(CORRECTED COPY OF THE FINAL ORDER AFTER REMOVING CLERICAL ERRORS)

Before Ombudsman, Bihar Cricket Association

Raghwendra Kumar Singh (Retd. District Judge)

Incharge Ombudsman, Bihar Cricket Association

BCA/Ombudsman/04 of 2021

Ravi Raj S/o Raj Kishore Yadav, R/o Near Sports Club Chatauni, Motihari, East Champaran:Permanent Addrress: Ward No.6 At & Post, Laxmipur, P.S. Mufassil, Motihari, District East Champaran Pincode- 845401.....Petitioner

Versus

1. **Bihar Cricket Association, Through its Secretary, Patna**
2. **Working Secretary, Bihar Cricket Association, Patna**
3. **East Champaran Cricket Association through its Secretary, East Champaran**
4. **Secretary, East Champaran Cricket Association, East Champaran.**
5. **Rajesh Singh @ Raju Singh claimed to be President, East Champaran Cricket ssociation, R/o Chitra Mandir Campus, Balua Motihari, East Champaran, Pincode-845401.**
6. **Abhishek Thakur claimed to be Vice-President, East Champaran Cricket Association, S/o Shiv Pujan Thakur, R/o Chotta Bariarpur, Ward No.37, Near Airport, Motihari, East Champaran, Pincode-845401**
7. **Gyaneshwar gautam, s/o Prof. Shobhakant Choudhary, Secretary, East Champaran Cricket Association, r/o Belbana, Motihari, Near Nehru Yuva Kendra, Motihari, East Champaran.**
8. **Manoj Kanaujiya, S/o Late Shankar Kanaujiya, Treasurer, East Champaran Cricket Association, R/o Sona Patti, Motihari, East Champaran, Pincode-845401**

…….Respondents

12.08.2022

On 10.04.2021 Shri Sumeet Kumar Singh, Advocate for the petitioner along with the petitioner appeared in person and filed petition with Annexures having vakalatnama executed in his favour and others with prayer to declare the election dated 08.09.2018 of the

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East Champaran Cricket Association (ECCA) void and order for holding fresh election as per direction and mandate of order dated 17.12.2017 of the then Ombudsman Hon'ble Justice (Retd.) Sri Dharnidhar Jha as the said election dt. 08.09.2018 was based on the list of the clubs submitted by the private Respondents is totally incorrect, the Electoral Officer of the said election was interested party and the person who has contested the election claiming to be Secretary is also contrary to documents attached in the present application, and to carry out the earlier order passed by the Ombudsman into effect with further prayer for carrying out the entire verification and submission of final report of the election process of the East Champaran Cricket Association held in the year 2018_in the light of the order dated 05.02.2019 passed by the Ombudsman within a period of two months by setting up of new Committee by the President, Bihar Cricket Association and to pass any other order/orders as this Tribunal of Ombudsman deem fit and proper.

After filing of the aforesaid petition on behalf of the complainant/petitioner Shri Ravi Raj the learned counsel for the petitioner was heard on the date on which the complainant was filed, then it was directed that the petitioner/complainant to take steps for issuance of notices along with the copy of the complainant with its Annexures to the respondents through Speed-Post fixing 01.05.2021 for filing replies by the respondents, and thereafter on 04.05.2021 a petition was filed on behalf of complainant mentioning therein that as per the aforesaid direction notices along with the copy of the complainant, including its Annexures were sent to the respondents through Speed-Post by posting the same on 20.04.2021 at Bankipore HO (Patna) vide consignment nos. RF187135426IN (To BCA), RF187135430IN (Working Secretary, BCA), RF187135443IN (East Champaran, DCA), RF187135457IN (Secretary, East Champaran, DCA), RF187135562IN (Rajesh Singh @ Raju Singh), RF187135576IN (Abhishek Thakur, Moithari), RF187135580IN (Gyaneshwar Gautam, Moithari), RF187135593IN (Manoj Kanaujiya, East Champaran) and the same were served on aforesaid consignees on 21.04.2021, 21.04.2021, 23.04.2021, 23.04.2021, 22.04.2021, 24.04.2021, 22.04.2021, 24.04.2021 respectively as per track records taken from the website of India Post enclosed with the aforesaid petition dt. 04.05.2021, with which photocopies of the concerned postal receipts were also annexed.

In the aforesaid respect it is pertinent to mention that the consignments sent to BCA through its Honarary Secretary vide (RF187135426IN), to Working Secretary BCA vide (RF187135420IN) were returned to this office without endorsement of postal employee and

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the consignment sent to respondent no. 6 Shri Abhishek Thakur vide (RF187135576IN) was returned with endorsement of postal employee to the effect that "refused" and on that basis service was declared to be effective on the aforesaid respondent no. 6 Shri Abhishek Thakur and the complainant was directed to resend to the respondent nos. 1 & 2 vide order dt. 01.05.2021. Vide order dt. 10.07.2021 it was declared that effective service have been made on each of the respondents and on that date Shri Navjot Yeshu, Advocate appeared for the respondent nos. 1 & 2 through video linkage. On 01.10.2021 reply dt. 25.07.2021 on behalf of respondent nos. 1 & 2 was filed by Shri Manish Raj, CEO, BCA through aforesaid advocate Shri Navjot Yeshu.

On 04.09.2021 an email was sent on my email by the respondent no. 7 through his email id "gyaneshwargautam944@gmail.com" mentioning therein that he has recently been gone through his heart angioplasty at AIIMS, New Delhi on 27.08.2021 and has been advised by Dr. to take rest for one month and on that score and with the said email web image of the prescription concerned was also attached and on that basis he prayed for an adjournment. But before that the respondent nos. 3 to 8 had been debarred from filing their respective reply vide order dt. 25.07.2021.

On 31.10.2021 an IA (Interim Application) was filed on behalf of the complainant mentioning therein that respondent nos. 3 to 8 had contemplated to hold election of East Champaran, CA on 14.11.2021 and for that purpose they had extended the date of the registration of cricket clubs with said DCA till 31.10.2021 with assertion by the complainant that the process adopted by the respondent nos. 3 to 8 was against the order dt. 17.12.2017 passed by Hon'ble Justice (Retd.) Mr. Dharnidhar Jha, the then Ombudsman BCA with prayer to stay the aforesaid election process.

On 03.11.2021 after hearing Shri Sumeet Kumar Singh, Advocate for petitioner/complainant, Shri Navjot Yeshu, Advocate for the respondnet nos. 1 & 2 and Shri Prem Kumar, Advocate for the respondent no. 7 Shri Gyaneshwar Gautam virtually on Google Meet and on the basis of the order dt. 17.12.2017 of the then Ombudsman BCA to the effect that only those clubs which were registered with the East Champaran CA prior or upto 05.03. 2017 could exercise power of voting by casting one vote by each club, which was uncontroverted till then the aforesaid election process in East Champaran CA was stayed till further order and the same is still continuing.

The case of the complainant is that in the District of East Champaran there has been

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one association, namely, "District Sports Association" of which a meeting was held on 03.07.2013 in which it was decided that there should have been a separate association for the sport of cricket and as per the same East Champaran Cricket Association (ECCA) was formed for the District of East Champaran with furhter resolution to the effect that Shri Shriprakash Chaudhary, Shri Chandrasekhar Thakur, Shri Vijay Kumar Agarwal would be Secretary, Joint-Secretary, Treasurer respectively of said East Champaran Cricket Association, which would herein after be referred as "ECCA", in which there should be seven members; and as per claim of the complainant the copy of the resolution passed on 03.07.2013 in the said District Sports Association has been attached as Annexure C/2. It has further been averred in the complainant that in the year 2013 a new Committee was formed and the same was to continue till 2016 but in the month of July 2016 Justice Lodha Committee was constituted by the Hon'ble Supreme Court and thereafter elections were held in entire Districts of Bihar as per letter dt. 18.02.2017 of the BCA to hold election in each DCA of Bihar as per the recommendation of Justice Lodha Committee and accordingly an Annual General Meeting (AGM) of ECCA was convened for 05.03.2017 to hold election in said ECCA in which members of the Governing Body of said DCA were appointed as there was no contest and in that process Shri Gyaneshwar Gautam (respondent no. 7) was appointed as Joint-Secretary of said ECCA and till his such appointment as Joint-Secretary he did not hold any post in the said ECCA. It has further been averred in the complainant that after his appointment as Joint-Secretary said Gyaneshwar Gautam started taking illegal action in the said ECCA and then the present complainant Shri Ravi Raj as Secretary of said DCA made a complaint dt. 11.10.2017 (copy of the same is said to be attached as Annexure C/5 Series) to the then Ombudsman of the BCA who by order dt. 17.12.2017 in continuation of his order dt. 16.12.2017 (copy of the same asserted to be attached as Annexure C/6 and C/6/A) held that the entire processes adopted on 06.08.2017, 13.08.2017 and 05.03.2017 are nullity and formed a Committee consisting of said Shri Shriprakash Chaudhary as its Chairman, the complainant Ravi Raj and Shri Gyaneshwar Gautam as its Members with further direction to hold fresh election in said DCA for which electoral officer would be a Retd. District Judge, and by that order of the Ombudsman BCA the names of the members of the Committee of said DCA and accepted by the then Secretary BCA was also cancelled. In the complainant it has also been averred that from perusal of the record relating to General Body Meeting dt. 13.08.2017 of said DCA it would be evident that said

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Gyaneshwar Gautam accepted the notice for said General Body Meeting and appeared in it as Joint-Secretary of said DCA and this also goes to show that said Gyaneshwar Gautam was never Secretary of said DCA at that time and the list given by him about 21 clubs as affiliated member of ECCA as Secretary of said DCA is nothing but a false and concocted thing and being a case of perjury.

In the complainant it has also been averred that by an application dt. 07.06.2018 (copy annexed as Annexure C/7) Shri Shriprakash Chaudhary addressed to Shri Sarvjeet, Retd. District Judge, appointed by the then Ombudsman of BCA as per aforesaid order dt. 17.12.2017 as Electoral Officer for conducting election in ECCA with further direction that the entire election in said DCA must be completed before 28.02.2018 and in the said election only those clubs which have been registered after acceptance of the due fee from them prior or upto 05.03.2017 with ECCA could be voters having a right to exercise one vote after being enrolled as such, requested him that if concerned documents related to ECCA have not been provided by the BCA even after his request then to conduct the election of said DCA by clubs registered with ECCA till 05.03.2017 as its voters.

Further case of the complainant is that by letter dt. 30.07.2018 of the then Secretary BCA it was requested to the members of the ad-hoc Committee of ECCA (Shri Shriprakash Chaudhary, Ravi Raj, Gyaneshwar Gautam) to conduct the election in said DCA successfully as Retd. Distt. Judge appointed by the Ombudsman as stated earlier has refused to be Electoral Officer for conducting election in said DCA, Shri Rakesh Kumar Sinha has been appointed as Electoral Officer for said purpose and then a letter dt. 09.08.2018 was sent by the Electoral Officer and in the said letter it has been mentioned about his (Electoral Officer's) mail dt. 01.08.2018 asking the complainant (Ravi Raj), Shriprakash Chaudhary, Gyaneshwar Gautam to provide the list of the voters by 05.08.2018; and by letter dt. 07.08.2018 the Electoral Officer informed that only Gyaneshwar Gautam had provided voter-list and there has been no response from the complainant (Ravi Raj) or Shriprakash Chaudhary in that regard (Annexure C/8 Series have been annexed with the complaint asserting the same to the copies of the letter dt. 01.08.2018 and 07.08.2018). It has also been mentioned in the complaint that the voter-list provided by said Gyaneshwar Gautam was discussed in the previous mail by the Electoral Officer and the complainant has taken that voter-list for ECCA for the year 2015-16, 2016-17 (Annexure C/9 & Annexure C/9/A have been filed assertaining the same to be copy of that voter-list) from which it would transpire

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that Gyaneshwar Gautam was neither Secretary at that moment of time nor was there any association in the District of East Champaran as ECDCA nor any such affiliation has been given by BCA to ECDCA rather the affiliation has been given to East Champaran Cricket Association (ECCA), not only this, the club enlisted in it has also been the same and the name of the President and Secretary has been the same, as well as or has been revered for creating the voters in the election process.

It has also been averred in the complaint that if one Retd. Distt. Judge (Shri Sarvjeet) has shown his inability to be the Electoral Officer [as per order dt. 17.12.2017 of the then Ombudsman BCA, namely, Mr. Justice (Retd.) Dharnidhar Jha] it was not proper for Shri Rabi Shankar Prasad Singh, the then Secreatary BCA to appoint a person who is a close relative of him and also to be a close friend of Shri Gyaneshwar Gautam as Electoral Officer for conducting election in ECCA and as such, the aforesaid appointment of such a person as Electoral Officer by the then Secreatary BCA was clearly against the spirit of the order dt. 17.12.2017 of the then Ombudsman BCA. It has further been averred in the complaint that on 14.08.2018 a complaint (Annexure C/10 has been filed asserting the same to be copy of said complaint) was made to the Electoral Officer, so appointed by the then Secreatary BCA, stating that how Gyaneshwar Gautam has been shown as Secreatary of ECCA since 2015 though he was appointed as Joint-Secretary of ECCA on 05.03.2017 and since then he has been continuing as such and in the said complaint to the Electoral Officer particular questions as regards to the fact that there are 21 clubs though issue has been raised as regards to 8 clubs; but the Electoral Officer postponed the election in connivance with the then Secreatary BCA and said Gyaneshwar Gautam.

It has further been averred in the complaint/petition filed by the petitioner/complainant before this forum of Ombudsman BCA that a complaint dt. 15.08.2018 (Annexure C/11 has been filed asserting the same to be copy of said complaint) was sent by the present complainant (Ravi Raj) to the then Secreatary BCA questioning his (Secretary BCA) activity to appoint the Electoral Officer for conducting election of ECCA mentioning the issue regarding appointment of Electoral Officer for that purpose as observed in the order dt. 16.12.2017/17.12.2017 passed by the then Ombudsman BCA through Speed-Post on 16.08.2018. It has also been mentioned in the complainant made by the petitioner before this forum that a list of clubs affiliated to ECCA with their respective President & Secreatary, being only such 8 clubs (Annexure C/12 has been filed asserting the

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same to be copy of such list), was provided to the Electoral Officer for holding said election 2018 in the ECCA by the present complaint Ravi Raj in the capacity of the Secreatary ECCA and also being a Member of the Ad-hoc Committee constituted as per order dt. 17.12.2017 of the then Ombudsman BCA.

It has also been submitted in the complaint filed before this forum that then the present complainant Ravi Raj approached the then Ombudsman BCA by filing a complaint numbered as BCA/OMB/16/18/RRECCA, Ravi Raj (E. Champaran DCA) vs. Bihar Cricket Association, and in the said case the then Hon'ble Ombudsman BCA vide his order dt. 05.02.2019 (Annexure C/13 has been filed asserting the same to be the copy of said order) directed the complainant to appear before the President BCA with all documents and the President will form a three Member Committee of Management for inquiry and hearing in the matter after affording opportunities for hearing to all the parties concerned on day-to-day basis and then the aforesaid Committee, so constituted, shall conclude the process and give its report within a period of four weeks to the office of the Ombudsman then complainant appeared on 06.02.2019 before the President BCA with all facts followed by Office-Order dt. 08.02.2019 of the then President BCA, namely, Mr. Gopal Bohra a three Members (Men's) Committee consisting of Mr. Naveen Kumar Jamuar – Vice-President, Mr. Anand Kumar – Treasurer, Mr. Praveen Kumar – Member COM (District Representative) was constituted as per the aforesaid order dt. 05.02.2019 of the then Ombudsman BCA (Annexure C/14 has been filed asserting the same to be the copy of said Office-Order) and the complainant appeared before the said Committee and submitted all concerned documents to it but the aforesaid Three Members Committee, of which two Members being in collussion with the then Secreatary BCA, adopted mal-practices about which the complainant filed an application dt. 24.02.2019 (Annexure C/15 has been filed asserting the same to be the copy of said application) to the then Ombudsman BCA and he also made complaint before the BCA highlighting the mal-practices adopted by the three Members Committee, which did not furnish its conclusion to the complainant and the same is still awaited. But as the grievance of the complainant could not been redressed then he sent a mail on 14.11.2019 to the present President BCA alleging that an illegal CoM have been functioning in the District of East Champaran in the cricketing activities with request to take action in that regard with further prayer to give power for running Cricket Association in the District of East Champaran (Annexure C/16 has been filed asserting the

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same to be the copy of said mail), which was acknowledged by the present President BCA through mail dt. 21.12.2019 (Annexure C/17 has been filed asserting the same to be the copy of said mail dt. 21.12.2019) asking the complainant to produce all documents concerning his allegation at a particular place. Thereafter, the complainant went to that particular place and persuade the matter with submission of all necessary facts but as matter of surprise there was same result as occurred earlier and no action was taken by the present President BCA and the Three Members Committee and the same was still existing till filing of the present complaint and in this regard Annexure C/17 asserting the same to be the copy of application dt. 22.12.2019 said to be filed by present complainant to the President BCA has been filed.

It has also been alleged in the present complaint that there have been only eight (8) clubs affiliated with ECCA but Gyaneshwar Gautam has been showing 21 clubs, which is totally false and contrary to reality.

It has also been alleged in the present complaint that before implementation of Justice Lodha Committee reocmmendations BCA has been giving affiliation to its District Units (DCA) as its Member on yearly basis and the affiliation of the ECCA with the BCA for the year 2014-15 will show that there is no name of Gyaneshwar Gautam in the affiliation form for in the club list, and in the same way for the affiliation for the year 2015-16 the names of the club have been given but there is no name of Gyaneshwar Gautam nor the name of the different clubs as claimed by Gyaneshwar Gautam for the year 2015-16 though the election was held in the year 2018 in the ECCA [Annexure C/18 has been filed as copy of the affiliation form of ECCA with BCA for the year 2015-16 and Annexure C/18/A at Page 133 of the present complaint/petition asserting the same to be copy of the list of the clubs (in which there are the names of only 8 clubs) purported to be submitted by Shriprakash Chaudhary as Secreatary of ECCA].

It has also been asserted in the complaint that there has been a bank account of ECCA and the ECCA sent money to BCA and the BCA also sent money to the ECCA through that bank account and as said Gyaneshwar Gautam has never been Secreatary of ECCA nor signatory of the aforesaid bank account of ECCA for its operation which has been done by the signatories since 2013 to 14.04.2018.

On the aforesaid basis it has been claimed by the present complaintant that the voter-list of the ECCA submitted by said Gyaneshwar Gautam for the year 2015-16 and 2016-17

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is nothing but a nullity in the eye of law.

On the basis of the aforesaid ground mentioned in the present complaint/petition with its Annexures, it has been claimed by the complainant/petitioner that he is entitled to the reliefs mentioned in the said complaint/petition.

On 18.11.2021 an application on behalf of the respondent nos. 3, 4 & 7 was filed to recall the aforesaid order dt. 25.07.2021 by which the aforesaid respondents were debarred from filing their reply in the present case, and in the said application it is also mentioned that the present application of the aforesaid petitioner Mr. Ravi Raj is barred as per the provisions of Section 10 of the Code of Civil Procedure (CPC), 1908 as a case being File No. BCA/OMB/16/18/RR/ECCA is still pending before the tribunal of Ombudsman, BCA for the same cause of action. In the said application it has also been averred that a Three Men's Committee, constituted as per direction of the Ombudsman, which was passed by the Ombudsman after full-fledged hearing of both sides including the present petitioner, submitted its report (copy of which has been attached to the aforesaid application as Annexure I) and the same is available on the record of aforesaid mentioned case BCA/OMB/16/18/RR/ECCA, which could be verified from the office of the respondent nos. 1 & 2, and as such, the present application is also barred on the principle of res judicata as enshrined U/S 11 of the CPC. In the said application it has also been mentioned that in the present application the petitioner Mr. Ravi Raj has approached this tribunal for setting aside election in ECCA held on 08.09.2018 with declaration to the effect that the said election is void though the present applicant Mr. Ravi Raj participated in the said election as a candidate for a post of the office-bearer in the ECCA and was defeated therein, and as such, as per settled principle of law he could not be permitted to challenge the process of aforesaid election and its result, and in support of the same with the aforesaid application filed on behalf of the aforesaid respondents 3, 4, & 7 photocopies of nomination paper along with affidavit purported to be submitted by the present petitioner Mr. Ravi Raj in the aforesaid election has been filed as Annexure 2. It has also been mentioned in the aforesaid application purported to be of the aforesaid respondents 3, 4 & 7 that the petitioner Mr. Ravi Raj has made a bundle of allegation against the respondent but, as per them, the allegations and materials pleaded by Mr. Ravi Raj are imaginary and far away from the reality, which would be demonstrated by the respondents in their detailed reply which would be filed later on.

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In reply to the aforesaid application dt. 18.11.2021 filed on behalf of the respondents 3, 4 & 7 the petitioner Mr. Ravi Raj filed his rejoinder affidavit dt. 19.01.2022 mentioning therein that the present petition has been filed in the background that the earlier order dt. 05.02.2019 passed by the then Ombudsman has not been complied with till the date of filing the said rejoinder affidavit and the aforesaid election was done on wrong facts and as such the Ombudsman can look into the legal aspect of that matter for which he would rely on few decisions if necessary at the time of final hearing of the present case. It has also been mentioned in the said rejoinder affidavit that the aforesaid election process should be conducted in the light of the order dt. 17.12.2017 of the then Ombudsman, in which it was categorically stated that the Electoral Officer would consider the club affiliated with the ECCA till March 2017 (05.03.2017) as its voters at the time of election but the aforesaid election was conducted flouting the said order dt. 17.12.2017 and, therefore, the present tribunal of the Ombudsman vide its order (dt. 03.11.2021) stayed the new election process initiated by the respondents (3 to 8) in ECCA for which the present complainant Mr. Ravi Raj has filed an application as IA on 31.10.2021; in the said rejoinder affidavit it has been stated that if the iniation for new election in ECCA by a Committee, which was itself constituted by illegal and wrong process adopted in the aforesaid election in ECCA held in 2018, then all the actions taken by such Committee would be nothing but a nullity in the eye of law and beside it the term of the Committee so constituted illegaly by the aforesaid election held in 2018 (on 08.09.2018) has already expired and as such it could not initiate new election process in ECCA. In the said rejoinder affidavit it has also been asserted that in view of the facts mentioned in the main application/complaint and in the aforesaid rejoinder affidavit the applicability of the provisions of Sections 10 & 11 would not arise in the present case and the report of the aforesaid Three Men's Committee's Report dt. 02.03.2019 purported to be made by the said Committee in the light of the order dt. 05.02.2019 of the then Ombudsman (copy of which is attached at Pages 123 & 124 of the complaint as Annexure C/13) has already been held to be a nullity by order dt. 15.03.2019 by the then Ombudsman in the case being BCA/OMB/04/18/RB-02 of 2018, Rajesh Baitha vs. BCA (copy of which is attached as Annexure C/19 with the aforesaid rejoinder affidavit) while considering four (4) DCAs including the District of East Champaran besides Purnia, Buxar, Vaishali observing that said report of 3 Men's Committee suffers from various infirmities, and in this regard Para 3 of the aforesaid order dt. 15.03.2019 passed by the Ombudsman is

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referrable in which it has been clearly held that the Committee has not followed the procedure laid down by the aforesaid tribunal of Ombudsman under different heads with also a direction to the BCA to convene a meeting of its full COM, before which the report must be pressed and considered by it having taken into consideration facts given in three columns; and, as such, the reliance placed on the aforesaid report of the Three Men's Committee by the respondent no. 7 is unsustainable in the eye of law. It has also been stated in the rejoinder affidavit that the respondent no. 7 could have not been able to controvert the allegation made by the complainant Mr. Ravi Raj that the respondent no. 7 was not associated with any club affiliated to ECCA prior to 2017 (April 2017) which has also been reflecting in the order dt. 17.12.2017 of the then Ombudsman and it has also been claimed that the present complainant is not estopped from raising the issues through the present complaint on the principle of estoppel, and it has been clearly laid down in the order dt. 17.12.2017 of the then Ombudsman that till 05.03.2017 the Secreatary of ECCA was Shriprakash Chaudhary, and as such, only Shriprakash Chaudhary as outgoing Secreatary of ECCA would be competent to provide list of the voters of the ECCA as clubs affiliated with the ECCA upto 05.03.2017, and therefore, the list of the voters (Annexures C/9 & C/9/A at Pages 111 to 114 of the complaint) submitted by the present respondent no. 7 for the election held in 2018 (on 08.09.2018) asserting him (Gyaneshwar Gautam) to be Secreatary of ECCA and conducting the election (in 2018) on the list so submitted by the respondent no. 7 Gyaneshwar Gautam was bad in law as said Gyaneshwar Gautam was not Secreatary of ECCA on 05.03.2017. In the rejoinder affidavit it has also been claimed that said Gyaneshwar Gautam in one of his letter dt. 22.08.2018 given by him to the Ombudsman has admitted that he (Gyaneshwar Gautam) was Joint-Secretary of ECCA through last election conducted in the ECCA and this admission is also reflected in the mail dt. 18.08.2018 in which he (Gyaneshwar Gautam) has stated that he was selected as Joint-Secretary of ECCA in the meeting of said ECCA held on 05.03.2017 with prayer to the Ombudsman to give order to conduct election in the ECCA as early as possible (copy of email dt. 21.05.2018 purported to be of Gyaneshwar Gautam and its reply (order) email dt. 22.05.2018 of the then Ombudsman sent to said Gyaneshwar Gautam is attached with the rejoinder affidavit as Annexure C/20).

In reply to the aforesaid rejoinder affidavit dt. 19.01.2022 of Mr. Ravi Raj, the respondent no. 7 (Gyaneshwar Gautam) has filed on 24.01.2022 rejoinder counter affidavit

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dt. 22.01.2022 in which the averments made in his earlier reply dt. 18.11.2021 purported to be filed on behalf of the respondent nos. 3, 4 & 7 has been reiterated in Para 2 of said rejoinder counter affidavit with further assertions that squeezing the matter for such an inordinate period and holding the new election on stay on the pretext of the order dt. 17.12.2017 of the then Ombudsman after participating the election held in 2018 by making his candidature by the complainant Mr. Ravi Raj for the post of Secreatary of ECCA and that too on the basis of ex-parte stay order on the newly initiated election process in ECCA as the said ex-parte order is bad as the same has not been finally decided till filing of said rejoinder counter affidavit as per provision of Order XXXIX Rule 3A of the CPC and as such the same is absolutely not good on the basis of a complaint made by a wrong person (Mr. Ravi Raj) with false allegations made in the complaint. In the said rejoinder counter affidavit it has also been averred that the prayers made by the complainant in the instant complainant are the same which were prayed in earlier case BCA/OMB/16/18 and as such the same is absolutely untenable in the eye of law; beside it the aforesaid order dt. 05.02.2019 of the then Ombudsman has fully been complied with by said Three Men's Committee as well as by the COM of the BCA having followed the principle of natural justice and considered documents and their evidences and after adopting the aforesaid principles and having considered said documents and evidences the COM accepted the Three Men's Committee Report (Annexure 1) and having done so sent the same to the then Hon'ble Ombudsman, which is clearly mainfest from the minutes of the meetings of the COM dt. 25.03.2019, 07.04.2019 and 27.04.2019 of which copies has been attached with the said rejoinder counter affidavit as Annexures 3, 3A & 3B at Pages 12 to 24 of this rejoinder counter affidavit dt. 22.01.2022. It has also been asserted in the said rejoinder counter affidavit that the genesis of formation of the Committee (purported to be COM of ECCA) could not be called to be illegal by any stretch of imagination as the complainant has himself contested the election held in ECCA in 2018 and as such he (complainant) is estopped to raise the issue as regards to the genesis. It has also been stated in the said rejoinder counter affidavit that the order (dt. 15.03.2019) of the then Ombudsman, copy of which has been filed by the complainant as Annexure C/19 at Page 10 of the rejoinder affidavit dt. 19.01.2022 of the complainant, is in respect of some other person which is ex-facie apparent from Annexure C/19 and not as regards to the respondent no. 7. It has also been asserted in the rejoinder counter affidavit that the decisions taken by the COM of the

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BCA in its meetings dt. 07.04.2019, 27.04.2019 (Annexure 3A & Annexure 3B of the rejoinder counter affidavit) were never agitated, and as such, the entire episode (about which the aforesaid decisions were taken by the COM, BCA) has attained finality and become conclusive. It has also been stated that as regards to the order dt. 17.12.2017 of the then Ombudsman, it is pertinent to be mentioned that final voter-list (for the election held in ECCA in 2018) was made after due consultation with several persons including the present complainant and then it was given effect absolutely as per the dictate of law after due scrutiny and verification; and, therefore, according to respondent no. 7, the said order dt. 17.12.2019 (sic-17.12.2017) of the then Ombudsman was fully complied with, which is also manifest from the letters dt. 09.09.2018, 20.08.2018 of the Electoral Officer appointed for the said election addressed to the BCA (Annexures 4 & 5 have been filed with the said rejoinder counter affidavit asserting the same to be the copies of said letters).

It has also been asserted in the said rejoinder counter affidavit that the deponent (responent no. 7) has been holding the post of Secreatary, ECCA prior to the aforesaid election held in 2018 and as such the fingers raised by the complainant in this regard at the deponent (respondent no. 7) is quite irrelevant and unwarranted, and this claim of the deponent (respondent no. 7) also gets support from the Annexure-C/20, which has been filed by none else but by the present complainant himself.

In reply to the aforesaid rejoinder counter affidavit dt. 22.01.2022 of the respondent no. 7 Mr. Gyaneshwar Gautam, the complainant Mr. Ravi Raj filed his rejoinder affidavit dt. 01.02.2022 stating therein that the Three Men's Committee's Report (Annexure I has been filed with the reply purported to be filed on behalf of the respondent nos. 3, 4 & 7 with supporting affidavit of Mr. Gyaneshwar Gautam purported to be sworn on 18.11.2021 asserting the same to be the copy of said Three Men's Committee Report) was completely rejected by order dt. 15.03.2019 of the then Ombudsman; and Annexure 3 (purported to be copy of the minutes of the meeting dt. 25.03.2019 of the COM, BCA) and its agenda no. 2 being agenda "regarding to enquiry of the status report dt. 02.03.2019 of the Three Member's Committee" specifically states that the COM decided to call upon all the respective parties regarding disputes in Buxar, Purnea, East Champaran & Vaishali DCAs to be present in front of the COM with all documents in support of their respective claim at the office of the BCA on 07.04.2019 at 04:00 pm; but no notice was issued to the complainant Mr. Ravi Raj or any party as per the aforesaid decision of the COM dt. 25.03.2019 and also

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there was no such meeting to afford opportunities to the respective parties as per the aforesaid decisions of the COM on the aforesaid agenda no. 2; and then the complainant Mr. Ravi Raj has reiterated that from Annexure C/19 (being purported copy of the order dt. 15.03.2019 of the then Ombudsman passed in BCA/OMB/04/18/RB-02 of 2018, Rajesh Baitha vs. BCA) the aforesaid Three Members' Committee Report dt. 02.03.2019 was completely rejected with direction to the COM, BCA to give categorical finding on the three aspects as the COM has not followed earlier direction in this regard (of the then Ombudsman) and also directed the COM to consider (i) whether the said committee had strictly followed the procedure laid down in orders of this Tribunal or not while considering the matters, (ii) whether the committee allowed all reasonable opportunity to the parties to produce documents and materials in support of the respective cases or not and (iii) whether the Committee considered all the materials placed on record by the parties and discussed them in the report before coming to a finding in respect of merit, or otherwise, of the case; with further directions to the COM to consider the matter and pass a speaking resolution and the President of the BCA shall ensure that copy of the resolution is placed before this Tribunal positively within one week from the date of meeting of COM; but from Annexure 3B being purported to be copy of the minutes of the meeting dt. 27.04.2019 of the COM, BCA at Pages 22 to 24 of the rejoinder counter affidavit dt. 22.01.2022 of the respondent no. 7 Mr. Gyaneshwar Gautam, at its agenda no. 8 in respect of District East Champaran the COM accepted the recommendation of Three Men's (Members') Committee and accordingly approved the election of office-bearer held on 08.09.2018 as valid for all purposes and the CEO, BCA was authorised to send the above decisions to the Ombudsman for needful it is clearly apparent and conclusive that the aforesaid decision on the aforesaid agenda no. 8 was clearly perfunctory without giving any clear and speaking resolution on the aforesaid points as regards to the (i) whether the said committee had strictly followed the procedure laid down in orders of this Tribunal or not while considering the matters, (ii) whether the committee allowed all reasonable opportunity to the parties to produce documents and materials in support of the respective cases or not and (iii) whether the committee considered all the materials placed on record by the parties and discussed them in the report before coming to a finding in respect of merit, or otherwise, of the case mentioned in the aforesaid order dt. 15.03.2019 of the then Ombudsman (the aforesaid Annexure C/19 filed with rejoinder affidavit dt. 19.01.2022 filed by Mr. Ravi Raj); and, therefore, the aforesaid

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decision of the COM in its meeting dt. 27.04.2019 at its aforesaid agenda no. 8 was/is nothing but a foul play on the part of COM with flouting with the aforesaid directions in the aforesaid order dt. 15.03.2019 of the then Ombudsman (Annexure C/19) and consequently it has been claimed by Mr. Ravi Raj that he in the aforesaid background could not be restrained to raise the aforesaid issue in the present complaint and it is also cannot be said that he is estopped from raising the said issues as he has contested the election held in 2018 in ECCA, and as regards to Annexure C/20 it has been apparent that the same is with regard to the action of the respondent no. 7 and not concerned with the complainant.

It is here also pertinent to mention that a supplementary counter affidavit in furtherance of the earlier rejoinder counter affidavit dt. 22.01.2022 filed as reply to the rejoinder affidavit dt. 19.01.2022 of the complainant was filed on 24.01.2022 on behalf of the respondent no. 7 Mr. Gyaneshwar Gautam supported with an affidavit sworn by him on the same day supplementing his earlier rejoinder counter affidavit dt. 22.01.2022 mentioning therein that relevant and necessary documents of such a necessity that without the same just decision could not be arrived at in the present matter and for the same he has filed this supplementary counter affidavit bringing the aforesaid documents on the record through this supplementary counter affidavit and amongst those (I) the copy of the letter dt. 19.06.2019 (Annexure 6 to the said supplementary counter affidavit dt. 24.01.2022) sent by him to the then Hon'ble Ombudsman with the copy of the minutes of the meeting dt. 27.04.2019 of the COM, BCA (Annexure 3B to the rejoinder counter affidavit dt. 22.01.2022 at its Page 22 to 24 of the respondent no. 7) with assertion that as such the matter has again attained finality, (II) copy of the letter (asserted to be communicated to the Committee of Administrators (CoA) appointed by the Hon'ble Supreme Court as mandated on 25.08.2019 (Annexure 7 to the said supplementary counter affidavit dt. 24.01.2022) through which the decision of the said Three Men's Committee (Annexure 1 filed with the aforesaid application dt. 18.11.2021 praying therein to recall the order debarring the respondents 3, 4 & 7 from filing their reply) along with all the orders passed by the then Hon'ble Ombudsman have been claimed to be sent to the COA, (III) copy of order dt. 07.09.2018 passed in Title Suit No. 405 of 2018 along with copy of the order sheets since 23.08.2018 to 06.09.2018 of the aforesaid Title Suit of the Court of Sub-Judege I, Motihari (Annexure 8 to the said supplementary counter affidavit dt. 24.01.2022) along with copy of show cause purported to be given in the said Court of Sub-Judege I, Motihari in the

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aforesaid Title Suit No. 405 of 2018 Prabhakar Jaiswal Vs. Bihar Cricket Association & Ors. by the Defendant No. 5 of that suit against the petition dt. 28.08.2018 of the plaintiff of that suit under Order 39 Rule 1 and Section 151 CPC, 1908 (Annexure 8A to the said supplementary counter affidavit dt. 24.01.2022), (IV) copy of the complainant made by the present complaint Mr. Ravi Raj before the then Ombudsman of BCA numbered as Case No. BCA/OMB/16/18/RR/ECCA (Annexure 9 to the said supplementary counter affidavit dt. 24.01.2022) have been filed.

In the said supplementary counter affidavit dt. 24.01.2022 it has been asserted by the respondent no. 7 (Mr. Gyaneshwar Gautam) that from the facts & circumstances stated by the said respondent no. 7 in his replies (counter affidavits) dt. 18.11.2021, 17.12.2021, 22.01.2022 and the aforesaid supplementary counter affidavit dt. 24.01.2022 it is mainfestly apparent that the instant complaint is ipso facto as well as ipso jure bad and consequently same is liable to be rejected in limine with heavy cost.

In reply to the said supplementary counter affidavit dt. 24.01.2022 filed by the respondnet no. 7, Mr. Gyaneshwar Gautam, the complainant Mr. Ravi Raj filed supplementary rejoinder affidavit dt. 02.02.2022 which appears to be reiteration of the statements made by him in the aforesaid earlier rejoinder affidavits along with their respective Annexures with tenor of argumentative statements in it.

A reply was filed on 25.07.2021 on behalf of the BCA (the BCA itself and the Working Secreatary, BCA) by Shri Manish Raj, CEO of the BCA mentioning therein that the election of the Office-Bearers of the BCA was held on 29.09.2019 in pursuance to the direction of the Hon'ble Supreme Court of India under supervision of CoA appointed by the Hon'ble Supreme Court, and after said election the present COM of BCA came into existence with its members as: (i) Sri Rakesh Kumar Tiwary (President), (ii) Sri Dilip Singh (Vice President), (iii) Sri Sanjay Kumar (Secreatary – now terminated), (iv) Sri Kumar Arvind (Joint Secretary), (v) Sri Ashutosh Nandan Singh (Treasurer), (vi) Sri Sanjay Kumar Singh (District Representative), (vii) Sri Amikar Dayal (Player Representative-Male), (viii) Miss. Kavita Roy (Player Representative-Female), (ix) Sri Adarsh Agarwal (A.G. Nominee); also mentioning that aforesaid Sri Sanjay Kumar was restrained from functioning as Secreatary, BCA by the decision of AGM of BCA dt. 31.01.2020, and in retailation thereof said Sri Sanjay Kumar in connivance with Sri Rabi Shankar Prasad Singh, the Secreatary, BCA before the date of aforesaid election on 29.09.2019 of BCA took away all

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the relevant records relating to the present case and as such BCA is having difficulty in complying with the direction of the then Ombudsman Sri Dharnidhar Jha dt. 17.12.2017 though earlier the BCA have made several requests to the aforesaid two persons (Sri Sanjay Kumar and Sri Rabi Shankar Prasad Singh) to return the said documents but the same remained in vein and if the said documents are traced out a detailed reply would be filed in the present matter. But no such detailed reply has been filed by the respondents 1 & 2 till now.

Here it is pertinent to mention that the order dt. 03.11.2021 staying the fresh election in ECCA initiated by the COM of ECCA constituted after election dt. 08.09.2018 in said ECCA was passed by this forum after giving prior proper notice to the respondent no. 7 about the application made by the complainant on 31.10.2021 in this regard and then after hearing Shri Sumeet Kumar Singh, Advocate for the petitioner, Shri Navjot Yeshu, Advocate for the respondents 1 & 2 and Shri Prem Kumar, Advocate for the respondent no. 7 Mr. Gyaneshwar Gautam virtually; and as such the claim of the respondent no. 7 Mr. Gyaneshwar Gautam asserted in the rejoinder counter affidavit dt. 22.01.2022 filed on 24.01.2022 that said order (dt. 03.11.2021) was passed ex-parte is completely wrong and accordingly his claim that the same has not been decided finally till filing of the said rejoinder counter affidavit as per provisions of Order XXXIX Rule 3A of the CPC is also not tenable. Here it is also pertinent to mention that at the time of passing the said order dt. 03.11.2021 the respondent nos. 3 to 8 were already set at ex-parte and also debarred from filing their respective replies vide order dt. 25.07.2021 and even at that time there was/were no application to recall said order dt. 25.07.2021 but in spite of it copy of the application dt. 31.10.2021 of the complainant, on which said order dt. 03.11.2021 was passed, was sent to the respondent no. 7 earlier via his Email through which he has communicated with me on 04.09.2021 and then also after hearing his counsel said order dt. 03.11.2021 was passed, and at that time there was/were no application to recall the said order dt. 25.07.2021, and first of all for recall to said order dt. 25.07.2021 was filed on 18.11.2021 claiming the same on behalf of respondent nos. 3, 4 & 7 supported with an affidavit sworn by said Gyaneshwar Gautam only and even in this application there has been nothing on the point that how and why they could not appear earlier after declaring vide order dt. 10.07.2021 to the effect that the notices sent to the respondents had been duly served on each of the defendants, nor they have asserted in the application that they were never in receipt of the notices along with

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copy of the complaint, and therefore, there was/is any ground on which they could claim for the recall of the order dt. 25.07.2021, but even then the respondent no. 3, 4 & 7, especially, respondent no. 7 Mr. Gyaneshwar Gautam, have been given sufficient opportunities to contest the claim of the complainant.

The reliefs claimed by the complainant are to declare the election held on 08.09.2018 in ECCA void and direct the President BCA to set up an ad-hoc in the ECCA and take steps to hold fresh election in the ECCA as per direction of the then Ombudsman BCA, namely, Hon'ble Mr. Justice (Retd.) Dharnidhar Jha made by him in his order dt. 17.12.2017 (Annexure C/6/A) in continuation of his earlier order dt. 16.12.2017 (Annexure C/6) in the complaint made by Shri Ravi Raj, who is also present complainant, to the effect that in the election in the ECCA, which would have to be taken place as per the aforesaid order, only those clubs which have been registered with the ECCA after acceptance of due fee from them prior or upto 05.03.2017 could be voters having a right to exercise one vote after enrolled as such.

About the aforesaid relief claimed by the complainant to declare the election held on 08.09.2018 in ECCA void is concerned appreciation of the materials placed on the record by the parties appeared in the present matter to grant that relief has now become only academic as the term of the COM of ECCA including office-bearers elected through aforesaid election dt. 08.09.2018 has already expired on 07.09.2021, and therefore, no fruitful purpose would be served by granting said relief claimed by the complainant. But even then I think it proper to bring glaring facts emerged during hearing of the present proceeding about modus operandi adopted in the said election by the respondents and the grievance raised by the present complainant earlier was handled by the BCA.

In that regard the first fact is related to the voter-list of ECCA is to be mentioned as the same is also related to the second relief claimed by the complainant. In this respect, I would like to highlight that while order dt. 17.12.2017 (Annexure C/6/A) clearly spelt that for election in ECCA only the clubs registered with it after acceptance of due fee for such registration with it prior or upto 05.03.2017 could be voters having a right to exercise one vote each and election must have to be conducted by an Electoral Officer chosen for it must be with the consultation of both warring factions and acceptable to both of them, and the entire election process right from identifying the voting clubs, preparing electoral roll after inviting objections from whomever who may be concerned with the affairs of said DCA and

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finalising the objections after due hearing. From all the documents filed by the respondent no. 7 Mr. Gyaneshwar Gautam it is apparent that it could not be revealed that after preparation of draft electoral roll for said elections in 2018 any objection from any corner was sought by the Electoral Officer appointed by the then Secreatary Shri Rabi Shankar Prasad Singh and the appointment of said Electoral Officer was acceptable to both the warring factions and also there was any hearing on the said draft electoral roll and then electoral roll was prepared on which basis said election was held. Thus, it can be easily inferred that the directions contained in the aforesaid order dt. 17.12.2017 (Annexure C/6/A) were flouted and were not acted according to its true spirit. There is nothing to show that the aforesaid electoral roll was prepared after verification of the clubs figured in the so prepared electoral roll with the receipts of their respective payment of due fee for registration with the ECCA. It is also pertinent to mention that the proceedings purported to be taken in ECCA on 06.08.2017 (through which Mr. Gyaneshwar Gautam is said to be elected as Secreatary ECCA after resignation of its previous Secreatary Mr. Sorojit Ghosh as claimed by him as reflected in his Email dt. 21.05.2018 to the then Ombudsman BCA in Annexure C/20), and on 13.08.2017 (through which Mr. Ravi Raj – present complainant is said to be elected as Secreatary ECCA ater resignation of said Mr. Sorojit Gosh as claimed by Mr. Ravi Raj) and formation of the COM of ECCA purported to be came into existence by the aforesaid proceedings dt. 06.08.2017 & dt. 13.08.2017 were scrapped vide aforesaid order dt. 17.12.2017 of the then Ombudsman (Annexure C/6/A), and as such, there was no Secreatary in ECCA as claimed by either Mr. Ravi Raj or Mr. Gyaneshwar Gautam at the time of preparation of said electoral roll for said election in 2018 rather there was an ad-hoc Committee in the ECCA framed by the then Ombudsman reflected in aforesaid order dt. 17.12.2017 (Annexure C/6/A) consisting of Shri Shriprakash Chaudhary as its Chairman and Shri Ravi Raj, Shri Gyaneshwar Gautam as its Members. It is also pertinent that by an application dt. 14.08.2018 (Annexure C/10) claimed to be given by Mr. Ravi Raj as a Member of aforesaid ad-hoc Committee of ECCA was given to Shri Rakesh Kumar the then Electoral Officer, ECCA mentioning therein that only eight clubs were registered with ECCA till 05.03.2017 and the list of the same was sent to him (Electoral Officer) by Shri Shriprakash Chaudhary as the Chairman of said ad-hoc Committee and said Chaudhary was also Secreatary of ECCA before 05.03.2017, and in the said application the names of such asserted eight clubs along with the names of their respective Secreatary have also been

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written; and as per Annexure C/9 & C/9/A the lists purported to be of the clubs registered with ECDCA said to be submitted by Shri Gyaneshwar Gautam as Secreatary ECDCA, though as per claim of Mr. Ravi Raj there was/is no ECDCA (East Champaran District Cricekt Association) in District East Champaran rather there was/is ECCA in said district, there are 21 such clubs though there was no ECDCA in East Champaran at that time rather there was ECCA, in which an ad-hoc Committee was functioning at that time.

Here it is also pertinent to mention that from the photocopy of a letter dt. 15.08.2018 (on which photocopy of postal receipt: EF563959818IN, purported to through which the said letter was sent) said to be sent to Shri Rabi Shankar Prasad Singh, the then Secreatary BCA by Shri Ravi Raj (Annexure C/11 to the complaint at Pages 118 to 120) complaining therein about the manner of appointment of the Electoral Officer for conducting the election of office-bearers of ECCA ignoring the fact and observation made by Mr. Justice (Retd.) Dharnidhar Jha, the then Ombudsman BCA in his order dt. 17.12.2017 on its Pages 5 & 6 regarding who shall be the Electoral Officer, and then observing that it was suggested to his lordship by the legal team of the BCA that the parties be consulted and a person who is acceptable to both the parties to observe the entire electoral process right from identifying the voting clubs, preparing electoral roll after inviting objections from whoever who maybe concerned with the affairs of the District Association and finalising the objections after due hearing; but none of the above directions have been complied with in the appointment of the Electoral Officer rather than an Electoral Officer in connivance with Mr. Gyaneshwar Gautam has been thrusted with a view to achieve the pre-planned result of the election, and the same is vehemently opposed by him (Ravi Raj) as ex-officio Secreatary of ECCA, and a prayer had been made in the said letter requesting the then Secreatary BCA to arrange a meeting of all the parties who are claiming to be office-bearers of ECCA and other Cricket Associations of East Champaran and after hearing all the objections appoint an Electoral Officer for conducting the election of East Champaran Cricket Association.

From the above, it is clear that grievances were raised by Mr. Ravi Raj about preparation of voter-list (electoral roll) and its finalisation and appointment of Electoral Officer for the election of office-bearers of ECCA which was latter on held on 08.09.2018 on the voter-list so prepared by the Electoral Officer, about whom appointment there was objection by Mr. Ravi Raj, and, as such, the Electoral Officer, so appointed by the then Secreatary BCA, was not acceptable to Mr. Ravi Raj and thus the aforesaid direction made

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by the then Ombudsman BCA in his aforesaid order dt. 17.12.2017 to the effect that the Electoral Officer should be acceptable to all the parties concerned was clearly flouted and not acted upon. In the aforesaid circumstances, even if Mr. Ravi Raj contested for a post of office-bearer in ECCA in the aforesaid election of 2018 even then his said candidature must be treated under a protest to the effect that the electoral roll and appointment of Electoral Officer are not genuine willfully defying the aforesaid directions made in the aforesaid order dt. 17.12.2017 of the then Ombudsman. Therefore, it cannot be said that the present complainant is estopped from raising the aforesaid issues in the present matter.

Here it is also pertinent to mention about the modes of conduct adopted by the "Three Men's Committee", framed by BCA as per order dt. 05.02.2019 of the then Ombudsman (Annexure C/13), there was grievance of Mr. Ravi Raj about which he made complaint to the then Ombudsman BCA on 24.02.2019, the copy of which is Annexure C/15 to the complaint at its Pages 126 & 127. It has been asserted by Mr. Ravi Raj that vide order dt. 15.03.2019 of the then Ombudsman passed in BCA/OMB/04/18/RB-02 of 2018 (Rajesh Baitha vs. BCA) – Annexure C/19 the report of said "Three Men's Committee" (Annexure 1) was completely rejected as by the said order of the then Ombudsman after considering the aforesaid report (Annexure 1), submitted before his lordship by the counsel for the BCA, concerning disputes of districts of Purnea, Buxar, Vaishali & East Champaran observing that the Tribunal (of Ombudsman) had directed that the reports shall be considered by the COM and its decisions shall also be forwarded to it; but nothing has been produced on behalf of the BCA to show that the meeting of COM was convened and decision has been taken on the reports, although the report is dated 2nd of March; secondly, from a glance through the reports it does not appear that the said Committee followed the procedure which the Tribunal (of Ombudsman) had laid down in its orders distinctly under different heads; and then directing the President of BCA to immediately convene a meeting of full COM and get these reports be placed and considered by it; the COM, in particular, shall consider (i) whether the said committee had strictly followed the procedure laid down in orders of this Tribunal or not while considering the matters, (ii) whether the committee allowed all reasonable opportunity to the parties to produce documents and materials in support of the respective cases or not and (iii) whether the committee considered all the materials placed on record by the parties and discussed them in the report before coming to a finding in respect of merit, or otherwise, of the case; and then further directing to the effect "The COM

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shall consider the matter and pass a speaking resolution and the President of the BCA shall ensure that copy of the resolution is placed before this Tribunal positively within one week from the date of meeting of COM". As regards to the aforesaid order dt. 15.03.2019 of the then Ombudsman, BCA it has been asserted by Gyaneshwar Gautam that the same does not cover the matter of disputes in the District of East Champaran because the same was passed in other matters mentioned in the aforesaid orders being Rajesh Baitha vs. BCA, and as such, the reliance placed on it in the present matter by Mr. Ravi Raj is not tenable in the present case, but in my view the said contention of Mr. Gyaneshwar Gautam could not be accepted because the order clearly spells that the reports submitted by the "Three Men's Committee" concerning disputes of districts of Purnea, Buxar, Vaishali & East Champaran were considered by the Ombudsman in that matter and made aforesaid directions concerning all the reports about the disputes in aforesaid all four districts.

Now, the question is whether the aforesaid directions made in the aforesaid order dt. 15.03.2019 of the then Ombudsman (Annexure C/19) have been complied or not? In this regard copies of the minutes of the meetings of the COM of BCA dt. 25.03.2019, 07.04.2019 & 27.04.2019 (Annexures 3, 3A & 3B) filed by the respondent Mr. Gyaneshwar Gautam along with his rejoinder counter affidavit dt. 22.01.2022 are referrable, and for ready reference relevant portions of the same are extracted hereinbelow:

(i) Annexure 3, copy of the minutes of the proceeding of the COM of BCA dt. 25.03.2019, its relevant extracts at its agenda no. 2 (at Page 13 of said rejoinder counter affidavit dt. 22.01.2022) is reproduced hereunder:

"AGENDA NO 2 – REGARDING ENQIRY OF STATUS REPORT DATED 02/03/2019 OF THREE MEMBER COMMITTEE

The COM discussed the Enquiry/Status report dated 02/03/2019 of the Three Member Committee and observed that despite proper notice, the complainant in case of Buxar District, Shri S.K. Agrawal did not appear before the said enquiry Committee on 24/02/2019 whereas the respondent no. 3 appeared before the said committee and filed documents relating to the election of office bearers. Further on scrutiny of other cases, the COM arrived at the conclusion that several clarifications are required from Buxar, Purnea, East Champaran, and Vaishali Districts and therefore, decided that the President/Secretary of these districts be informed to remain physically present in front of COM with all the documents in support of their respective claims on 07/04/2019 at 04:00 PM at BCA Office

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and both parties of Kishanganj and Gaya be informed to remain present with all documents pertaining to their respective claims at 11:00 AM on the same day, i.e. 07/04/2019, before the 3 Member Enquiry Committee."

(ii) Annexure 3A, copy of the minutes of the proceeding of the COM of BCA dt. 07.04.2019, its relevant extract of the same (at Page 19 of said rejoinder counter affidavit dt. 22.01.2022) is reproduced as under:

"AGENDA NO 2 – TO DISCUSS AND TO TAKE A DECISION RELATING TO ELECTION DISPUTES OF VARIOUS DISTRICT ASSOCIATION

Taking into the consideration of three member committee of COM constituted in compliance of the order of the Honourable Ombudsman, Three Members Committee has already submitted its report to Hon'ble Ombudsman. The COM after hearing the President/Secretary of Buxar, Purnea, East Champaran and Vaishali reserved its decision which would be sent to Hon'ble Ombudsman through CEO."

(iii) Annexure 3B, copy of the minutes of the proceedings of the meeting of the COM of BCA dt. 27.04.2019, of which relevant extract (at Page 23 of the said rejoinder counter affidavit dt. 22.01.2022) is reproduced under:

"AGENDA NO 8 – OTHER MATTERS BY PERMISSION OF THE CHAIR

1. Three Men Committee Report: The COM considered the report of the Three Men Committee of COM, constituted for the districts as mentioned below by the order of the Honourable Ombudsman in case no BCA/OMB/14/18/SCM dated 05/02/2019 and took following decisions:

- **District BUXAR: The committee unanimously resolved to accept the election of office bearers of Buxar district held on 18/11/2018 as proper and further resloved to accord approval to the same for all purposes.**
- **District PURNEA: The Committee unanimously resolved to accept the recommendation of the Three Men Committee and accordingly accepted the election held on 08/04/2018 as valid for all purposes.**
- **District VAISHALI: The COM accepted the findings of the Three Men Committee that no discrepancies in holding the election of Office Bearers on 13/05/2018 was found and accordingly approved this election as Valid for all purposes.**
- **District EAST CHAMPARAN: The COM accepted the recommendations**

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of Three Men Committee and accordingly approved the election of Office Bearers held on 08/09/2018 as valid for all purposes.

Further the CEO of BCA was authorised to send the above decisions to the Honourable Ombudsman for the needful."

Here it is also pertinent to reproduce the report dt. 02.03.2019 of the said Three Men Committee (Annexure 1, annexed to the application filed on 18.11.2021 purported to be on behalf of the respondent nos. 3, 4 & 7 for recall of the order passed by this Tribunal debarring the aforesaid respondents from filing their replies) and the same runs as under:

"**ENQUIRY REPORT**

(EAST CHAMPARAN DISTRICT)

Ravi Raj & others.....Complainant

Versus

Bihar Cricket Association through Secreatary

.....Respondent

File No.:- BCA/OMB/16/18/RR/ECCA

That the complainant Ravi Raj has filed a complaint before the Hon'ble Ombudsman against BCA through its Secreatary & East Champaran C.A. and all other elected office bearers of East Champaran seeking relief therein to declare the election of the office bearers of East Champaran C.A. held on 08.09.2018 as null & void.

In compliance of the order of the Hon'ble Ombudsman, the matter was referred to the three members committee of Com for enquiry.

Upon notice the complainant and respondent no. 6 on behalf of the respondent no. 3 to 8 appeared before the three members committee of the COM and filed the documents in Support of their respective claim and contentions and also submitted duly filled in questionnaire provided by the said committee.

Upon examination of the document filed on behalf of the respondent no. 3 to 8, it is crystal clear that the Hon'ble Ombudsman vide order dated 22.05.2018 had directed the Secreatary BCA to ensure the election of the office bearers of East Champaran within a period of 3 months from today.

"For the purpose the Secreatary of the BCA shall immediately contact the electoral officer appointed by the said order of earlier Ombudsman and if he agrees to still perform his duties as electoral officer, shall render all assistance to him for the purpose. However if

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the Electoral Offices expresses his inability to act as such, the Secreatary shall take prompt steps for fresh process of election with appointment of new Electoral Officer in accordance with law. In any case process of the election must be held and completed within period fixed as above".

In compliance of the aforesaid order of the Hon'ble Ombudsman, the Secreatary BCA approached the Electoral Officer has refused to conduct the election of the office bearer of the East Champaran accordingly the Secreatary BCA on getting consent from Mr. Rakesh Kumar Sinha, Advocate Motihari Civil Court was appointed electoral officer to conduct the election of the office bearers of East Champaran C.A. On perusal of the documents submitted by Respondent No. 6, it appears that election was conducted by said election officer by adopting due process of election, in which complainant also participated in the election and for the election which was held on 08.09.2018.

The Committee finds no irregularities and illegalities in conducting the election of office bearer.

The Committee recommend to approve the election of the office bearers of East Champaran C.A. held on 08.09.2018 and the complaint of complainant has no merit.

Sd. N. Jamuar

02-3-19

Sd. Anand Kumar (Anand Kumar)

Sd. Pravin (PRAVIN KUMAR)

2.3.19"

In the aforesaid regard copy of the Email dt. 20 August, 2018, 10:28 purported to be sent by Shri Rakesh Sinha (Rakesh Kumar Sinha, Adovocate Motihari and the Electoral Officer for the aforesaid election held in 2018 in ECCA) through his Email ID: rksinha_in@yahoo.co.uk to the Emails: biharcricketassociation@gmail.com, gyaneshwargautam944@gmail.com, ravirajbabloo@gamil.com, shreeprakash.chowdhary@gmail.com, jaynandan.singh@gmail.com has been filed by the respondent no. 7 Mr. Gyaneshwar Gautam as Annexure 5 at Page 27 of his rejoinder counter affidavit dt. 22.01.2022 and the contents of said email is reproduced hereinbelow:

"Dear Sir,

on the basis of voter list provided by Mr Gyaneshwar Gautan and Mr Ravi Raj Babloo a combined voter list has been prepared for the election of ECDCA Election – 2018. Voter list

(Contd.)

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is attached with this mail and a copy of same is displayed in front of my office. Voting will be conducted as per this list.

Thanking You,
RAKESH KUMAR SINHA,
Adovocate,
Electoral Officer, ECDCA Election – 2018
Attachments

- VOTER LIST.docx (12.55 KB)"

In the aforesaid regard copy of the letter bearing signatures of Rakesh Kumar Sinha as Electoral officer, ECDCA, Election – 2018 Amit Kumar Singh Asst. Electoral officer ECDCA Election – 2018 Sashi Ranjan Singh Asst. Electoral officer ECDCA Election – 2018 all in the date of 9.9.18 to the Secreatary, Bihar Cricket Association, Patna, Bihar has been filed by the respondent no. 7 Mr. Gyaneshwar Gautam as Annexure 4 at Pages 25, 26 of the rejoinder counter affidavit dt. 22.01.2022 and the contents of the same is reproduced hereinbelow:

"To,
The Secreatary,
Bihar Cricket Association, Patna,
Bihar.

Sub.:- East Champaran District Cricket Association Election – 2018

Dear sir,

I was appointed as Electoral officer for election of ECDCA vide your mail dated 30.07.2018. On 01.08.2018, I requested Mr. Shreeprakash Chaudhary, Mr Ravi Raj and Mr. Gyaneshwar Gautam (members Ad hock committee ECDCA) to provide me the voter list on or before 05.08.2018. On 04.08.2018 Mr. Gyaneshwar Gautam provided a voter list through mail, which was send to you for confirmation on 07.08.2018. Mr. Shreeprakash Chaudhary and Mr. Ravi Raj did not respond to my mail.

On 13.08.2018, I announce the schedule of election and informed to all concerned through mail. After announcement of election schedule Mr. Ravi Raj met me and gave an objection letter

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raising question over the voter list provided by Mr. Gyaneshwar Gautam, which was forwarded to you by mail. After telephonic discussion with you, I considered the list of clubs provided by Mr. Ravi Raj in his objection letter and made a combined voter list of clubs, which was published on notice board and also sent to all concerned.

Nominations were filled by candidates as per schedule and after withdrawal date final list of candidates was published. Voting was held on 08.09.2018 at I.M.A Hall, Motihari in presence of observer Mr. Sanjay Kr. Singh in which two assistant electoral officers appointed by me for assistance were also present. Out of 27 (twenty seven) valid clubs, 20 voters (clubs) cast their votes. Entire voting process was held in fair and transparent manner and was also recorded. Counting was held on same day and results were announced. Photocopy of counting sheet is attached with this report.

Following candidates were declared elected :-

President :- Mr. Rajesh Kumar Singh
Vice – President :- Mr. Abhishek Kumar
Secreatary :- Mr Gyaneshwar Gautam
Treasurer :- Mr. Manoj Kumar Kanaujia
Joint Secreatary :- Mr Pradeep Nandan Sharma

Thanking you for your co operation in entire election process.

Sd. Shashi Ranjan Singh	Sd. Amit Kumar Singh	Sd. Rakesh Kumar Sinha
9.9.18	9.9.18	9.9.18
Sashi Ranjan Singh	Amit Kumar Singh	Rakesh Kumar Sinha
Asst. Electoral	Asst. Electoral	Electoral officer, ECDCA
officer, ECDCA Election-2018	officer, ECDCA Election-2018	Election-2018"

From the above Annexures 4 & 5 it is apparently clear that in the aforesaid election held on 08.09.2018 in ECCA, though the aforesaid records filed by the respondent no. 7 show that the said election was held in ECDCA, as per the Electoral Officer and Assistat Electoral Officers for voting in the said election 27 clubs were found elligible for exercising voting rights and such the list of such 27 clubs was a combined list prepared on the basis of the lists submitted by both Mr. Gyaneshwar Gautam and Mr. Ravi Raj to the Electoral Officer without specifying the names of such clubs and their respective office-bearers and out of such 27 clubs how many names

(Contd.)
RSingh

of the clubs and their respective office-bearers were furnished by each of aforesaid Mr. Gyaneshwar Gautam and Mr. Ravi Raj. There is/are no document(s) on the record of the present case filed by any of the parties to show that the list of aforesaid 27 clubs was prepared after verification of their respective registration with their respective registration fee with ECCA till 05.03.2017 as observed and directed by Hon'ble Mr. Justice (Retd.) Dharnidhar Jha in his aforesaid order dt. 17.12.2017 (Annexure C/6/A) and the said voter list does/did not contain any clubs which were registered after 05.03.2017. Even the respondent no. 7 Mr. Gyaneshwar Gautam in his reply (counter affidavit/rejoinder counter affidavits) nowhere controverted the claim of the complainant Mr. Ravi Raj that there were only 8 clubs which were registered with the ECCA upto 05.03.2017 (as stated in para 5.7 at Page 11 along with Annexure C/10 at Pages 115 to 117 of the complaint petition). It has also not been controverted the claim of the complainant that the Electoral Officer, namely, Shri Rakesh Kumar Sinha, Advocate appointed by the then Secreatary BCA Mr. Rabi Shankar Prasad Singh was/is close relatives of said Rabi Shankar Prasad Singh and also a close friend of said Gyaneshwar Gautam (as stated in para 5.6 at Page 11 of the complaint petition). As the aforesaid claims made by Mr. Ravi Raj have not been denied by any of the respondents the same must be held to be admitted to the respondents as per the provisions of Order VIII Rules 3, 4, 5 of the Code of Civil Procedure, 1908 and there is no need to prove the aforesaid claims made by the complainant Mr. Ravi Raj as per provisions of Section 58 of Indian Evidence Act, 1872.

From the documents filed by the respondent no. 7 Mr. Gyaneshwar Gautam specifically Annexures 4, 5 and Annexures 3, 3A & 3B it is apparently clear that the Electoral Officer never took pain to discuss the issues raised by the complainant Mr. Ravi Raj that there were only 8 clubs registered with ECCA till 05.03.2017 or the clubs, the list of clubs which provided by Mr. Gyaneshwar Gautam to him were registered upto 05.03.2017 (and consequently the combined list of the voters of ECCA prepared by the Electoral Officer on the basis of the lists of the clubs provided by both Mr. Gyaneshwar Gautam & Mr. Ravi Raj was as per mandate of the order dt. 17.12.2017 of the then Ombudsman – Annexure 6A) and also the COM of the BCA did not take pain to decide the disputes in the ECCA as per direction of the then Ombudsman in his order dt. 15.03.2019 as regards to the report of said "Three Men Committee" (Annexure 1) to the effect: "from a glance through the reports it does not appear that the said Committee followed the

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procedure which the Tribunal (of Ombudsman) had laid down in its orders distinctly under different heads; and then directing the President of BCA to immediately convene a meeting of full COM and get these reports be placed and considered by it; the COM, in particular, shall consider (i) whether the said committee had strictly followed the procedure laid down in orders of this Tribunal or not while considering the matters, (ii) whether the committee allowed all reasonable opportunity to the parties to produce documents and materials in support of the respective cases or not and (iii) whether the committee considered all the materials placed on record by the parties and discussed them in the report before coming to a finding in respect of merit, or otherwise, of the case; and then further directing to the effect "The COM shall consider the matter and pass a speaking resolution and the President of the BCA shall ensure that copy of the resolution is placed before this Tribunal positively within one week from the date of meeting of COM". As regards to this order dt. 15.03.2019 of the then Ombudsman (Annexure C/19 at Page 10 of the rejoinder affidavit dt. 19.01.2022 of Mr. Ravi Raj the defence of the respondent no. 7 Mr. Gyaneshwar Gautam is that the said order was passed in different matter and the same does not cover the dispute in ECCA but this defence is liable to be rejected in view of Agenda No. 2 of the Annexure 3, Agenda No. 2 of the Annexure 3A and Agenda No. 8 of the Annexure 3B, all filed by the responent no. 7 Mr. Gyaneshwar Gautam himself in his counter affidavit dt. 22.01.2022 filed on 24.01.2022 from the wordings and sentences mentioned in the aforesaid Annexures 3, 3A & 3B on the aforesaid mentioned Agendas which clearly describe the dispute in East Champaran Cricket Association along with other three DCAs. Neither the "Three Men's Committee" nor the "COM" of BCA have discussed or mentioned what were issues raised by complainant Mr. Ravi Raj and there is no discussion about it nor the merit of the contentions raised by the complainant were touched or mentioned either in the Three Members' Committee's Report (Annexure 1) or in the aforesaid minutes of the proceedings of the COM mentioned in respect of the aforesaid Agendas as reflected in Annexures 3, 3A & 3B and, therefore, all the same are only perfunctory and an eye wash and nothing more.

Here it is also pertinent to mention that in the order dt. 05.02.2019 (Annexure C/13) it has been specifically mentioned in its last paragraph that the application is disposed of. Thus, there is no question of applicability of Section 10 of the CPC and as regards to applicability of Section 11 of the CPC I must have to say that this application/complainant of the present matter is for the enforcement of the different orders of the Ombudsman BCA

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RKSingh

as referred above herein including its non-compliance by the Electoral Officer, "Three Men's Committee" and the COM BCA, and thus Section 11 of the CPC is not applicable in the present matter.

But as already stated above the relief to declare the said election dt. 08.09.2018 in ECCA void could not be granted to the complainant Mr. Ravi Raj as the terms of the office-bearers of the ECCA elected through the aforesaid election dt. 08.09.2018 has already expired on 07.09.2021 and no fruitful purpose would be served by declaring said election void as the same has become infructuous at present.

But as the term of the COM came into existence in ECCA just after the aforesaid election dt. 08.09.2018 has already expired much earlier, i.e., on 07.09.2021 and since 2017 there has been allegations made by Mr. Ravi Raj that Mr. Gyaneshwar Gautam after having been nominated as Joint-Secretary of ECCA started manipulations leading to rift in the COM of ECCA resulting into the order dt. 17.12.2017 of the then Ombudsman (Annexure C/6A) and from the paper cuttings filed by the complainant with the application filed by him on 30.10.2021 to stay the election process initiated just before filing of the said application on 30.10.2021 by the COM of ECCA came into existence through the aforesaid election on 08.09.2018 (which term has already expired on 07.09.2021) specially through Mr. Gyaneshwar Gautam to held election on 14.11.2021 in ECCA and for that purpose the date for registration of the clubs with ECCA, which was earlier fixed upto 15.10.2021 has been extended upto 31.10.2021 it is apparently clear that there were some mal-practices being adopted by the aforesaid COM of ECCA claiming the said Cricket Association as ECDCA and not as ECCA though from the records, especially, Annexure C/2 at Pages 27 to 59 of the complaint petition clearly showing that for looking into the cricketing activities in the district of East Champaran a new association as East Champaran Cricket Association (ECCA) was formed and of the said ECCA in which Shri Gyaneshwar Gautam was selected as Joint-Secretary of ECCA in its meeting dt. 05.03.2017 (Pages 33 to 35 of the complaint petition being part of Annexure C/2) and the same has not been denied by the respondents including aforesaid Mr. Gyaneshwar Gautam who rather admitted the same in his email dt. 21.05.2018 sent to by him to the then Ombudsman BCA (Annexure C/20) to the effect that he was selected and in said DCA as its Joint-Secretary.

For the aforesaid reasons the BCA is directed to get verification of the elligible cricket clubs as voters of said ECCA through the existing Committee under the

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Chairmanship of a Retd. District Judge as per order passed in the cases Omud 12, 13 & 14 on 13.04.2022 and comply the other directions made in the said order as regards to formation of an ad-hoc Committee in ECCA and then conduct election in said DCA till 31.10.2022 copy of this order be sent by the BCA through its CEO to the Chairman of said Committee with copies of the complaint petition, rejoinder affidavits, interim applications (IA) filed by the present complainant and its reply, counter affidavits, rejoinder counter affidavits and copy of the application for vacating the aforesaid stay order on the election process initiated in East Champaran Cricket Association by its COM which came into existence through their aforesaid election on 08.09.2018 filed by the respondents who have appeared in the present matter.

Rsingh

(Raghwendra Kumar Singh)
In-charge Ombudsman
Bihar Cricket Association

Copy to:

1. Ravi Raj S/o Raj Kishore Yadav, R/o Near Sports Club Chatauni, Motihari, East Champaran:Permanent Addrress: Ward No.6 At & Post, Laxmipur, P.S. Mufassil, Motihari, District East Champaran Pincode- 845401
   Email: ravirajbabloo@gamil.com
2. Bihar Cricket Association, Through its Secretary, Patna
   Shail Raj Complex, Buddha Marg, Patna 800001
   Email: bca@biharcricketassociation.com
3. Working Secretary, Bihar Cricket Association, Patna
4. East Champaran Cricket Association through its Secretary, East Champaran
5. Secretary, East Champaran Cricket Association, East Champaran.
6. Rajesh Singh @ Raju Singh claimed to be President, East Champaran Cricket Association, R/o Chitra Mandir Campus, Balua Motihari, East Champaran, Pincode-845401.

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7. Abhishek Thakur claimed to be Vice-President, East Champaran Cricket Association, S/o Shiv Pujan Thakur, R/o Chotta Bariarpur, Ward No.37, Near Airport, Motihari, East Champaran, Pincode-845401
8. Gyaneshwar Gautam, s/o Prof. Shobhakant Choudhary, Secretary, East Champaran Cricket Association, r/o Belbana, Motihari, Near Nehru Yuva Kendra, Motihari, East Champaran.
   Email: gyaneshwargautam944@gmail.com
9. Manoj Kanaujiya, S/o Late Shankar Kanaujiya, Treasurer, East Champaran Cricket Association, R/o Sona Patti, Motihari, East Champaran, Pincode-845401
10. Working/Acting Secretary, Bihar Cricket Association,
    Shail Raj Complex, Buddha Marg, Patna 800001
    Email: secrtary@biharcricketassociation.com
    jointsecretary@biharcricketassociation.com
11. Rakesh Tiwari, President, Bihar Cricket Association, 46 Patliputra Colony, Patna
    Email: president@biharcricketassociation.com
    president.bca.rkt@gmail.com
12. Sri Sumeet Kumar Singh, Advocate
    Email: lawyersumeet@gmail.com
13. Sri Navjot Yeshu, Advocate
    Email: navjotlawyer@yahoo.co.in
14. Shri Krishna Murari Prasad, Advocate
    Email: adv.krishnamurariprasad@gmail.com
15. Chief Executive Officer, BCA
    Email: ceo@biharcricketassociation.com

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