

Before Ethics Officer, Bihar Cricket Association  
Raghwendra Kumar Singh (Retd. District Judge)

Ethics Officer, Bihar Cricket Association

BCA/E.O. - 01 of 2023

Yoshita Patwardhan R/O Junathi, P.S. - Kinjar, District - Arwal.....Petitioner

Versus

1. Bihar Cricket Association through its Secretary 1<sup>st</sup> & 2<sup>nd</sup> Floor, Shail Raj Complex, Buddha Marg, P.S. Kotwali, Patna- 800001.

Email: [bca@biharcricquetassociation.com](mailto:bca@biharcricquetassociation.com)

2. The Secretary, Bihar Cricket Association 1<sup>st</sup> & 2<sup>nd</sup> Floor, Shail Raj Complex, Buddha Marg, P.S. Kotwali, Patna- 800001.

3. Dilip Singh S/O Late Ramashankar Singh, R/O Bhabua Ekta Chowk, Ward No - 12, Post - Bhabhua, District - Kaimur presently functioning as Vice-President of Bihar Cricket Association.

4. Priya Kumari D/O Shri Shankar Deo Choudhary presently as Joint-Secretary of Bihar Cricket Association.

Email: [priyakumarizns@gmail.com](mailto:priyakumarizns@gmail.com)

5. Vikash Kumar S/O Shri Sushil Mishra R/O B/10, Gandhi Vihar, Policy Colony, P.S. - Anisabad, District - Patna recently been nominated as Male Representative of Bihar Cricket Association by the ICA.

Email: [vikashkumarranu@gmail.com](mailto:vikashkumarranu@gmail.com)

6. Lovely Raj D/O Shri Laxmi Patel R/O Choudhary Compound, Rambagh Road, Post - Ramna, District - Muzaffarpur recently been nominated as Female Representative of Bihar Cricket Association by the ICA.

.....Respondents

23.01.2023

That the application has been filed by the above named petitioner Yoshita Patwardhan through Shri Navjot Yesu, Advocate, in whose favour said petitioner has executed a vakalatnama and the hard copy of the application with its Annexures was filed by said advocate on 04.01.2023 along with the copy of the same for the BCA.

According to the application, the said application has been filed on behalf of the

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petitioner above named under Rule 45 (1) (a) read with Rule 42 and 43 of Bihar Cricket Association Memorandum of Associations Rules and Regulations (Hereinafter referred to as Rules for short) has been preferred for following reliefs:-

- A. For issuance of an Order to remove Respondent No. 3 who is presently functioning illegally as the Vice-President of Bihar Cricket Association and for his illegal conduct which is totally against the Rules and the post of Vice-President of Bihar Cricket Association (Hereinafter referred to as BCA for Short) which is recently holding is also hit by the Conflict of Interest.
- B. For issuance of an Order to remove Respondent No. 4 who is presently functioning illegally as the Joint-Secretary of Bihar Cricket Association and for her illegal conduct which is totally against the Rules and the post of Joint-Secretary of Bihar Cricket Association (Hereinafter referred to as BCA for Short) which is recently holding is also hit by the Conflict of Interest.
- C. For issuance of an Order to remove Respondent No. 5 who is presently functioning illegally as the nominated Male Representative of Bihar Cricket Association by the ICA and is also directly hit by the Rule 42.4 of Rules of BCA.
- D. For issuance of an Order to remove Respondent No. 6 who is presently functioning illegally as the nominated Female Representative of Bihar Cricket Association by the ICA and also directly hit by the Rule 17 (6) of Rules of BCA.
- E. And further for a direction that Respondent No. 3 to 6 may be restrained from functioning and participate in the Meeting of the Committee of Management, Annual General Meeting or Special General Meeting of the BCA or in any other meetings of BCA in their aforesaid capacity till the pendency of this application.
- F. For a direction to the Respondent No. 2 to take all the initiatives for nomination of the nominated members of the Bihar Cricket Association, be it an ICA representative or AG Nominee as no steps in this regard has been taken/adopted by the Secretary or the Bihar Cricket Association in this regard and thus the same is completely arbitrary and illegal.
- G. And/Or Pass Such other Order(s) as Your Lordships may deem fit and

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For the aforesaid reliefs the petitioner has pleaded following grounds:-

(1.) That it is stated here that the BCA is a registered institution under the Societies Registration Act, 1860 having its own "Memorandum of Association and Rules and Regulations" for its governance and superintendence. Rule 51 of the aforesaid Rules clearly speaks of that the BCA shall be sue or shall be sued in the name of the Honorary Secretary.

(2.) That it is relevant to mention that as per the Constitution of BCA and the orders of the Hon'ble Supreme Court of India it is Secretary Only who is considered as the competent authority to plead, swear and contest any application before any Hon'ble Courts on behalf of the BCA and therefore he is only been impleaded as party respondent in the present case.

(3.) That it is stated and submitted here that the Constitution of Bihar Cricket Association has been framed and is registered under Society Registration Act. Rule 44 provides for the appointment of Ombudsman who is there for the purposes of the providing independent dispute resolution mechanism. Further, Rule 45 of the aforesaid Constitution talks of grievance redressal. Rule 45 (1)(a) stipulates that any dispute between or among the BCA, its members, Tournament franchisees, Zones and Cricket Players Association shall automatically referred to the Ombudsman.

(4.) That it is stated and submitted here that the Constitution of Bihar Cricket Association has been framed and is registered under Society Registration Act. Rule 44 provides for the appointment of Ombudsman who is there for the purposes of the providing independent dispute resolution mechanism. Further, Rule 45 (1)(a) stipulates that any dispute between or among the BCA, its members, Tournament franchisees, Zones and Cricket Players Association shall automatically referred to the Ombudsman. It is pertinent to mention here that, therefore, the petitioner ought to have first approached to the Ombudsman for ventilating his grievances, if any, which admittedly has not been done.

(5.) That it is stated here on 17.07.2022, the Meeting of the Committee of Management of BCA was held at the resident of the President of BCA and under his Chairmanship on different agendas. It is pertinent to mention here that from bare perusal of the said Minutes of the Meeting it is apparently clear that apart from the

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other agendas one of the Agenda which is concerned with facts of the present case is Agenda No. 2 which talks of discussion on the appointment of Selector, Coach, Physio, Trainer, Massager etc for the Session 2022-2023.

A copy of the relevant portion of the Minutes of Meeting dated 17.07.2022 is annexed herewith and marked as Annexure – 1 to the application.

(6.) That it is further pertinent to mention here that from perusal of the decision of the aforesaid agenda, it is apparently clear that Shri Dilip Singh recent Vice-President of BCA and Shri Shankar Deo Choudhary were appointed as the Chairman and Convenor respectively of the three men committee for appointment of Selectors, Coach, Physio, Trainer, Massager etc for the Session 2022-2023.

(7.) That is also relevant to mention here that both are still functioning in the said capacity till date.

(8.) That so far Dilip Singh is concerned, he is presently functioning as the Vice-President of BCA and is also the Chairman of Three Men Committee for appointment of Selectors, Coach, Physio, Trainer, Massager etc for the Session 2022-2023 and his son namely Shivam Singh is in the Team of Ranjy Trophy from Bihar and therefore the post which is holding is directly hit by Rule 42(V) of BCA Rules of the Conflict of Interest.

(9.) That it is stated here that in the same and similar circumstances in BCA/OMBUDSMAN/CASE No-BCA-EO-02/2020 of 2020 in a case of Mr. Vishwas Versus BCA and Ors this Hon'ble Court has held the then Secretary of BCA to be guilty and Vide order dated 15.05.2021 he has been removed from the post of Secretary and has also been debarred from all the cricketing activities for a period of one year.

A copy of the order dated 15.05.2021 is annexed as Annexure – 2 to the application.

(10.) That Likewise so far Priya Kumari is concerned, his father Shri Shankar Deo Choudhary is the Convenor for appointment of Selectors, Coach, Physio, Trainer, Massager etc for the Session 2022-2023 and his son namely Govind Choudhary who

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is also the own brother of Priya Kumari is in the Team of Ranjy Trophy from Bihar and therefore the post which is holding is directly hit by Rule 42(V) of BCA Rules of the Conflict of Interest.

A copy of list of players is annexed as Annexure – 3 to the application.

(11.) That it is stated here that thereafter on 28.08.2022 the Meeting of the General Body of BCA was held under the Chairmanship of President of Bihar Cricket Association which is situated just in front of his residence on different agendas. It is pertinent to mention here that from perusal of the proceeding of the said Minutes of Meeting it is apparently clear that Respondent No. 5 and 6 have been appointed as the Chairman of the Junior Cricket Committee and Women Selection Committee respectively and therefore their present nomination by the ICA is also hit by Conflict of Interest by Rule 42 (ii) of BCA Constitution and is bad and illegal in the eyes of law.

A copy of the proceeding dated 28.08.2022 is annexed as Annexure – 4 to the application.

(12.) That for the present, be that as it may, on 25.09.2022 the election of the Office-Bearers of BCA was held but as some dispute arose in the election process so the matter travelled upto the Hon'ble Supreme Court by filing different Interlocutory Application in Civil Appeal No. 4235 of 2014 and the Hon'ble Apex Court vide its order dated 23.09.2022 has held as under "*In order to facilitate a further hearing on the aspect, list the Interlocutory Applications on 30<sup>th</sup> September, 2022. The response of the Bihar Cricket Association is taken on the record. In the meantime, the AGM is permitted to proceed. The results of the AGM insofar as the election of the office-bearers is concerned, shall be placed before this Court in a sealed cover*".

(13.) That thereafter the decision of the AGM was placed before the Hon'ble Supreme Court on 30.09.2022 has directed the Electoral Officer to notify the results which was accordingly notified on 01.10.2022 by the Electoral Officer in which following office-bearers came to be elected.

A. Rakesh Kumar Tiwary-----President

B. Dilip Singh -----Vice-President

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Dilip Singh

C. Amit Kumar-----Secretary

D. Priya Kumari-----Joint-Secretary

E. Omprakash Jaiswal-----Councillor

(14.) That it is pertinent to mention that the Office-Bearers of the Cricket Associations of the entire country have become a Canker Sore for all the good and talented players who see their life in Cricket and spent their entire life for Cricket. These Canker Sore have to be given a stick blow failing which the Cricket will be at stake.

(15.) That when the matter which is still pending before the Hon'ble Supreme Court was heard and Justice Lodha Committee was constituted, several reforms took place in the game of Cricket in India which has practically helped a lot in saving the game of Cricket in India and Several good and talented players of the country again with a ray of hope but still there are several Canker Sore left in the Several Cricket Association like Bihar which needs to be scrapped so that good and talented played could be selected instead of selecting one's own son.

(16.) That in terms of Rule 17(2) (c) of Rules of BCA there is the provision for nomination by the AG nominee but to the knowledge of the petitioner the BCA has not taken any steps for so the nomination of the AG nominee could be arrived at.

(17.) That it is further pertinent to mention here that it has also come to the knowledge of the Petitioner that as per Rule 17 (2) (b) of the Constitution of BCA there is a provision for nomination of two ICA representative, one male and one female.

(18.) That it is further pertinent to mention here that as per Rule 17 (6) of the Constitution of BCA No nominated members shall be more than one term of three years and Rule 42 (ii) of Constitution of BCA as both the Respondent No. 5 & 6 is holding two post at one point time which is also hit the provision Rule 42 (ii) of BCA Constitution.

(19.) That it is pertinent to mention here that the Meeting of the Committee of Management of total Nine Members is required to be held after every three months after the nomination of the nominated members but to the knowledge of the Petitioner no Meeting of the Committee of Management of has been held legally so far.

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(20.) That it is stated here that the Secretary of the Association is solely responsible for all the cricketing and non-cricketing activities both in BCCI & BCA after the Judgment of the Hon'ble Apex Court dated 14.09.2022 passed in Civil Appeal No. 4235 of 2014 but the Respondent No. 2 instead of taking any initiative in this regard is keeping mum over the matter since last several days.

(21.) That the Petitioner has not moved before this Hon'ble Court earlier in this connection.

On the aforesaid grounds the petitioner has prayed (i) to issue notice(s) to the respondents and after hearing then may be pleased to allow the prayer made in Para 1 of the application (mentioned above in beginning) and (ii) further to restrain the respondent nos. 3 to 6 from functioning and participating in the Meeting of the Committee of Management, Annual General Meeting (AGM) or Special General Meeting of the BCA (Bihar Cricket Association) are in any other meeting of the BCA in their aforesaid capacity forthwith till the pendency of the present application and/or (iii) to pass such other order(s) as this forum may deem fit and proper.

On 07.01.2023 the matter was fixed for 09.01.2023 for hearing on the prayer of the petitioner for interim relief as mentioned in Relief E of Para – 1 of the petition/complaint and in prayer portion of the petition as prayers (ii) mentioned above in virtual presence of Shri Navjot Yeshu, Advocate for the petitioner and Miss. Roona, Advocate for the BCA.

On 09.01.2023 after hearing Shri Navjot Yeshu, Advocate for petitioner, Miss. Roona, Advocate for the BCA and Shri Rajesh Kr. Singh, Advocate for the respondent no. 5 (Shri Vikash Kumar) the matter was fixed today for hearing on the aforesaid prayer of the petitioner for the aforesaid interim relief after being assured by said Miss. Roona, Advocate for the BCA and Shri Rajesh Kr. Singh, Advocate for the respondent no. 5 that the replies of the respective clients till today and in compliance of said assurance Shri Rajesh Kr. Singh, Advocate has filed replies of the respondent no. 5 along with vakalatnama purported to be executed by said respondent no. 5 in his favour but reply of the BCA has not been filed as yet.

Today rejoinder affidavit of the petitioner Yoshita Patwardhan in reply to the counter

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affidavit of respondent no. 5 has been filed through aforesaid Shri Navjot Yesu, Advocate, who has also filed an Interim Application (I.A.) this prayer to stay the notice dt. 21.01.2023 purported to be issued by Priya Kumari as Joint-Secretary-cum-Acting Secretary of BCA published on the website of BCA (copy of which has been filed as Annexure 1 of the said I.A.) whereby and under which a Special General Body Meeting (SGM) of BCA has been convened on 29.01.2023 since 09:00 a.m. on the ground that Joint-Secretary has no authority to issue the said notice and also on the ground that Shri Amit Kumar, who was elected as Secretary of BCA in the election held on 25.09.2022 of BCA and there is nothing on record to show that how Priya Kumari has been functioning as Secretary of BCA and the claim of said Priya Kumari to be also Acting Secretary of BCA has no leg to stand in view of Rules & Regulations of the BCA, according to which neither the COM nor any supreme body of the BCA has/have any power to delegate power and function of Secretary or any other Office-Bearer of BCA to any other Office-Bearer of BCA unless and until there is vacancy of the post of such Secretary or other Office-Bearer of BCA whose power and function is being delegated or delegated with assertions that the petitioner has not moved earlier for the said prayer made in aforesaid I.A.

A vakalatnama purported to be executed by Shri Amit Kumar as Secretary of BCA in favour of Shri Ranjan Kumar Srivastava, Advocate (AOR No. 2408, 461 Bihar Bar Council, High Court, Patna, Email: [advocateranjan09@gmail.com](mailto:advocateranjan09@gmail.com), Mobile No. 9431249343) has been filed today.

On 10.01.2023 Shri Navjot Yesu, Advocate for the petitioner has sent a communication from his Email: [navjotlawyer@yahoo.co.in](mailto:navjotlawyer@yahoo.co.in) on my email to the effect that he has sent pdf copy of the orders dt. 07.01.2023, 09.01.2023 and also compressed pdf copy of the petition of the present case to the respondents on their respective emails, i.e., (i) [secretary.biharca@gmail.com](mailto:secretary.biharca@gmail.com), (ii) [bcadilipsingh@gmail.com](mailto:bcadilipsingh@gmail.com), (iii) [priyakumarizns@gmail.com](mailto:priyakumarizns@gmail.com), (iv) [vikashkumarranu@gmail.com](mailto:vikashkumarranu@gmail.com), (v) [lovelyraj706@gmail.com](mailto:lovelyraj706@gmail.com), (vi) [roonaadv@gmail.com](mailto:roonaadv@gmail.com) claiming to be the Email Ids of the respondent no. 2 (Secretary, BCA), respondent no. 3 (Shri Dilip Singh), respondent no. 4 (Priya Kumari), respondent no. 5 (Vikash Kumar), respondent no. 6 (Lovely Raj) and the Advocate of BCA, namely, Miss. Roona on 10<sup>th</sup> January, 2023 at 06:58 p.m. IST.

Here, it is also pertinent to mention that hard copy of the petition including its Annexures was received by Shri Santosh Kumar Jha on 09.01.2023 for BCA and on

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09.01.2023 it was assured by the learned counsel for the BCA that its reply would must be filed till today, i.e., 23.01.2023 but said assurance has not been honoured.

Shri Navjot Yesu, Advocate for the petitioner, Miss. Roona, Advocate for the BCA, Shri Ranjan Kumar Srivastava, Advocate for the Secretary, BCA have been heard virtually on 'Google Meet' for which link was sent on their respective WhatsApp.

The learned counsel for the petitioner in continuation of his earlier submission made on 09.01.2023 in presence of aforesaid Miss. Roona and Shri Rajesh Kumar Singh, advocates, today took me through the petition including its Annexures for grant of interim relief along with the reply rejoinder affidavit and I.A. of the petitioner. He submitted that there are clear case of conflict of interests against the respondent nos. 3 to 6 as Shri Dilip Singh being Vice-President of the BCA in its COM dt. 17.07.2022 was appointed as Chairman of the 'Three Men's Committee' for recommending the selections of Selectors, Coach, Physio, Trainers, Massagers etc. for the BCA team in session 2022-23 vide Annexure 1 at Agenda No. 2 of the main petition, and on the basis of his recommendation Shri Vikash Kumar (respondent no. 5) and Lovely Raj (respondent no. 6) were selected as Chairman of the selection Committees for the BCA for junior cricket and women respectively vide Annexure 4 at Agenda No. 6 of the main petition; and then, the selection Committee so constituted under the aforesaid Agenda No. 6 of Annexure 4 on the recommendation of the 'Three Men's Committee' under Agenda No. 2 of Annexure 1 constituted under the Chairmanship of aforesaid Shri Dilip Singh who is also present Vice-President of BCA and also consisted of Shri Shankar Deo Choudhary, the then Joint-Secretary of the BCA as its Convenor selected Shri Shivam Singh son of aforesaid Shri Dilip Singh and Govind Deo Choudhary son of aforesaid Shri Shankar Deo Choudhary & brother of Sushri Priya Kumari who is at present holding the post of Joint-Secretary of BCA in the selected prayer list of BCA for Ranji Trophy 2022-23 scheduled to be played at Urja Stadium, Patna. It has also been submitted by the counsel for the petitioner that the respondent nos. 5 & 6 after their selection as Chairperson of Committees of Selectors for junior cricket team and women cricket team of BCA are being claimed to be nominee of ICA Representative male and female respectively in the COM of BCA and it has also been claimed that their nominations as such representatives have been accepted by the BCA but to the best knowledge of the petitioner no meeting of the COM of BCA has been held legally so far because as per the Rules & Regulations of the BCA there should be total nine

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members in the COM including AG nominee and till date no initiative has been taken to get the nomination of AG nominee in the COM and there is nothing of the website to show that when and where in which meeting of the BCA the aforesaid nominations of respondent nos. 5 & 6 as ICA Representative in the COM of BCA was accepted, and thus, according to the petitioner's counsel, still there is no valid COM of BCA. It has also been submitted on behalf of the petitioner that the respondent no. 5 was also ICA Nominee Representative of the COM of the BCA in the year 2017 and respondent no. 6 was also ICA Nominee Representative of the COM of BCA in the year 2019 and as per Rule 17(6) of the Rules & Regulations of the BCA no nominated Member of the COM shall have more than one term of three years; and according to the learned counsel for the petitioner the respondent nos. 5 & 6 have already been completed the aforesaid three years term as ICA Representatives in the COM of BCA earlier before there re-nominations as such representative in the present COM of BCA; and on that basis they could not be regarded as valid Members of the COM of BCA. It has also been submitted by the petitioner's counsel that the respondent no. 5 being Chairman of the junior cricket team of the BCA also hold works as Coach of the BCA team for the session 2022-23 and as per Rule 41(4) of the Rules & Regulations of the BCA no individual may occupy two post at a time, and, as per petitioner's counsel, the respondents 5 & 6 are holding two posts or more than two posts simultaneously in the BCA. It has also been submitted on behalf of the petitioner that as per Rules & Regulations of the BCA only the Secretary of the BCA who is only Competent Authority to plead, swear and contest any applications before any Court or Tribunal and also is solely responsible for all the cricketing and non-cricketing activities in BCA as per the judgment of the Hon'ble Supreme Court dt. 14.09.2022 passed in Civil Appeal No. 4235 of 2014 but the respondent no. 2 being the Secretary of the BCA instead of taking any initiative in this regard and is also keeping over the matters since last several days and as such he has been impleaded as respondent in the present matter.

Shri Rajesh Kumar Singh, Advocate for the respondent no. 5 has urged that the present application has been filed by the petitioner under Rule 45 of the BCA Rules & Regulations without disclosing her capacity to show his locus to make the present application under the said Rule 45, and, as such, the present application is not maintainable under the said Rule as petitioner does not come in purview of an individual who can maintain the application under the said Rule 45 and on this score the present application is

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liable to be rejected in limine. He has further submitted that the respondent after his appointed as Selector for junior cricket team of BCA resigned from the said post and then he was appointed as Coach and after nomination by the ICA as Male Representative of the COM of the BCA he resigned from the post of Coach also and then joined the COM as such nominee, and therefore, he cannot be said that he was/is holding two or more posts simultaneously in the BCA and this fact has been swear by him in his counter affidavit and in the reply of the petitioner to the said counter affidavit there is no whisper against the said statement of the respondent no. 5 on affidavit. He has also submitted that at no point of time he was Male ICA Representative in the COM of BCA earlier as submitted by the petitioner's counsel in his oral submission today and about the said assertion being not in his counter affidavit is because no assertion in that regard has been made by the petitioner in her petition.

Shri Ranjan Kumar Srivastava, Advocate for the respondent no. 2 submitted that the Secretary BCA is only competent person who can sue or be sued in any proceeding before any authority as per Rule 51 of the BCA Rules & Regulations and Shri Amit Kumar is still Secretary of the BCA and only he can plead on behalf of the BCA in the present case and there is nothing on the record of the present case about cessation of his capacity as Secretary BCA. He further submitted that as per the object of the association, i.e., BCA mentioned in Para 2 of the Memorandum of the Bihar Cricket Association (BCA), especially, in its Clause (a) *“To control, promote, encourage and organize the game of cricket in the state of Bihar, lay down policies, roadmaps, guidelines and make rules and regulations (and amend or alter them) in all matters relating to the game of Cricket (in consonance with Board of Control for Cricket in India, hereinafter referred to as BCCI), recognizing that the primary stakeholders are the players and Cricket fans in the State of Bihar, and that accountability, transparency and purity of the Game are the core values;”* and its Clause (b) *“To provide for measures necessary for promotion and development of the game of Cricket, welfare and interest of Cricketers and elimination of unethical and unfair practices in the Game of cricket; and for that purpose, arrange, organize and regulate representative matches in the state with teams representing the Association and also approved matches of BCCI and to select such teams for any tournament, championship or fixture, local and otherwise.”*, there must be accountability, transparency and purity of the game and there should not be unethical and unfair practices in the game of

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cricket but according to the facts pleaded by the petitioner in her main application and I.A. supported with its respective Annexures, which has remained uncontroverted as yet except the submission made on behalf of the respondent no. 5 to the effect that he before his appointment as Coach has resigned from the post of Chairman of "Junior Cricket Committee" of BCA and after his nomination as ICA Nominee (Male) in the COM of BCA he resigned from the post of Coach also, and even if that submission made on behalf of respondent no. 5 is accepted to be true then also his action as such Chairman, Coach and Member of COM suggests the action taken by him as such functionaries of BCA could not be termed as transparent and of keeping purity of the game of cricket and ethical and without fair; in other words, his action as such functionaries of BCA go to be inferred that his such action(s) as such functionaries was/were/is/are un-transparent, polluting to the purity of the game of cricket, unethical and unfair; and the respondent no. 2 to promote the **Objects of the BCA** supports the claim of the petitioner in the present matter.

Miss. Roona, Advocate for the BCA, though her capacity to represent BCA has been objected by the petitioner's counsel on the ground that the BCA could be represented only through its Secretary as per said Rule 51 of the BCA Rules & Regulations, submitted that Shri Amit Kumar has been restrained from functioning in the capacity of the Secretary BCA by the decision taken by the COM of BCA in its meeting dt. 30.12.2022 and function of Secretary BCA has been delegated to the Joint-Secretary BCA, namely, Priya Kumari as per the aforesaid decision of the COM dt. 30.12.2022 and the matter in that regard has been referred by the COM of the BCA to the present forum of the Ombudsman BCA and the same has been numbered as BCA/Ombud/02 of 2023 in which notice to respondent Amit Kumar in that case has already been issued, and she (Miss. Roona) is appearing in the present matter and the instruction of said Priya Kumari as Acting Secretary of BCA. She having made submission that Ranji Trophy Match is scheduled to be held on 25.01.2023 to 29.01.2023 and BCA team in that match have also to play in that match and the BCA is the host of said match going to be played at Moinul-Haque Stadium Patna, and due to that the Officials of BCA are badly engaged to manage the affairs of said match and this is the reason why reply on behalf of BCA could not be filed as yet, sought an adjournment for 10 days on that score for filing reply of the BCA and also to adjourn hearing on the petitioner's prayer for interim relief.

Controverting the submission of Miss. Roona the counsel for the petitioner urged that

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the matter was fixed for hearing today on assurance given by Miss. Roona, advocate for the BCA on 09.01.2023 that the reply of the BCA must be filed by today and then hearing for the interim relief should be taken today and the BCA has contemplated to hold its SGM on 29.01.2023 since 09:00 a.m. and if the Officials of BCA are engaged as claimed how the SGM could be held on 29.01.2023 and the notice for said SGM has been issued by Sushri Priya Kumari who is in conflict of interest and as such the petitioner has prayed to stay the said notice for said SGM and also restrain the respondent nos. 3 to 6 to participate in any Meeting of the COM/SGM/AGM of BCA till the disposal of the present matter on the ground of conflict of interest made prima facie against said respondent nos. 3 to 6, and the COM has no authority to restrain any Office-Bearer from functioning of the said person as such Office-Bearers of BCA.

Controverting the submission made on behalf of the respondent no. 5 to the effect that the respondent no. 5 did not hold Post of the Member of the COM BCA earlier as ICA Representative (Male) the counsel for the petitioner submitted that this submission of the respondent no. 5 is not correct one and he would file document supporting the facts that the respondent no. 5 was earlier ICA Nominee (Male) in the COM of BCA.

Controverting the submission made on behalf of the respondent no. 5 to the effect that the respondent no. 5 having resigned the Post of Chairman of the Junior Cricket Committee of BCA joined as Coach of BCA Team and on his nomination as such ICA Nominee (Male) he resigned from the Post of Coach and then joined COM of the BCA as its Members as such Representative, the counsel for the petitioner that mere oral assertion made on behalf of the respondent no. 5 even on affidavit without any supporting document to proof the said resignation has no evidenciary value because neither the date of the resignations nor to whom the said resignations were addressed has been mentioned in his counter affidavit and the detail of same is still not coming in forth during the oral submission made on behalf of the respondent no. 5 and as per Rule 42 (2) It is incumbent that every individual, within a period of 15 days of taking any office under the BCA, shall disclose in writing to the Committee of Management any existing or potential event that may be deemed to cause a Conflict of Interest, and the same shall be uploaded on the website of the BCA; the failure to issue a complete disclosure, or any partial or total suppression thereof would render the individual open to disciplinary action which may include termination and removal without benefits; it is clarified that a declaration does not

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lead to a presumption that in fact a questionable situation exists, but is merely for information and transparency; and there is no such uploading of any such information as claimed on behalf of the respondent no. 5 on the website of BCA as yet.

The learned counsel for the petitioner also submitted that the Officials of the BCA are lingering the matter for interim relief which is just and proper in view of the convening the SGM on 29.01.2023 and that too under notice of said Sushri Priya Kumari who has no authority to issue any such notice as per Rules & Regulations of BCA.

The learned counsel for the respondent no. 2 also supported the aforesaid submissions made on behalf of the petitioner by her counsel on the basis of provision of the BCA Rules & Registrations, especially, its **Rules 9, 10 & 18**. The relevant extracts of said Rules are reproduced hereinbelow:

**Rule 9: Election & Term of Office-Bearers**

(1) The following Office-Bearers of the BCA shall be elected by the Full Members and Former International Player Members of the BCA from amongst their representatives at an Annual General Body Meeting:

- (a) The President
- (b) The Vice-President
- (c) The Secretary
- (d) The Joint-Secretary
- (e) The Treasurer

(2) The Term of office of an Office-Bearer shall be 3 years. Their position shall be Honorary.

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**Rule 10: Powers and duties of Office-Bearers;**

(1) The President

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(3) The Secretary

The Secretary shall;

- (a) Keep and maintain the minutes of Annual General and Special General Meetings of the General Body, the Meetings of the Committee of Management and of the Committees appointed by the General Body

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in appropriate books and shall cause them to be properly and correctly recorded and confirmed.

(b) Be one of the three persons who sign the audited annual accounts and other financial statements of the BCA.

(c) Sign all contracts for and on behalf of the BCA and carry on all correspondence in the name of the BCA save as otherwise directed by the Committee of Management.

(d) Be in charge of the records of the General Body, the Committee, the Governing Council and all Committees, and such properties as may be trusted to his care by the BCA, the Committee of Management or the Governing Council as the case may be.

(e) Convene the Annual General Meeting, the Special General Meeting and the Meetings of the Committee of Management and Executive Council with the written concurrence of the President.

(f) Circulate to all Members of the BCA the statement of accounts prepared by the Treasurer.

(g) Have the power to delegate any work to Honorary Joint-Secretary.

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**Rule 18: Powers and functions of the Committee of Management**

(1) The affairs of the BCA shall be governed by the Committee of Management and its framework of governance shall:

- i. Enable strategic guidance of the entity;
- ii. Ensure efficient monitoring of management;
- iii. Ensure the performance of the respective roles, responsibilities and powers of the Chief Executive Officer, Managers, Cricket Committees and Standing Committees, except the Governing Council;
- iv. Ensure a distribution and balance of authority so that no single individual has unfettered powers;

(2) The Committee of Management shall have all the powers of the General Body and authority and discretion to do all acts and things except such acts as by these rules are expressly directed or required to be done by the General

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Body. Exercise of such powers, authorities and discretion shall be subject to the control and regulation of the General Body. No regulation shall retrospectively invalidate any act of the Committee of Management which was otherwise valid.

(3) The Committee of Management 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 BPL which is directly accountable to the General Body.

(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 Committee of Management shall exercise the powers and perform the duties hereafter mentioned:

- a. To control, permit and regulate all aspects regarding the visits of cricket teams to Bihar and visits of Bihar teams to other State and to settle the terms on which such visits shall be conducted.
- b. To lay down conditions on which Players shall take part in a tour to any State in India and by which such Players shall be governed, including terms of payments to such Players.
- c. To control, expand and regulate the finances of the BCA.
- d. To institute or defend any action or proceedings for or against the BCA or against any Office-Bearers or employee of the BCA.
- e. To mediate in regard to issues between Members, failing resolution of which a reference may be made to the Ombudsman;
- f. To interact and consult with Cricket Players' Association regarding representations made on their behalf.
- g. To derecognize players registered with BCA and its Members in the event such players associate himself against the interest of BCA or plays in match/tournaments not conducted/recognize/approved by the Committee of Management.
- h. To purchase, sell and/or mortgage, exchange and/or otherwise dispose of immovable property wherever situated, in order to promote the

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objects of the BCA.

- i. To collect funds and whenever necessary borrow not exceeding 25% of the General Fund with or without security for purposes of the BCA and to raise loans with or without security and to purchase, redeem or pay off any such security.
- j. To fill up, till the following Annual General Meeting, any vacancy occurring of a member of a committee by reason of death or being adjudged insolvent or being of unsound mind or being convicted of a criminal offence involving moral turpitude or by resignation or any other disqualification.
- k. To frame rules and lay down conditions including those of travel, accommodation and allowances under which State Player shall take part in cricket tournament/matches or Exhibition, Festival and Charity matches organized by the BCA or BCCI or by a Member.
- l. To frame rules for the State Championship or for University, Schools or other tournaments or for any Exhibition matches between members and/or between the Universities in India.
- m. To frame rules regarding the appointment, service conditions and disciplinary action concerning employees and officers of the BCA.
- n. To make the Tournament Rules for various domestic tournaments and exhibition matches involving Members, Universities and other entities.
- o. To frame rules, in consultation with the CEO, 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 BCA, salaries, wages, gratuities, pensions, honorariums, compensations, any ex-gratia payment and/or provident fund and to regulate discipline by suspending, fining, removing or dismissing such employees.
- p. To make rules generally for the management of the affairs of the BCA.
- q. To start or sponsor and/or to subscribe to funds or stage a match for the benefit of cricketers or persons who may have rendered service to

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the game of cricket or for their families or to donate for the development or promotion of the game to be regulated by rules framed in this regard from time to time.

r. To appoint BCA's representative or representatives to participate any meetings, seminars, conferences of the BCCI or its Members.

s. To either on its own, or through its delegate, entertain, hear and decide administrative appeals by employees or other directly affected parties against the order of the Chief Managers or the Cricket Committees as the case may be.

t. Generally to do all such other acts and things which are delegated to it by the General Body and all other functions to be expedient, convenient and/or conducive to the carrying out of the above functions of the Committee of Management.

Provided that the exercise of powers under Clauses (k), (l), (m), (n), (o) and (p) shall be subject to ratification by the BCA at its next meeting, failing which the rules shall lapse.

(5) The Committee of Management shall meet at least once every 3 months at such time and place and shall conduct proceedings in such manner as it may from time to time decide.

(6) A Special Meeting of the Committee of Management may be convened at any time by the President and shall be convened on a requisition to that effect being made in writing by not less than three Executive Members. Any such requisition shall express the object of the meeting proposed to be called and shall be sent to the Secretary.

(7) Fourteen days' clear notice of the Meeting of the Committee of Management together with the Agenda shall be given to the Executive Members. For a Special Meeting of the Committee of Management convened for the purposes stated in Sub-rule (5) above, Seven days' clear notice shall be given. An Emergent meeting of the Committee of Management may be convened with Two days' notice.

(8) Five members of the Committee of Management shall form a quorum for its meetings. The President or in his absence a member elected by those

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present at the meeting shall be the Chairperson. In the event of a tie, the Chairperson shall have a casting vote.

(9) A resolution by circulation by all members of the Committee of Management shall be as valid and effective as if it had been passed a meeting of the Committee of Management. Such a resolution shall be ratified at the next meeting meeting of the Committee of Management.

(10) The Secretary shall keep the minutes of every Meeting in a book which shall be signed by the Chairperson when approved.

Elaborating his submissions with reference to aforesaid extracted portion of the relevant Rules of the BCA Rules & Regulations the counsel for the respondent no. 2 submitted that the President BCA in collusion with the respondent nos. 3 to 6, who are Vice-President, Joint-Secretary, ICA Representative (Male), ICA Representative (Female) respectively, is managing the affairs BCA in unethical, untransparent manners which are detrimental to the purity of the game of cricket in Bihar by selecting the son of the respondent no. 3 and own brother of respondent no. 4 in playing squad of BCA Team with supports of the respondent nos. 5 & 6 and to cover up the aforesaid mal-practices adopted by them is clear cut obstruction to the respondent no. 2 Mr. Amit Kumar from functioning in capacity of Secretary BCA as all the records which should be under custody of the Secretary BCA are not been given to him as mandated in Rule 10 of the BCA Rules & Regulations and all these activities adopted by them are detrimental to the image of the BCA in public and the cricket players of Bihar. He has further elaborated that nothing in Rule 18 of the BCA Rules & Regulations give power to Committee of Management to restrain the respondent no. 2 from functioning and discharging duties as Secretary of the BCA; and in this way Mr. Amit Kumar is still Secretary of BCA and has all legal remedy to protect his rights as Secretary BCA with a view to make transparency in functions of the BCA by all concerned and his rights enumerated in the order dt. 14.09.2022 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 4235 of 2014 could not be curtailed without taking valid legal recourse provided in the BCA Rules & Regulations, especially, its Rule 42 and Rule 45 and there is no such order which can be termed to be passed as per provisions of said Rules 42 & 45 to the effect that he could not discharge function and duties of Secretary BCA. The learned counsel for the respondent no. 5 supporting the contention made on behalf of the petitioner as regards to non-compliance of provisions of Rule 42 (2)

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of the BCA Rules & Regulations as till date there is no uploading about the aforesaid alleged affairs made in respect of the respondent nos. 5 & 6 on the website of the BCA nor there is any chit of paper to show that there were resignation by either of the respondent nos. 5 & 6 and as per Rule 10 of the said Rules & Regulations all the necessary documents in respect of their resignations would be in normal course in custody of the Secretary BCA but there is no such records in his custody; and, accordingly as per the counsel of the respondent no. 2 also, there is clear cut case of prima facie nature to the effect that the respondent nos. 3 to 6 are in conflict of interest as provided in Rule 42 of the BCA Rules & Regulations read with its Rule 41 providing provisions for transparency in the affairs of the BCA.

As regards to the maintainability of the petition of the petitioner under Rule 45 as raised by the counsel for the respondent no. 5 the counsel for the petitioner submitted that labelling of wrong provisions in the petition would not oust the jurisdiction of this forum as Ethics Officer, BCA who can take cognizance of any Conflict of Interest either suo moto or by way of a complaint in writing to the Official Postal or Email Address or on a reference by the Committee of Management under Rule 43 of the BCA Rules & Regulations, and, moreover the petitioner is nonelse but Secretary of Arwal DCA and the same has been recognized by the forum of Ombudsman, BCA in its Order dt. 17.09.2022 passed in BCA/Ombudsman/19 of 2022 and this proposition advanced on behalf of the petitioner was accepted by the counsel for the respondent no. 5. Therefore, the question of maintainability of the petition is negated .

The counsels for the BCA and the respondent no. 5 remained silent on the aspect of uploading the information as required under Rule 42 (2) of the BCA Rules & Regulations.

The counsel for the respondent no. 5 has submitted that there is no appearance on behalf of any of the respondents 3 to 4 & 6 and as such the matter for interim relief should not be heard today. Objecting this submission made on behalf of the respondent no. 5 the counsel passed the petitioner submitted that soft of the petition and the relevant orders have already sent to them on their respective emails as appointed by him earlier about receipt of the same to my email rksinghbjs@gmail.com as Ethics Officer of the BCA and the counsels appearing for the BCA and the respondent no. 5 do not controvert the same as the email sent by the petitioner's counsel to them also include respondent no. 5 and Miss. Roona, Advocate for the BCA.

For the reasons mentioned above, I, as Ethics Officer of BCA, find that there is prima

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facie case and irreparable loss to the petitioner and balance of convenience in favour of the petitioner and the respondent no. 2 who supports the claim of the petitioner.

Consequently, the prayer for the interim relief is allowed and the respondent nos. 3 to 6 are restrained from discharging any functions in the capacity Office-Bearers of BCA or Members of the COM of BCA till further order. In view of the facts narrated above the notice issued under signature of Sushri Priya Kumari as Joint-Secretary-cum-Acting Secretary BCA convening SGM on 29.01.2023 is also stayed.

Put up on 17.02.2023 for filing replies by the respondent nos. 1, 2, 3, 4 & 6 .

*R Singh*  
(Raghwendra Kumar Singh)  
Ethics Officer  
Bihar Cricket Association

Copy to:

1. President, Bihar Cricket Association  
Email: [president@biharcricicketassociation.com](mailto:president@biharcricicketassociation.com)
2. Bihar Cricket Association, through its Secretary  
Email: [bca@biharcricicketassociation.com](mailto:bca@biharcricicketassociation.com)
3. Chief Executive Officer, Bihar Cricket Association  
Email: [ceo@biharcricicketassociation.com](mailto:ceo@biharcricicketassociation.com)
4. Shri Rakesh Kumar Tiwari, At present President Bihar Cricket Association  
Email: [president.bca.rkt@gmail.com](mailto:president.bca.rkt@gmail.com)
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7. Priya Kumari, Joint-Secretary, BCA  
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8. Shri Vikash Kumar, asserted to be ICA Representative (Male), BCA  
Email: [vikashkumarranu@gmail.com](mailto:vikashkumarranu@gmail.com)
9. Secretary, BCA  
Email: [secretary.biharca@gmail.com](mailto:secretary.biharca@gmail.com)
10. Shri Navjot Yeshu, Advocate  
Email: [navjotlawyer@yahoo.co.in](mailto:navjotlawyer@yahoo.co.in)

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11. Lovely Raj, asserted to be ICA Representative (Female), BCA

Email: [olovely706@yahoo.com](mailto:olovely706@yahoo.com)

[lovelyraj706@gmail.com](mailto:lovelyraj706@gmail.com)

12. Mr. Ranjan Kumar Srivastava, Advocate

Email: [advocateranjan09@gmail.com](mailto:advocateranjan09@gmail.com)

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