship etc.

Lack of criminal punishments by the central authority is making it difficult to eradicate this menace instead, it is encouraging athletes to take risk and present wrong documents. Therefore, in view author, it of utmost importance that central authorities must come up with some special criminal punishment or make existing criminal applicable in the case of deliberate misrepresentation of age in order to get advantage over opponents. And while making such

³¹ Medical Evaluation of the age of Chess Players, 12th Nov. 2015 available at <http://aicf.in/medical-evaluation-of-the-age-of-chess-players-4/> last accessed on last accessed on September 16, 2020.

law/policy the following points must also be considered:

a. Actual age of athletes at the time age fraud. This would play an important role decide the criminality of athletes.

b. Extent of involvement of coach, sports staff and family member. Depending upon their involvement, sanctions can also be imposed on them. For this an inference maybe drawn from the WADA Code provisions relating to prohibited association³².

2. Until uniform law is put into the place, NSFs could start developing and unifying their policies to detect and tackle the problem age fraud.

3. Whistleblowing is very essential tool in an organization. A good whistleblowing policy encourages the people at large to come forward and raise concerns that ultimately helps the organization in preventing any kind of wrongdoing with the system. Therefore, it is of paramount importance that sports authorities and NSFs adopt protective policies for whistleblowers. Unlike the policy of AITA where the complainant is burdened not only with the onus of proof but also is bound to pay a security deposit for filing a complaint.

4. There is a need for an international document to be adopted by governments of world/ International institutions to deal with this problem uniformly as it is done in case of doping³³. The mandate of International policy will provide level playing field to every athlete as it will not only protect the rights of athletes of countries where there is poor management of age recoding and preserving but also of the countries where age recording is done very sincerely and strictly.

³² Article 2.10 Prohibited Association, World Anti-Doping Association, 2015.

³³ World Anti Doping Code