

Before Ombudsman, Bihar Cricket Association
Raghwendra Kumar Singh (Retd. District Judge)
Incharge Ombudsman, Bihar Cricket Association
BCA/Ombudsman/02 of 2023

Bihar Cricket Association through its Joint Secretary asserting also to be its Acting Secretary, 1st & 2nd Floor, Shailraj Complex, Buddha Marg, P.S. - Kotwali, Patna-800001

E-mail ID : bca@biharcricicketassociation.com
: jointsecretarybca@biharcricicketassociation.com

.....Petitioner

Versus

Sri Amit Kumar, Son of Fulena Singh, R/O Village& Post – Bhairwar, District – Begusarai – 851129

Mobile No. : 9709546522

E-mail ID : secretary.biharca@gmail.com

.....Respondent

18.01.2023

The aforesaid petition has been filed on behalf of the above named petitioner the Bihar Cricket Association (in short 'BCA') through its Joint Secretary Sushri Priya Kumari claiming herself to be also its Acting Secretary through Sushri Arya Vashist, Advocate alongwith its copy including its annexures for the sole respondent for the following reliefs :

- (i) For terminating the Respondent Sri Amit Kumar from the post of Honorary Secretary of the BCA on account of his misconduct and irresponsible action taken against the official of the BCA as well as damaging the image of BCA as an association in society in complete violation of Rule 5 (a) (iv) (v) (vi) (vii) of the BCA.
- (ii) For restraining the respondent Sri Amit Kumar from acting or functioning in the capacity of Honorary Secretary of BCA thereby affirming the unanimous decision taken by the Committee of Management (COM) in its meeting dated 30.12.2022.
- (iii) For direction to conduct fresh election for the post of Honorary Secretary of BCA for smooth functioning of the affairs of BCA.
- (iv) Further for direction to confirm the decision of the Committee of Management dated

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30.12.2022 with regard to restraining Sri Amit Kumar from discharging his duties as the Honorary Secretary of BCA and for changing the signatory in the Bank Account of BCA may be confirmed for smooth functioning of day to day affairs of the BCA.

- (v) Any other order/orders, direction/directions for which the Petitioner is found entitled to in the facts and circumstances of the present case.

The aforesaid reliefs have been claimed on the following grounds :

1. That, in the election of BCA held on 25.09.2022 for the five posts of its office bearers and one post of District Representative, Shri Amit Kumar, Respondent herein, was elected on the post of Honorary Secretary of BCA.
2. That after being his election as Secretary of BCA the Respondent, Shri Amit Kumar, attended/participated virtually in the meeting of Committee of Management (COM) dated 04.10.2022.
3. That the respondent Shri Amit Kumar has also attended the General Body Meeting "Aam Sabha" of BCA dated 25.09.2022 and COM meeting dated 04.10.2022. In these meetings sole respondent did not raise any objection with respect to amendment of the Constitution of BCA and filing of an interlocutory application (I.A. No. 132771 & 132773 of 2022 – copy of which is Annexure-1 to the petition) by the BCA before Hon'ble Apex Court for its approval.
4. That the Constitution of BCA was amended with consent of all the members of BCA and members of COM in the General Body Meeting dated 26.06.2022 (copy of which is Annexure-2 & 2/1 to the petition) and was registered with the Department of Registration on 21.07.2022. In the said general body meeting, the representative of Begusarai District Cricket Association (in short 'Begusarai DCA') was also present and the amendments were widely discussed among the stakeholders of BCA. Sole Respondent being the stakeholder of Begusarai DCA was very much aware about the amendment of the Constitution of BCA and filing of interlocutory application before the Hon'ble Apex Court for its approval.
5. That the sole respondent after being elected to the post of Honorary Secretary of BCA, secretly without informing the members of COM, without consulting the legal team of BCA, and without taking any permission from the competent authority, filed I.A. petition being Nos. 165077, 165081 and 165743 of 2022 (copy of which is Annexure-3 to the petition) before the Hon'ble Supreme Court. In these interlocutory applications the sole respondent Mr. Amit Kumar took stand contrary and separate to the stand of BCA. This act by sole respondent is against the interest of BCA and amounts to violation of Rules of the BCA.

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6. That by the above stated act of the respondent in the capacity of Honorary Secretary and taking separate and distinct stand before the Hon'ble Courts and that too without information and permission of the BCA has brought embarrassing situation for the counsels representing the BCA before the various Judicial Forums and which ultimately damaged the image of the BCA.
7. That not only this, the respondent Mr. Amit Kumar engaged renowned and separate counsel for representing him before the Hon'ble Apex Court on payment of hefty amount is a matter of concern and indicates to misuse of funds of BCA for individual gain.
8. That not only this the respondent Mr. Amit Kumar is in habit of threatening and influencing the selectors and used to send unauthorized mails to them in order to create undue pressure on them.

Copies of emails sent by him to Selectors and other authorities are annexed herewith and marked as **Annexure-4 (Colly)** to the petition which forms part of the same.

9. That apart from this the respondent Mr. Amit Kumar has never shown any interest in the affairs of the BCA and always escaped from his responsibilities towards the BCA. The members of the BCA receive cold response and non-co operation from the respondent Mr. Amit Kumar. One of such incident which shows his lack of interest and escapist attitude towards the BCA is evident from Agenda 4 of the COM Meeting dated 30.12.2022.

Copy of agenda of the meeting of COM dated 30.12.2022 is annexed herewith and marked as **Annexure-5** to the petition which forms part of the same.

10. That it will be relevant to mention herein that the sole respondent who, without the consent of the President and/or requisition from the members, issued a notice for convening the meeting of COM on 03.01.2023. As on 03.01.2022 due to non availability of hotel for the meeting and also due to match fixtures of Ranji Trophy and U-25 scheduled at Pama from 01.01.2023, the President of BCA in continuation with the notice issued by the respondent, preponing the said COM meeting to 30.12.2022 in which the sole respondent also agreed to participate.

However, the sole respondent issued invitation to several other persons which includes persons fighting against the BCA and for their own affiliation from BCCI. The

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President, BCA did not allow the same as the same was against the Constitution of BCA. Thereafter, due to ill action of the sole respondent he was issued a show cause notice and the same was responded by him.

The COM of BCA considered the materials available before them and the ill action committed by the sole respondent on the date of COM. After due deliberation, the COM in its meeting dated 30.12.2022 decided to restrain the sole respondent from discharging his duties as Honorary Secretary of BCA and refer the matter to this Hon'ble Tribunal for final adjudication.

Copies of relevant documents including show cause notice and show cause of sole respondents are annexed herewith and marked as **Annexure-6 (Colly)** to the petition, which forms the part of the same.

11. That the emergent meeting of Committee of Management (COM) dated 30.12.2022 which was supposed to be convened at 2 p.m. with prior information and consent of all concerns was rescheduled to 6 p.m. on the same day because of dispute and conspiracy hatched by the respondent Amit Kumar and his supporters including use of muscle power creating an atmosphere of ruckus and havoc at the site of the venue for the said meeting at the prescheduled time. The respondent along with other 20-25 outsiders forcefully and with ulterior motive entered into the place of meeting and started ransacking, shouting, tearing out the banner, destroying articles kept there and created a threatening atmosphere and thereby disturbed the whole proceeding of the meeting.
12. That the aforesaid uncalled and intolerable act of the respondent was vehemently condemned by the members of the COM in the rescheduled meeting of the COM dated 30.12.2022 and then, accordingly, unanimously it was decided in the said meeting after discussion that the act of the respondent was highly irresponsible, arbitrary, illegal, malafide, contemptuous and in complete violation of the rules and detrimental against the constitution of the BCA and a decision was taken unanimously by the members of the COM present therein to immediately remove and cease all the rights and powers of the respondent as Honorary Secretary of BCA and for the time being on temporary basis Joint Secretary Smt Priya Kumari was/is entrusted and vested with all responsibilities and powers of Honorary Secretary of the BCA.
13. That in reply to the show cause notice the respondent filed his written reply which is unsatisfactory and the respondent failed to explain his conduct.
14. That in view of the facts and circumstances detailed therein above it has been asserted that the act and action of the sole respondent Mr. Amit Kumar is unbecoming of holding

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a responsible and important post of the BCA as its Secretary and the same is in violation of Rule 5 (a) (iv) (v) (vi) (vii) of the Constitution of BCA and therefore this Hon'ble Tribunal have ample jurisdiction under Rule 45 (1) (a) & (b) read with Rule 45 (6) of the Constitution of BCA to pass necessary orders by affirming the decision of the Committee of Management dated 30.12.2022 and further to terminate the respondent from the post of Honorary Secretary of BCA with immediate effect.

15. That it will be worthwhile to mention herein that on the earlier occasion also under similar circumstances, this Hon'ble Tribunal has been pleased to restrain the then Honorary Secretary and was further pleased to direct the Bank to allow the Joint Secretary-cum-Acting Secretary of BCA to operate the Bank Account of BCA.

Copy of the order of this Hon'ble Tribunal is annexed herewith and marked as **Annexure-7** to the petition, which forms the part of the same.

On the basis of aforesaid pleading the petitioner has lastly prayed :

That Your Lordships may graciously be pleased to admit this application, issue notice to the sole respondent and after hearing the parties be pleased to allow the reliefs prayed for in Para-1 of this petition.

AND

During pendency of this application the decision of the Committee of Management dated 30.12.2022 with regard to restraining the sole respondent Sri Amit Kumar from post of Honorary Secretary of the BCA and to change the signatory in the Bank Account may be confirmed for smooth functioning of day to day affairs of the BCA.

AND/OR

Pass such other order/orders as this forum may deem fit and proper in the facts and circumstances of the case.

Sushri Arya Vashist, advocate for the petitioner taking me through annexures referred above and the aforesaid pleading prayed for interim relief relating to 'During pendency of this application the decision of the Committee of Management dated 30.12.2022 with regard to restraining the sole respondent Sri Amit Kumar from post of Honorary Secretary of the


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BCA and to change the signatory in the Bank Account may be confirmed for smooth functioning of day to day affairs of the BCA' ex parte arguing that if such interim relief is not granted the activities of the BCA would be badly jeopardized and hampered and, as such, the aforesaid interim relief must be granted ex parte relying on annexure-7 being the order dated 20.02.2020 passed in BCA/OMBD/02-2020 by the then Ombudsman BCA – Hon'ble Justice (Retd.) Mrs. Nilu Agrawal claimed to be an order of interim relief of a like nature as herein has been prayed in the present application almost similar facts and circumstances which are present in the present case.

But as regard to aforesaid prayer for interim relief and that too ex parte would be not proper without hearing the respondent but approving the decision of the COM in its meeting dated 30.12.2022 of the BCA for smooth functioning of day to day affair of BCA till further order instead of the Secretary the Joint Secretary, BCA namely Sushri Priya Kumari is permitted to sign on behalf of the BCA for operation of the bank account of BCA till final disposal of the said prayer.

Let the notice be issued to the respondent for hearing on the prayer of aforesaid interim relief on 23.01.2023 for which copy of this order is being sent to him through e-mail containing the contents of pleading of the petitioner and reference of the relevant documents relied on behalf of the petitioner for making effective reply to the said prayer for interim relief by the respondent by making his contention against the aforesaid prayer for interim relief on that date; and for filing his reply putting forth his version against the relief sought by the petitioner as mentioned above by 09.02.2023.

Copy of the petition including its annexure filed along with the main petition including its annexure may be received by the respondent through any person authorized by him to do so from this forum before 23.01.2023 between 10:30 a.m. to 7:00 p.m. on any date falling in between.


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

Copy to:

1. President, Bihar Cricket Association.

Email: president@biharcricketassociation.com

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2. Bihar Cricket Association, through its Acting Secretary
Email: bca@biharcricketassociation.com
3. Chief Executive Officer, Bihar Cricket Association
Email: ceo@biharcricketassociation.com
4. Sushri Arya Vashist, Advocate
Email: aryavashist@gmail.com
5. Sri Rakesh Kumar Tiwari, At present President Bihar Cricket Association
Email: president.bca.rkt@gmail.com
6. Miss. Roona, Advocate
Email: roonaadv@gmail.com
7. Mr. Amit Kumar, asserted to be restrained Secretary, BCA
Email: secretary.biharca@gmail.com
8. Joint Secretary, BCA
Email: jointsecretarybca@biharcricketassociation.com

R. Singh