

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

IA No 49930 of 2020

in

Civil Appeal No 4235 of 2014

The Board of Control for Cricket in India

.... Appellant

Versus

Cricket Association of Bihar & Ors

....Respondents

J U D G M E N T

Dr Dhananjaya Y Chandrachud, J

1 By the judgment of this Court in **Board of Control for Cricket in India v Cricket Association of Bihar**¹, the draft Constitution of the Board of Control for Cricket in India² was approved. The Court stipulated that any amendment to the Constitution shall not be given effect to without the leave of the Court. Clause 45 of the Constitution, as approved, contains the following provision:

“These Rules and Regulations of the BCCI shall not be repealed, added to, amended or altered except when passed and adopted by a

1 (2018) 9 SCC 624
2 “BCCI”

3/4th majority of the members present and entitled to vote at a Special General Meeting of the General Body convened for the purpose or at the Annual General Meeting. Any such amendment will not be given effect to without the leave of the Hon'ble Supreme Court.”

2 On 1 December 2019, certain amendments were approved unanimously at the Annual General Meeting³.

3 An interim application has been filed for seeking the leave of the Court to give effect to the amendments. A reference to the relevant clauses which are proposed to be amended would be necessary.

4 Clause 6(4) of the existing Constitution contains the stipulation that an office bearer who has held any post for two consecutive terms either in a state association or in the BCCI or a combination of both shall not be eligible to contest any further election without completing a cooling off period of three years. During the cooling off period, there is a prohibition on an office bearer becoming a member of the Governing Council or of any committee of the BCCI or of a state association. The rationale for adopting a cooling off period was elaborated in Section C of the judgment of this Court. The rationale was explained in paragraph 35 of the judgment in the following terms:

“... A cooling-off period has several features which are of utmost importance:

- (i) it is a safeguard against the development of vested personal interests;

- (ii) it ensures against the concentration of power in a few hands;
- (iii) it facilitates a dispersal of authority; and
- (iv) it encourages the generation of a wider body of experienced administrators.

Cooling-off must be accepted as a means to prevent a few individuals from regarding the administration of cricket as a personal turf. The game will be better off without cricketing oligopolies.”

5 While explaining the proposed provision for a cooling off period after the completion of two consecutive terms, this Court provided the following illustrations:

“However, in our view, it would be appropriate to direct that a cooling-off period of three years would apply after an individual holds two successive terms in office either in BCCI, or in any State Association or a combination of the two. For instance, if an office-bearer has held office for two consecutive terms in any post in a State Association, such an individual must face a cooling-off period of three years. Likewise, if an individual has held any post as an office-bearer of BCCI for a total period of six years in succession, the individual must have a cooling-off period of three years before seeking election again either to BCCI or to a State Association. The cooling-off period would apply also in a situation where an individual holds a post for one term in a State Association followed by a post in BCCI successively or vice versa. This would ensure that after a period of six years involving two consecutive terms, a cooling-off period would be attracted. Allowing an individual to act as an office-bearer for six years in continuation, is a sufficiently long period for experience and knowledge gained to be deployed in the interest of the game without at the same time resulting in a monopoly of power.”

6 An amendment of Clause 6.4 has been proposed on the ground that the BCCI undertakes its activities both at the national and international level. On the other hand, the activities of the state associations are conducted at the level of each state. Though there may be a degree of overlap between the functions associated at the

state level, on the one hand, and the national level by the BCCI, on the other hand, it has been submitted that the functions are distinct in a large number of areas and activities.

7 Mr Tushar Mehta, Solicitor General appearing on behalf of the applicant, submitted that Clause 6(4), as approved by this Court, indicates that a person who has completed one term at the state level followed by one term at the BCCI would have to complete a cooling off period of three years. In other words, though an office bearer at the BCCI has completed only one term at the BCCI, the cooling off period would come into effect. It has been submitted that the unanimous view at the AGM is that this provision should be modified so as to stipulate that the cooling off period would come into effect after an office bearer has completed two consecutive terms at the same level, that is in a state association or at the BCCI. In other words, an office bearer who completes two consecutive terms in a state association would necessarily have to complete a cooling off period of three years before assuming any elected office at the state association. Likewise, an office bearer who completes two consecutive terms at the BCCI would have to mandatorily undergo a cooling off period of three years before seeking any election at the level of the BCCI.

8 The amended provision, as proposed at the AGM, seeks to confine the requirement of a cooling off period only to the posts of President and Secretary. The amendment as proposed envisages in other words that the cooling off period will not apply to other posts.

9 Mr Maninder Singh, senior counsel, who was requested to assist this Court as an *amicus curiae*, submitted that there would be no justification to confine the cooling off period only to the post of President and Secretary and must extend to all other office bearers of the BCCI and the state associations.

10 In order to bring clarity to the position, a tabulated chart has been placed before this Court indicating:

- (i) The existing provision;
- (ii) The amended provision proposed by BCCI; and
- (iii) The proposed clause after incorporating the suggestions made by the *amicus curiae*.

11 The tabulated position (in track mode) reads as follows:

CLAUSE	EXISTING PROVISION	AMENDED PROVISION PROPOSED BY BCCI	PROPOSED CLAUSE AFTER AMICUS'S SUGGESTION
6(4)	An office bearer who has held any post for two consecutive terms either in a state association or in the BCCI (or a combination of both) shall not be eligible to contest any further election without completing a cooling off period of three years. During the cooling off period, such an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any	A President or Secretary An office bearer who has served in such position held any post for two consecutive terms either in a state association or in the BCCI (or a combination of both) shall not be eligible to contest any further election without completing a cooling off period of three years. During the cooling off period, such 'Office bearer' an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the BCCI. or of a state association. The expression 'President' or 'Secretary' office bearer should not be permitted to be circumvented by being a member of	6.4.1 An office bearer who has held any post for two consecutive terms in the BCCI shall not be eligible to contest any further election in the BCCI without completing a cooling off period of three years. During this cooling off period, such an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the BCCI. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI, as the case may be.

	state association, as the case may be.	any other committee or of the Governing Council in BCCI or any state association, as the case may be.	<p>6.4.2 If a person has served two consecutive terms each, in the State Association and in the BCCI [or vice versa] continuously without any break, such person shall not be eligible to contest any further election in the State Association or in the BCCI, without completing a cooling off period of three years.</p> <p>During this cooling off period, such an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any state association, as the case may be.</p> <p>The State Associations may separately have the following clause:-</p> <p>6.4.1 An office bearer who has held any post for two consecutive terms in the State Association shall not be eligible to contest any further election in such State Association without completing a cooling off period of three years.</p> <p>During this cooling off period, such an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in the state association, as the case may be.</p> <p>6.4.2 If a person has served two consecutive terms each, in the State</p>
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			<p>Association and in the BCCI [or vice versa] continuously without any break, such person shall not be eligible to contest any further election in the State Association or in the BCCI, without completing a cooling off period of three years.</p> <p>During this cooling off period, such an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any state association, as the case may be.</p>
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- 12 As the above tabulation indicates, the *amicus curiae* has proposed a bifurcation, for the sake of clarity, of the existing provision by introducing similar requirements of cooling off periods both at the level of the BCCI and in the state associations. Clause 6(4), as originally incorporated, is hence sought to be bifurcated separately for the BCCI and the state associations. The Solicitor General has stated that the amendment as proposed by the *amicus curiae* is acceptable to the BCCI.
- 13 Having considered the application and the reasons which have been set out, we are of the considered view that the amendment as proposed in the third column above, should be accepted in terms of the suggestions of the *amicus curiae*. The reasons for accepting the above proposal are indicated below.
- 14 The principal rationale for adopting a cooling off period has been explained in the judgment of this Court, extracted above. This Court had adopted the rationale that

the cooling off period would kick in after an individual holds two successive terms in office either at the BCCI or in any state association or a combination of the two. The effective consequence of the existing position is that:

- (i) A person who is elected as an office bearer in a state association for two consecutive terms would have to undergo a cooling off period;
- (ii) A person who is elected as an office bearer at the BCCI for two consecutive period would have to undergo a cooling off period; and
- (iii) A person who is elected as an office bearer in a state association for one term followed by election as an office bearer at the BCCI for one term would similarly have to undergo a cooling off period.

15 The consequence, therefore, is that a person who has held office as an elected office bearer for only one term at the BCCI would have to undergo a cooling off period. The submission is that the application of a cooling off period after one term at a particular level (the BCCI or state association, as the case may be on after an immediately prior term at another level) is unduly stringent and needs to be modified having regard to the purpose for which the cooling off period was introduced.

16 BCCI is an autonomous sports body. The judgment of this court did not abrogate its power, as a registered society, to amend its Constitution. The stipulation that an amendment be carried by a three fourths majority and should not be implemented without the prior leave of this court is in order to ensure that the purpose underlying

the adoption of the Constitution of BCCI is not defeated. The purpose for which the cooling off period was introduced, would not be diluted by the proposed amendment, subject to the stipulations suggested by the amicus curiae. The proposed stipulation that the cooling off period comes into effect after two consecutive terms at the same level namely, at the state associations or the BCCI does not abrogate the purpose of a cooling off period. We, therefore, accept the amendment as set out in Column 3 above.

17 The next amendment is proposed to Clause 6(5) of the BCCI's Constitution. As in the case of Clause 6(4), the amendment which was proposed to Clause 6(5) was deliberated upon during the course of the hearing and certain suggestions have been made in the course of the discussion by the *amicus curiae*. The position is tabulated below (in track mode):

CLAUSE	EXISTING PROVISION	AMENDED PROVISION PROPOSED BY BCCI	PROPOSED CLAUSE AFTER AMICUS'S SUGGESTION
6(5)	<p>A person shall be disqualified from being an Office Bearer, a member of the Governing Council or any Committee or a representative to the International Cricket Council or any similar organization if he or she:</p> <p>(a) is not a citizen of India;</p> <p>(b) has attained the age of 70 years;</p> <p>(c) is declared to be insolvent, or of unsound mind;</p> <p>(d) is a Minister or Government Servant or holds a public office;</p> <p>(e) holds any office or post in a sports or athletic association</p>	<p>A person shall be disqualified from being an Office Bearer, <u>or an Apex Council Member of the BCCI</u> a member of the Governing Council or any Committee or a representative to the International Cricket Council or any similar organization if he or she:</p> <p>(a) is not a citizen of India;</p> <p>(b) has attained the age of 70 years;</p> <p>(c) is declared to be insolvent, or of unsound mind;</p> <p>(d) is a Minister or Government Servant or holds a public office;</p> <p>(e) holds any office or post in a sports or athletic association or</p>	<p>A person shall be disqualified from being an Office Bearer, a member of the Apex Council, Governing Council or any Committee of the BCCI if he or she:</p> <p>(a) is not a citizen of India;</p> <p>(b) has attained the age of 70 years;</p> <p>(c) is declared to be insolvent, or of unsound mind;</p> <p>(d) is a Minister or Government Servant;</p> <p>(e) has been an Office Bearer of the BCCI for a cumulative period of 9 years; or</p>

	<p>or federation apart from cricket;</p> <p>(f) has been an Office Bearer of the BCCI for a cumulative period of 9 years or of a State association for a cumulative period of 9 years; or</p> <p>(g) Has been charged by a Court of Law for having committed any criminal offence, i.e. an order framing charges has been passed by a court of law having competent jurisdiction.</p>	<p>federation apart from cricket;</p> <p>(f)(e) has been an Office Bearer of the BCCI for a cumulative period of 9 years; or of a State association for a cumulative period of 9 years; or</p> <p>(f) Has been convicted charged by a Court of Law for <u>commission of a having committed any criminal offence and sentenced to imprisonment for a period not less than three (3) years.</u></p> <p>6.5.2 A person shall be disqualified from being a member of the Governing Council or any Committee of the BCCI if he or she:</p> <p>(a) is not a citizen of India;</p> <p>(b) is declared to be insolvent, or of unsound mind;</p> <p>(c) is a Minister or Government Servant;</p> <p>(d) Has, i.e. an order framing charges has been convicted passed by a Court of Law for commission of a criminal offence and sentenced to imprisonment for a period not less than three (3) years. court of law having competent jurisdiction.</p>	<p>(f) has been convicted by a Court of Law for commission of a criminal offence and sentenced to imprisonment.</p>
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18 BCCI has submitted that the disqualification from holding any office or post in a sports or athletic association or federation apart from cricket needs to be modified since several cricketers of eminence are associated with other sporting activities such as football and golf after retirement from cricket and there is no reason to disqualify them on that ground. Secondly, it has been submitted that the disqualification which is attached to a person who is charged of having committed a

criminal offence is proposed to be modified so as to apply to a person who is convicted of an offence and is sentenced to a term of imprisonment of three years. This amendment, it has been submitted, is intended to protect office bearers who may be subjected to frivolous prosecutions. Finally, it has been submitted that the expression "or holds a public office" is over-broad and that the disqualification should only apply to a person who holds office as a Minister or government servant.

19 The stipulation that the disqualification should attach on a conviction of an offence may be accepted. However, the further condition that a disqualification would follow upon a sentence of imprisonment of three years or more cannot be accepted. During the hearing, BCCI agreed that the disqualification would govern a conviction and sentence of imprisonment. The reasons set out for the other amendments are acceptable. Subject to what has been observed above, the amendment as tabulated in column 3 above does not detract from the basic purpose and object underlying the judgment of this Court. The amendment, as proposed in Column 3 above, is hence permitted to be effected.

20 An amendment has been proposed to Clauses 14.3 and 14.4, as well as to Clause 3(b)(vii) which are consequential to the amendments which have been made to Clauses 6(4) and 6(5). The amendments to Clauses 14.3 and 14.4 and Clause 3(b)(vii) are in the following terms:

CLAUSE	EXISTING PROVISION	AMENDED PROVISION PROPOSED BY BCCI	PROPOSED CLAUSE AFTER AMICUS'S SUGGESTION
14(3) and (4)			<p>14.3 A person shall be disqualified from being a Councillor if he or she:</p> <ul style="list-style-type: none"> (a) is not a citizen of India; (b) has attained the age of 70 years; (c) is declared to be insolvent, or of unsound mind; (d) is a Minister or Government Servant; (e) has been an Office Bearer of the BCCI for a cumulative period of 9 years; or (f) has been convicted by a Court of Law for commission of a criminal offence and sentenced to imprisonment. <p>14.4.1 Each of the elected Councillors shall have a term of 3 years in office, subject to a maximum of 3 Terms on the Apex Council.</p> <p>A Councillor who has held any post for two consecutive Terms in the BCCI shall not be eligible to contest any further election in the BCCI without completing a cooling off period of three years. During the cooling off period, such a Councillor shall not be a member of the Governing Council or of any committee whatsoever of the BCCI. The expression 'Councillor' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI.</p> <p>14.4.2 If a person has served two consecutive terms each as Councillor, in the equivalent body of a State</p>

			<p>Association and in the BCCI [or vice versa] continuously without any break, such person shall not be eligible to be a Councillor in the equivalent body of a State Association or in the BCCI, without completing a cooling off period of three years. During this cooling off period, such a Councillor shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a State Association. The expression 'Councillor' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any State Association, as the case may be.</p>
3(b)(vii)	<p>There shall be a provision whereby an office bearer or an elected member of the Governing Council / Managing Committee / Apex Council who has held any post for two consecutive terms either in the State Association or in the BCCI (or a combination of both) shall not be eligible to contest any further election without completing a cooling off period of three years. During the cooling off period, such an office bearer or an elected member of the Governing Body / Managing Committee / Apex Council shall not be a member of the Governing Council or of any Committee whatsoever of the BCCI or of a State Association.</p>		<p>3(b)(vii)(A) There shall be a provision whereby an office bearer or an elected member of the Governing Council / Managing Committee / Apex Council who has held any post for two consecutive terms in the State Association shall not be eligible to contest any further election in such State Association without completing a cooling off period of three years. During this cooling off period, such an office bearer or an elected member of the Governing Council / Managing Committee / Apex Council shall not be a member of the Governing Council or of any committee whatsoever of the state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in the state association, as</p>

			<p>the case may be.</p> <p>3(b)(vii)(B) There shall be a provision whereby if a person has served two consecutive terms each, in the State Association and in the BCCI [or vice versa] continuously without any break, such person shall not be eligible to contest any further election in the State Association or in the BCCI, without completing a cooling off period of three years.</p> <p>During this cooling off period, such an office bearer or an elected member of the Governing Council / Managing Committee / Apex Council shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any state association, as the case may be.</p>
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21 Certain amendments of an administrative nature are proposed in Clauses 7(3), 15(3) and (4) and 19(2), which are tabulated below:

CLAUSE	EXISTING PROVISION	AMENDED PROVISION PROPOSED BY BCCI	PROPOSED CLAUSE AFTER AMICUS'S SUGGESTION
7(3)	<p>The Secretary shall; (a) to (e)</p> <p>Have the power to delegate any work to the Honorary Joint Secretary.</p>	<p>The Secretary shall; (a) to (e)</p> <p>(f) Have the power to delegate any work to the Honorary Joint Secretary or any person in management.</p> <p>(g) Exercise all powers in relation to cricketing and non cricketing matters with the respective management personnel including CEO reporting to him on a</p>	<p>The Secretary shall; (a) to (e)</p> <p>(f) Have the power to delegate any work to the Honorary Joint Secretary or any person in management.</p> <p>(g) Exercise all powers in relation to cricketing and non cricketing matters with the respective management personnel including CEO reporting to</p>

		<p>regular basis. (h) the Management personnel, the staff and the CEO shall work under the direct supervision, control and direction of the Secretary.</p>	<p>him on a regular basis. (h) the Management personnel, the staff and the CEO shall work under the direct supervision, control and direction of the Secretary.</p>
<p>15(3) and (4)</p>	<p>(3) The Apex Council shall exercise superintendence over the CEO, the Cricket Committees and the Standing Committees in the discharge of their duties generally, and in particular, in accordance with any general or special direction of the General Body, except for the Governing Council of the IPL which is directly accountable to the General Body.</p> <p>(4) In addition to and without prejudice to the generality of powers conferred directly or by necessary implication under these Rules and regulations and the Memorandum of Association, the Apex Council shall exercise the powers and perform the duties hereafter mentioned: (a) to (c) (d) To institute or defend any action or proceedings for or against the BCCI or against any Office-Bearer or employee of the BCCI. (e) to (m)(n) To frame, in consultation with the CEO, rules for the appointment of Managers, Secretaries, Administrative Officers, Peons and other service personnel and staff and for payment to them and other persons in return for their services rendered to the BCCI, salaries, wages, gratuities,</p>	<p>(3) The Apex Council shall exercise superintendence over the CEO, the Cricket Committees and the Standing Committees through the Secretary in the discharge of their duties generally, and in particular, in accordance with any general or special direction of the General Body, except for the Governing Council of the IPL which is directly accountable to the General Body.</p> <p>(4) In addition to and without prejudice to the generality of powers conferred directly or by necessary implication under these Rules and regulations and the Memorandum of Association, the Apex Council shall exercise the powers and perform the duties hereafter mentioned: (a) to (c) (d) To institute or defend through the Secretary any action or proceedings for or against the BCCI or against any Office-Bearer or employee of the BCCI. (e) to (m) (n) To frame, in consultation with the CEO, rules for the appointment of Managers, Secretaries, Administrative</p>	<p>(3) The Apex Council shall exercise superintendence over the CEO, the Cricket Committees and the Standing Committees, through the Secretary, in the discharge of their duties generally, and in particular, in accordance with any general or special direction of the General Body, except for the Governing Council of the IPL which is directly accountable to the General Body.</p> <p>(4) In addition to and without prejudice to the generality of powers conferred directly or by necessary implication under these Rules and regulations and the Memorandum of Association, the Apex Council shall exercise the powers and perform the duties hereafter mentioned: (a) to (c) (d) To institute or defend, through the Secretary, any action or proceedings for or against the BCCI or against any Office-Bearer or employee of the BCCI.</p>

	pensions, honorariums, compensations, any exgratia payment and/or provident fund and to regulate discipline by suspending, fining, removing or dismissing such employees.	Officers, Peons and other service personnel and staff and for payment to them and other persons in return for their services rendered to the BCCI, salaries, wages, gratuities, pensions, honorariums, compensations, any exgratia payment and/or provident fund and to regulate discipline by suspending, fining, removing or dismissing such employees.	(e) to (m) (n) To frame, in consultation with the CEO, rules for the appointment of Managers, Secretaries, Administrative Officers, Peons and other service personnel and staff and for payment to them and other persons in return for their services rendered to the BCCI, salaries, wages, gratuities, pensions, honorariums, compensations, any exgratia payment and/or provident fund and to regulate discipline by suspending, fining, removing or dismissing such employees.
19(2)	(2) The day-to-day management of the BCCI shall be conducted by professionals in both cricketing and non-cricketing matters.	(2) The day to day management of the BCCI shall be conducted by the professionals in both cricketing and non-cricketing matters under the direct supervision, direction and control of the respective Office Bearers.	(2) The day-to-day management of the BCCI shall be conducted by the professionals in both cricketing and non-cricketing matters under the direct supervision, direction and control of the respective Office Bearers.

22 The above amendments as tabulated in Column 3 above are accepted.

23 An amendment was sought in Clause 45 to delete the provision requiring the leave of the Court to amend BCCI's Constitution. The proposed amendment is not pressed by BCCI.

24 Paragraphs 45.2 and 45.3 of the earlier judgment of this Court dated 9 August 2018 reported in (2018) 9 SCC 624 contains the following directions:

“45.2. Upon the registration of the said Constitution of BCCI, each of the members shall undertake registration of their respective Constitutions on similar lines within a period of 30 days thereafter. A compliance certificate must be furnished to the CoA, which shall file a status report before this Court with reference to the compliance undertaken by the State Associations; and

45.3. In the event that any State Association does not undertake compliance with the abovesaid directions, the directions contained in the orders of this Court dated 7-10-2016 [BCCI v. Cricket Assn. of Bihar, (2016) 10 SCC 23] and 21-10-2016 [BCCI v. Cricket Assn. of Bihar, (2016) 10 SCC 231] shall revive.”

25 The above directions shall also apply to the amendments as approved by the present judgment.

26 Mr Akhilesh Kumar Pandey, counsel, appeared in these proceedings on behalf of two individuals who were earlier, members of an entity called Association of Bihar Cricket. While opposing the amendments, counsel submitted that any modification of the clauses in the terms as proposed would affect the underlying object of the provisions in the original Constitution.

27 Having carefully assessed the grievance, we do not find any merit for the reasons which we have already indicated.

28 The interim application is accordingly disposed of in the above terms.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hima Kohli]

New Delhi;
September 14, 2022
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