Kolhe (Nagpur)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

MANDIRA MILIND SALGAONKAR
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CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9607 OF 2023
WITH
INTERIM APPLICATION NO. 2909 OF 2026

Maharashtra Wrestling Association
Through its Executive Member
Vinagpalk K. Gadhve
Having office at, block No.24,
Pandit Nehru Stadium
Swargate Pune - 411022

.. Petitioner

Versus

1. Union of India
   Through the Ministry of Sports and Youth Affairs Government of India
   Having address at Aaykar Bhavan,
   Marine Lines, Mumbai.
2. Wrestling Federation of India
   21, Ashoka Road,
   New Delhi - 110001
3. The Returning Officer
   Wrestling Federation of India
   Olympic Bhavan, B-29,
   Qutub Institutional Area, 7
   New Delhi 110016
4. Adhoc Committee
   Wrestling Federation of India
   Olympic Bhavan, B-29,
   Qutub Institutional Area,
   New Delhi 110016.
5. Maharashtra Rajya Kustigir Sangh
   Through its President,
   Mr. Ramdas Tadas
   Shri Chhatrapati Shivji Stadium,
   898, Mangalgar Peth, Pune 41 1011
   (Maharashtra)

.. Respondents

Mr.Darius Khambata, Senior Advocate with Mr.Sharan Jagtiani, Senior Advocate, Mr.Gaurav Mehta, Mr.Sankalp Sharma, Mr.Priyank Kapadia, Ms.Dixita Gohil, Mr.Pranjal Agarwal, Ms.Shweta Surana, Mr.Jatin Patil, Ms.Avanti Divam and Ms.Sameera Pawar i/b Mr.Tushar Pawar for the Petitioner.

Mr.Abhay Khandeparkar, Senior Advocate with Ms.Neeta Masurkar i/b Mr.Ajinkya Jaybhave for the Respondent No.1/Union of India.

Mr.Yash Momaya with Mr.Hemant Phalpher, Mr.Munaf Virjee and Ms.Tirtha Mukherjee i/b AMR Law for the Respondent No.2.

Mr.Mihir Desai, Senior Advocate with Mr.Ajinkya Udane and Mr.Vinayak Pandit for the Respondent No.5.

Mr.Prathamesh Bhargude for the Applicant in IA/2909/26.

CORAM : BHARATI DANGRE AND
MANUJSHA DESHPANDE, JJ.

RESERVED ON : 29th APRIL, 2026

PRONOUNCED ON : 15th JUNE, 2026

JUDGMENT (PER : BHARATI DANGRE, J.)

(1) The petitioner Maharashtra Wrestling Association through its Executive Member has invoked the writ jurisdiction of this Court seeking issuance of writ of mandamus/ writ of certiorari/ appropriate order or direction for quashing and setting aside the order dated 21/07/2023, passed by the Wrestling Federation of India, the respondent No.2 (hereinafter referred to as **'WFI'**). By amending the petition, the petitioner also prayed for quashing and setting aside

the order dated 18/04/2023, as well as the Resolution dated 16/04/2023, passed in the Extraordinary General Meeting (EGM) of the General Council of WFI, and the report of the Disciplinary Committee dated 03/04/2023.

The petition also seeks issuance of writ of mandamus for quashing and setting aside the alleged disaffiliation of the petitioner and to the contrary relief is sought to disaffiliate the Maharashtra Rajya Kustigir Sangh i.e. respondent No.5 (hereinafter referred to as 'Kustigir Sangh').

Other reliefs in the petition existed in form of stay to the effect and implementation of the impugned orders.

(2) The petition being filed in the year 2023, travelled to the Apex Court and on 10/11/2023, instead of entertaining the Special Leave Petition filed by the Maharashtra Wrestling Association seeking interim relief, the High Court was requested to take up the main case for final adjudication at the earliest and the SLP was disposed of.

Once again on 24/03/2025, the Apex Court directed the Register (Judicial) to post the Writ Petition for re-hearing before the Division Bench of the High Court as per the roster assignment and that is how, upon the request being made by the parties and upon the pleadings being completed, we have taken up the writ petition for final hearing by consent of the parties and their respective counsel.

(3) We have heard learned Senior Counsel Mr.Darius Khambata along with learned Advocate Mr.Gaurav Mehta, for the petitioner; whereas the Union of India is represented by learned Senior Counsel Mr.Abhay Khandeparkar; learned counsel Mr.Yash Momaya, has represented the WFI, and the respondent No.5 is represented by Senior Counsel Mr.Mihir Desai along with learned counsel Mr.Ajinkya Udane. Interim Application No.2909/2026 is filed for intervention and the intervenor is represented by learned counsel Mr.Prathamesh Bhargude.

Upon hearing the respective counsel, we deem it appropriate to issue 'Rule', which is made returnable forthwith by consent of parties.

(4) The petitioner, a 'Trust' registered under the Maharashtra Public Trusts Act, 1950 is established with the object of promoting wrestling in the State of Maharashtra. The petitioner upon it being registered it was affiliated by the Wrestling Federation of India since 1960 and as per the petition, it is the only body in the State promoting wrestling. Apart from this, the petitioner is also affiliated unit of Maharashtra Olympic Association and the petition is accompanied with the letter issued under the signature of the Secretary General of the said Association certifying it to be affiliated to the Maharashtra Olympic Association.

In the wake of its affiliation to the WFI since 1960, it is the claim of the petitioner that it continued to engage itself in promoting wrestling, however, it is aggrieved by the action of the WFI in disaffiliating it and the contention raised in the petition is, that WFI which is exercised this power was not competent to do so and therefore, its disaffiliation is bad-in-law.

(5) Setting out the background, it is the case of the petitioner that on 04/07/2022, an order issued by the WFI under the signature of its President Shri Brij Bhushan Sharan Singh, it was declared that in terms of the decision of the Executive Committee of WFI taken on 30/06/2022, in its meeting at New Delhi, it unanimously dissolved the Maharashtra State Wrestling Association i.e. the petitioner and by the said communication the Secretary of the petitioner was informed about the same.

Being aggrieved, writ petition was filed before this Court and by judgment dated 09/11/2022, the petition was made absolute by holding that the Resolution passed in the meeting of the Executive Committee of WFI on 30/06/2022 to dissolve and to supersede the petitioner-Association, was unreasonable, illegal and unenforceable. As a consequence thereof, the election held on 31/07/2022 by the Ad-Hoc Committee of the Association was illegal and it was also quashed and set aside. It was also declared that the elected body of the

petitioner-Association, shall hold the office till its' tenure comes to an end and shall continue to carry on its day-to-day functions in accordance with its Constitution.

At the same time, the Court also permitted WFI to take recourse to such provision as it deems fit and proper, it being a "person interested" within the meaning of Section 41-D of the Maharashtra Public Trusts Act. This order attained finality as WFI did not raise any further challenge.

The aforesaid scenario emerging after the action of WFI in appointing Ad-Hoc Committee on the petitioner having failed and since the affiliated District bodies elected the existing body of the petitioner-Association and it had its tenure till December 2023, an appropriate change report was submitted to the Charity Commissioner, Pune.

(6) As far as the Wrestling Federation of India (**WFI**) is concerned, it is the contention of the petitioner that it is governed by a written Constitution and it is a Society established to encourage, promote and control amateur wrestling activities. It is also established for the purpose of granting affiliation to Wrestling Associations of State and Centrally administered areas.

One of its key object is also to affiliate with Indian Olympic Association and Union World Wrestling (UWW) and to

arrange for participation of Indian Wrestling teams in International Wrestling Championship and in case of Olympics, Asian and Commonwealth games trough Indian Olympic Association.

The Constitution of WFI has also prescribed for its membership and it comprises of (a) State Wrestling Association (SWA) (b) Union Territory Wrestling Association (UTWA) (c) Services Sports Control Board (SSCB) and (d) Railway Sports Promotion Board (RSPB) (e) Union World Wrestling Bureau (UWWB) Members and (f) Associate Members.

Article-V of the Constitution has prescribed for the Management of WFI and the Executive Committee of the Federation as per Article-V of the Constitution consist of 25% sportsperson elected by General Council from amongst its members. The General Council consist of representatives from the State/UT Wrestling Association alongwith the representative from All Union Territories Wrestling Association alongwith the representative from SSCB and RSPB and one representative from UWW bureau with no right to vote.

The Constitution has also set out the duties of the General Council, one of which is to elect office bearers within four years and call for Regular and Special Meetings of the Council and it is also authorized to impose or enforce penalties for violation of the Constitution, bye-laws and Rules of the Federation. One of the duty of

the Council includes disaffiliation or taking any suitable action against any member unit for indiscipline, misbehavior or undesirable activity, violation of the Constitution, bye-laws, Rules or directions of the Council or Executive Committee issued from time to time, for not functioning properly or not functioning at all, on the recommendations of the Executive Committee or suo-motu. It is also empowered to appoint Adhoc Committee to discharge the functions of the Association till formation of new representative Association. It is also the function of the General Council to institute, locate, conduct and manage all meetings, promoted for selection of India's wrestlers for Olympic games and other International contest promoted or partaken by the Indian Olympic Association and to select representative for such other National wrestling contest as approved by the Council.

(7) The Executive control of the Wrestling Federation of India rests with its Executive Committee and the Constitution has also set out its functions.

In addition, there is also provision for elections of the WFI to be conduced as per the modern election guidelines of the Ministry of Youth Affairs and Sports, Government of India and such elections are to be held within four years in the General Council Meeting of WFI where the Executive Committee Members and the Members of other

Committees shall be elected from amongst the representatives of the State/Union Territory affiliate units.

(8) As per the petition, on 17/11/2022 the petitioner received an e-mail in form of a letter dated 15/11/2022, from the WFI informing that an inquiry has been set up against the petitioner and the Ad-Hoc body is constituted to handle its day-to-day affairs.

The notice addressed to the Secretary of the petitioner, levelled the following allegations, by stating it to be serious;

- **"No election is held after 2015. If so, neither you have intimidated to the WFI for holding the election nor asked WFI for deputing its observer to supervise the election.**
- **The Maharashtra State Wrestling Association never submitted its annual audited statement of accounts and annual report of the Association to WFI."**

The notice contained a reference to show-cause notice issued by WFI on 29/08/2018 in relation to the organization of the Commercial League from 07 to 28/10/2018 without giving intimation to WFI. Referring to the reply received from the petition, or where it was mentioned that Commercial League was being organized for the development of Maharashtra State Wrestlers, it was stated that an impression was gathered that the Association was more interested in organizing Commercial Tournaments rather than organizing National Competitions. The show-cause notice further stated that the WFI sought certain documents which included the copy of the Rules and

Regulations of the competition, copy of the agreement with MWCL sports, but there was failure on the part of the noticee to furnish such documents.

(9) The show-cause notice further alleged that it had come in the knowledge of WFI that the Selection Committee of the petitioner Association was selecting those wrestlers who are fudging their date of birth and even in this regard a show-cause notice was already issued.

With reference to the previous notices and the replies received, it was indicated that since it was not found to be satisfactory a show-cause notice is being issued to show-cause as to why disciplinary action should not be taken against it and the affiliation granted shall not be withdrawn.

The said communication also intimated about appointment of an Ad-Hoc Committee under the Chairmanship of Shri Sanjay Singh, to look-after the day-to-day activities of wrestling in Maharashtra State till completion of the inquiry.

The petitioner responded to the same on 22/11/2022, with reference to the earlier order passed by this Court in Writ Petition No.12237/2022 and a request was made to drop the show-cause notice.

(10) In the interregnum, it is alleged that on 21/01/2023, the under Secretary to the Government of India Ministry of Youth Affairs and Sports suspended the ongoing activities of WFI, in the wake of its announcement to appoint an Oversight Committee and until the Committee is appointed and take over the day-to-day activities of the WFI, even the ongoing ranking competition was also cancelled and WFI was directed to return entry fees accepted from the participants for any ongoing activities.

It is in light of this development, the contention of the petitioner-Association that WFI itself being subjected to suspension, was not competent to take any action against the petitioner-Association. As per the petitioner, the order of appointment of the Committee on 23/01/2023 give the background by stating that the Ministry is of the view that the WFI has not discharged its duty with respect to redressal of player's grievance and conduct the business of the Federation in a professional manner and since the matter pertain to the well being of the athletes, and there were allegations of sexual harassment against the President, Officials and some Coaches of the Federation, along with allegation of financial mismanagement of arbitrariness in the functioning of the Federation from the prominent athletes, the unprecedented situation warranted immediate action to ameliorate the grievances of the sports person and promote the good governance of WFI. As a result, an Oversight Committee was

appointed as a purely interim measure and its terms were categorically set out as below :-

i. "To inquire into the allegations of sexual misconduct, harassment and /or intimidation, financial irregularities and administrative lapses levelled by prominent sports person.

ii. To undertake day-to-day administration of the Wrestling Federation of India.

iii. The Oversight Committee to complete the inquiry at the earliest by four weeks."

(11) Despite its activities being suspended, the WFI issued a Circular on 06/04/2023 convening an emergency meeting of the General Council of WFI on 16/04/2023 at Gonda (U.P.) with the agenda of approving the minutes of the meeting of General Council of WFI held earlier and to discuss the allegations levelled by few wrestlers of Haryana State against the President and for discussing certain other issues highlighted in the said notice. The petitioner was, however, not invited to participate in the said meeting, but it noticed name of an unknown name displayed in the section of Maharashtra State affiliated body on the website maintained by WFI.

(12) The Returning Officer of WFI elections 2023 appointed by the Indian Olympic Association invited the petitioner to present its case in person on 21/06/2023, as to why petitioner should not be allowed to nominate members to the electoral college. The petitioner abided by the said direction and during its hearing, the petitioner gained knowledge that another body was affiliated by WFI for the

State of Maharashtra, but the petitioner never received any communication from WFI in that regard. The Returning Officer by his order dated 21/07/2023 rejected the petitioner's claim to nominate member of the electoral college by invoking the provision in the Constitution of WFI citing Article-X (a), but it is the case of the petitioner that it is not covered in either of clauses of the said provision. The petitioner attended the hearing before the Returning Officer and filed its say and on 21/07/2023, the Returning Officer passed an order rejecting the petitioner's claim to nominate two members to the electoral college of WFI elections, 2023 and this is one of the cause set out in the petition filed by the petitioner.

(13) The Returning Officer while rejecting the claim relied upon certain record provided by WFI, as well as report of Disciplinary Committee dated 03/04/2023, which recognized respondent No.5 to be the valid and affiliated State Association since 16/04/2023. It was also recorded that after the directions passed by the High Court when the petitioner-Association had approached it, fresh orders were passed by the WFI and new Executive Committee was brought putting in saddle party No.1 and there was no challenge to the said action. This order appointing the petitioner was made available to it at a subsequent point of time and form the subject matter of challenge before us.

(14) The primary ground for challenge being that the report of Disciplinary Committee of WFI is illegal as it was issued during the suspension of WFI itself, by the Ministry of Sports and Youth Affairs on 21/01/2023 and therefore, it had no authority to take any action against the petitioner.

In addition, it is also submitted that the Oversight Committee appointed by the Ministry of Youth Affairs and Sports has submitted its report to the Ministry regarding the allegations of sexual harassment, financial mismanagement and arbitrariness in the functioning of the WFI and now even the said Committee has ceased to exist. Apart from this, it is also pointed out in the petition that the order issued by the Ministry also offered a clarification regarding the invalidity and illegality of the decision taken during the emergency general meeting of WFI dated 16/04/2023 when the elections were announced despite suspension of the body. In pursuant thereto the Ministry declared that the election process initiated by WFI was null and void and requested the Indian Olympic Association to constitute a Transitory Committee or Ad-Hoc Committee to conduct the elections of Executive Committee of WFI and also to manage its affairs.

(15) In support of the pleadings in the petition, the learned Senior Counsel Mr.Khambata has vehemently asserted that despite

under suspension, the suspended body of WFI illegally decided to disaffiliate the petitioner during its emergency meeting and granted affiliation to respondent No.5 for the State of Maharashtra and all this took place behind the back of the petitioner, as the petitioner has not received communication in respect of the affiliation of respondent No.5. Apart from this, he would also submit that the decision to withdraw the affiliation of the petitioner was based on the findings of the report of the Disciplinary Committee, which is illegal, devoid of authority and in violation of WFI Constitution itself. Apart from accusation that the petitioner was never served with an order dated 18/04/2023, disaffliating the petitioner, Mr.Khambata would submit that no opportunity was given to the petitioner to represent its case and the order is arbitrarily passed. In specific, he would invite our attention to the report of the Disciplinary Committee dated 03/04/2023 with the presence of Mr. Jagdish Kumar, as Executive Member WFI, when the decision was taken to dissolve the petitioner-Association. According to him, there existed an administrative void after the activities of the WFI were suspended and it is his specific contention that the order in turn even suspended the functioning of the Executive Council, as well as General Council, as by order passed by the Ministry of Sports on 21/01/2023 “all activities” of WFI were suspended.

By inviting our attention to the composition of the General Council and Executive Council as provided in the Constitution of WFI, he would express his astonishment as how the bodies can continue to operate when the order of the Government imposes complete ban on its activities, thereby suspending all its activities and therefore, he posed a question how is it possible to say that Executive Council was allowed to function. The learned Senior Counsel is extremely critical in submitting that if the misconduct on part of its members including serious charges like that of sexual harassment was under investigation and that is a precise reason why its activities was put under suspension, how is it that the General Council survived and continued to discharge its function.

(16) By inviting our attention to the Constitution of WFI and in particular of Article-V(g) read with Article-XIX providing for constitution of Disciplinary Committee, Mr.Khambata would submit that the Disciplinary Committee is to be appointed from amongst the Members of the Executive Committee who shall be competent to deal with the all matters pertaining to Disciplinary Regulations and if there is no Executive Committee, how can a Disciplinary Committee survive. Inviting our attention to Article-XXVI of the constitution he would submit that the WFI General Council is to act on the recommendation of the President of WFI either directly or through the WFI Executive Committee and process involved issuance of a

show-cause notice and an explanation to be sought. By specifically submitting that Disciplinary Committee is a delegate of Executive Committee and the decision taken must received approval of General Council, Mr.Khambata, would submit that when the WFI itself was under suspension and all its activities were suspended, how is it competent to take an action against the petitioner Association.

Another point canvassed by Mr.Khambata in specific is about the grounds on which disaffiliation is contemplated under Article-XXVI and this restrict the actions of disaffiliation/de-recognition/ suspension only to three specified grounds :-

> i) Non-observance of lawful directives issued by the Wrestling Federation of India from time to time to the satisfaction of the latter.
>
> ii) Non holding election completion of the normal tenure for which the office bearers are elected. Any extension of the tenure of the office bearers will be subject to obtaining prior written permission from the WFI.
>
> iii) Not submitting annual audited statement of accounts, annual report and list of current office bearers within the stipulated time period.

(17) By inviting our attention to the impugned order dated 18/04/2023, withdrawing its affiliation, the learned senior counsel would submit that none of the grounds, which would have allowed disaffiliation of any association affiliated by WFI existed. Inviting our attention to order dated 18/04/2023, passed by the Secretary General of WFI, he would submit that the said order is sans any reason and this received approval of the General Council and in an

attempt to justify the said order, by filing an affidavit, would not remove the inherent lacuna in the same and therefore, it is his contention that the order cannot be sustained. He would submit that the report of the Disciplinary Committee dated 03/04/2023 clearly bare out that Shri Jagdish Kumar, participated in the proceeding as Executive Member, but if he was already removed as an Executive, his presence itself makes the order illegal.

It is also the contention of Mr.Khambata that the disaffiliation of petitioner-Association and the affiliation of respondent No.5 both are unreasoned order and since the WFI was under investigation through the Oversight Committee, the Executive Committee of WFI was clearly instructed to abstain from being an action with immediate effect and this was adopted as interim measure till the inquiry was being conducted.

(18) The relief sought in the writ petition is therefore, premised on the illegality adopted by WFI in taking action against the petitioner, despite the fact that by order 21/01/2022 the Union of India had suspended all its activities. The indulgence of the Returning Officer of WFI is also seriously contested by alleging that the entire action initiated by respondent Nos.2 and 3 is an act of political vendetta and a foul play against petitioner so that the petitioner is restricted in discharge of its functions. It is also alleged

that this attempt results into violation of the mandate of the election of the members of the petitioner-Association which was conferred upon it by the District Associations when the body got elected in the year 2019. Apart from this, the action is also called in question since it is in breach of principles of natural justice and amounts to gross abuse of the powers conferred on the WFI for the purpose of overseeing the wrestling activities throughout the country.

(19) Mr.Khambata has also advanced his submissions about the WFI being a "State" for the purpose of Article 12 of the Constitution of India by submitting that it is amenable to the writ jurisdiction of this Court under Article 226 of the Constitution of India, by virtue of the nature of public function it discharges. Reliance is placed upon the decision of Apex Court in case of **Board of Control for Cricket in India vs. Cricket Association of Bihar**[1], adopting a view that private entities exercising de-facto control over sport and performing functions of public importance such a selection, recognition, regulation and disciplinary control are subject to judicial review, notwithstanding the absence of statutory status or direct governmental control.

Reliance is also placed upon the decision in the case of **Zee Telefilms Ltd. v. Union of India**[2], to submit that by this time it is a well-

1 (2015) 3 SCC 251
2 (2005) 4 SCC 649

settled principle that any private organization performing functions affecting public rights and interests, particularly in the sphere of national sports governance, must act in a fair, transparent, and non-arbitrary manner. If it fails to do so, such action would clearly violate Article 14 of the Constitution of India, as arbitrariness is the very antithesis of the principles of equality and fairness enshrined therein.

In short, it is a submission of Mr.Khambata that the impugned orders are liable to be quashed and set aside and even the recognition granted in favour of respondent No.5 also deserve to be set aside for the ground set out in the petition and the arguments advanced in support thereof.

(20) Learned Senior Counsel Mr.Abhay Khandeparkar, representing the Union of India, contest the arguments advanced by Mr.Khambata and he would placed reliance upon the affidavit filed by the under Secretary in the Ministry of Youth Affairs and Sports, affirmed on 02/04/2025. By inviting our attention to the order dated 21/01/2023, he would submit that the order in nowhere indicate that the General Council of WFI is suspended and he would submit that what was attempted by the impugned communication is stopping of ranking competition and there is no indication that the functioning of the Executive Committee which exercises executive control, over WFI was suspended. According to him in the wake of appointment of an

Oversight Committee and awaiting the appointment and its report being submitted, the Executive Committee of WFI was instructed to abstain with immediate effect as the day-to-day affairs were being handled by the person appointed by the order.

In specific Mr.Khandeparkar would submit that the General Council which is base of existence of the Federation cannot be dissolved/suspended. By inviting our attention to the order issued by the Ministry of Youth Affairs and Sports on 24/04/2023, learned Senior Counsel would submit that the election process initiated by WFI was declared as null and void and the I.O.A. was requested to constitute Transitory Committee/Ad-Hoc Committee to conduct the elections of Executive Committee of WFI and manage its affairs and in specific the selection of the athletes and making of entries for participation of sports person in international events for the interim period when the election of Executive Committee of WFI are held and newly elected body takes the charge. To the contrary, according to Mr.Khandeparkar, the General Council was very much functional and in fact by inviting our attention to the minutes of emergency meeting of the General Council of WFI, it is his submission that the wrestling activities in the Country was never intended to be stalled, as there are various States Associations, who conduct various wrestling activities in the State or inter-state and it was never the intention of the Union of India to suspend the functioning of WFI in totality, but what was

restricted according to Mr.Khadeparkar, is the ongoing ranking competition which was cancelled and "ongoing activities" were suspended but by no stretch of imagination, which shall be construed as suspending the entire functioning of the General Council / Executive Committee of WFI.

(21) We have also heard learned counsel Mr.Yash Momaya, representing the respondent No.2, who has raised preliminary objection about maintainability of the writ petition as he would submit that the claim made by the petitioner relate to elections and membership of WFI, which is a Society registered under the Societies Registration Act, 1960. He would seriously dispute the position that the issues with which the petitioner has approached this Court are amenable to writ jurisdiction under Article 226 of the Constitution of India. According to Mr.Momaya WFI is a private Society and is not "State" in terms of Article 12 of the Constitution and at the highest according to him, it may be amounting to "authority" which is not amenable to writ jurisdiction.

It urged on behalf of WFI that for a writ to be maintainable it would necessarily have to be in respect of public function of WFI and in the present case there is no public function at issue and in any case it is not the case pleaded in the petitioner as to how the writ would lie as membership or elections are not public functions.

He would placed reliance upon the following decision of the Apex Court :-

a) **Shobha vs. Muthut Finance (2025) SCC Online SC 177.**
b) **Zee Telefilms Ltd. v. Union of India (2005) 4 SCC 649.**
c) **St.Marys Education Society vs. Rajendra Prasad Bhargava (2023) 4 SCC 498**

(22) Drawing a distinction on the principle laid down in case of **BCCI vs. Cricket Association of Bihar** (supra), he would submit that the decision turn on discharge of the public functions of the BCCI, undisputedly, i.e. selection of National Team, Regulation and Control of the Sports of Cricket, to the exclusion of all others and disciplinary action against the players, however, in the present case, the discharge of function by respondent No.2 do not involve such functions, as according to him, dispute before the Court concerns an internal membership dispute. Apart from this, it is urged by Mr.Momaya, the petitioner has an equally efficacious alternate remedy, as the findings of the Disciplinary Committee and calling in question of respondent No.5 eligibility to be affiliated are all matters which would fall within Civil Court jurisdiction and would have to be decided on evidence and for this purpose writ jurisdiction totally unfit.

(23) Mr.Momaya, would support the submissions of Mr.Khandeparkar by submitting that the functioning of the General Council was never suspended and only the day-to-day activities of WFI

were directed to be taken over. According to him the Notification of the Government of India specifically referred to “ongoing ranking competition” and return of entry fees from the participants in the ongoing activities and this unmistakably are executive, day-to-day operational matters and these are the functions of the Executive Committee and the Secretariat and not of the General Council, which is a permanent body comprising of the State/U.T. member units. He would submit that in fact the Notification of 21/01/2023 received a clarification after two days, which contain a specific operative direction issued on 21/01/2023 unambiguously instructing that only the Executive Committee of WFI shall abstain with immediate effect as an interim measure, from administering and managing day-to-day activities of the Federation until further orders. He would submit that there is no mention of General Council, Disciplinary Committee or any other functionary of WFI.

Relying upon the clear intention of the Government of India, confining itself to the Executive Committee and that too its involvement in “day-to-tay activities”, Mr.Momaya would submit that order of the Government of India cannot be read in a manner that results in its expansion, wider than what is indicated by the Government of India itself. He would also submit that the Notification of 23/01/2023 expressly limited term of the Oversight Committee by submitting that the Oversight Committee would complete inquiry at

the earliest by four weeks and the Government of India itself on 17/02/2023 extended the Oversight Committee's term by two weeks and this is sufficient indication of the fact that the suspension was not open ended and in fact the Oversight Committee submitted its report on 05/04/2023, after which it is ceased to exist is his specific contention of Mr.Momaya. He would also place reliance upon the order dated 24/04/2023, passed by he Government of India, which clearly record that after submission of the report by the Oversight Committee, its role has come to an end and the Committee has ceased to exist. The said order also annulled election process initiated by the General Council Resolution dated 16/04/2023, but it do not annulled the disaffiliation of the petitioner.

If the Government of India had suspended the General Council or intended that the General Council had no power to disaffiliate the petitioner, then it would have thrown some light upon the said action, but the Government of India did not do so and this is for the reason it never suspended the functioning of the General Council. Apart from this, he would submit that even if the Government of India desired to suspend the General Council of WFI, there was no power to do so. He would submit that WFI is a Society registered under the Societies Registration Act, 1960 and under the provisions of the said Act, there is no power empowering Government

of India to suspend, supersede or to take over the General Council of a Society. The Government of India's power as against National Sports Federation is confined to recognizing/withdrawing its recognition for the purpose of representing India at international events and accessing government grants. The National Sports Federations internal Society functioning, including its membership and the discipline of its constituent units is not the Government's domain and even the National Sports Code on which reliance is placed do not confer such power.

(24) It is asseverated by Mr.Momaya that the General Council of WFI is, by the very design of its Constitution, a permanent and continuous body comprising of the State/U.T. member units, as that each State/U.T. Association sent two representations with one vote each. The General Council is not capable of being "suspended" as a "body" in the way that an Executive Committee or its office bearers can because according to Mr.Momaya the General Council is the Federation's electorate, its sovereign body, the source of its authority and therefore, it is incorrect to presume that it stood suspended by the Government of India. Apart from this, the contention that Disciplinary Committee stood suspended because it is a "Sub Committee" of the Executive Committee is also misconceived, as he would submit that the discharge of Disciplinary Committee functions

qua a member unit is not a "day-to-day activities" of WFI and therefore, neither covered by the Notification of 21/01/2023 or of 23/01/2023. According to Mr.Momaya, the Disciplinary Committee is in the nature of Quasi Judicial body and nothing in the Notification purported to suspend its functioning. According to him the petitioners reading would lead to absurd consequences and it would mean that during the brief tenure of Oversight Committee, no disciplinary process whatsoever could have been conducted against any State unit, even when the petitioner's own conduct called for an action. He would submit that when the petitioner marked its appearance before the Disciplinary Committee on 03/04/2023 it did not record any protest or advance any submissions on without prejudice basis, but the petitioner voluntarily submitted to the jurisdiction of the Disciplinary Committee and when it did not succeed, now it cannot turn around and call in question the order of the Disciplinary Committee on the ground that it had no authority to do so. Similarly, for this very reason he would submit that calling in question the participation of Mr.Jagdish Kumar, in the Disciplinary Committee also is without any rhyme or reason.

(25) Mr.Momaya, has also submitted that the decision taken by the Disciplinary Committee on 03/04/2023 is subsequently ratified by the General Council on 21/12/2023 and he would placed reliance

upon the decision in the case of **Maharashtra State Mining Corporation vs. Sunil**[3]. According to him the ratification is conclusive of the question framed by this Court in its order dated 22/04/2025 to the effect as to "whether the General Council at all had any authority to undertake any such activity of either disaffiliation or granting affiliation as granted to respondent No.5." On 21/12/2023, General Council of WFI comprising of the duly elected representatives of all Member Units, convened after the conclusion of the elections to the Executive Committee and to whose composition no infirmity whatsoever is attributed and confirmed that the petitioner stand disaffiliated as a member of WFI and respondent No.5 is affiliated. It also categorically clarified that the powers to disaffiliate vests only with the General Council and not with the Executive Committee or any Sub Committee thereof.

According to Mr.Momaya, this decision of 21/01/2023 is not challenged by the petitioner despite the fact that petition has been amended on more than one occasion and this decision according to him is conclusive.

(26) With the able assistance of respective counsel we have perused the pleadings in form of petition along with its Annexures and we have heard the respective counsel on behalf of the rival

3 (2006) 5 SCC 96

parties.

The petition filed by the petitioner, a trust, affiliated to the Wrestling Federation of India, has sought for quashing and setting aside of the following orders :-

d) Order dated 21/07/2023, passed by the Returning Officer of WFI.

e) Impugned order dated 18/04/2023, passed by the WFI along with the Resolution passed by the General Council of WFI as well as report of the Disciplinary Committee dated 03/04/2023, ultimately resulting into disaffiliation of the petitioner.

Though there is no challenge to the affiliation of the respondent No.5, prayer clause (c) of the petition seek a mandamus directing the WFI to disaffiliate the respondent No.5.

At this juncture, it is relevant to note that the petition was filed on 31/07/2023 and it was permitted to be amended upon the orders of its disaffiliation being passed by the WFI.

(27) The challenge in the petition and the relief sought are primarily based on two principal grounds; the first ground pressed into service being, that WFI itself being non-existent in the wake of the order dated 21/01/2023, passed by the Government of India and the existence of the administrative vacuum enabling the General Council to take any decision, and hence the impugned order disaffiliating the petitioner cannot be sustained, as the suspension affected all administrative organs of WFI including the General Council, the Executive Committee and the Disciplinary Committee.

The second ground of challenge is the recommendation of the Disciplinary Committee and the Resolution passed by the General Council on 16/04/2023 which ultimately resulted into an order of disaffiliation and this order, did not justify the exercise of power on merits of the matter, as it is alleged that it is a premeditated action and is an outcome of political vendetta.

The impugned order of disaffiliation is also challenge on the ground that it is entirely disproportionate and the challenge is also raised to the grant of affiliation of respondent No.5 by contending that it is ex-facie arbitrary and motivated, despite the fact that the respondent No.5 did not satisfy the mandatory requirements of affiliation as contemplated in Article-XXIV (f) and (g) of the WFI Constitution.

(28) We are called upon to test the aforesaid challenge and before we come to the merits of the matter, we would deal with the preliminary objections raised by Mr.Momaya about the writ petition being not maintainable against Wrestling Federation of India on the ground that it is neither “State” within the meaning of Article 12 of the Constitution of India, nor is being amendable to the writ jurisdiction of this Court.

In this regard it is to be noted that in the first round of litigation, when the petition came to be dismissed by accepting this

ground and the matter travelled upto the Apex Court, it is remanded back with the specific direction to consider the aspect of the maintainability of writ petition against the WFI.

Mr.Momaya, would place reliance upon the decision in case of **Zee Telefilms Ltd. v. Union of India** (supra) and with regard to the authoritative pronouncement, in this regard he would submit that the duty to be discharged by a private body must necessarily muster the test of being a 'Public Duty' in case where the writ Court is approached.

The decision in case of **Zee Telefilms Ltd. v. Union of India** (supra), by five judges Bench is carefully perused by us it is worth to note that the majority view has clearly expressed its opinion in the following words :-

> *"33. Thus, it is clear that when a private body exercises its public functions even if it is not a State, the aggrieved person has a remedy not only under the ordinary law but also under the Constitution, by way of a writ petition under Article 226. Therefore, merely because a non-governmental body exercises some public duty, that by itself would not suffice to make such body a State for the purpose of Article 12. In the instant case the activities of the Board do not come under the guidelines laid down by this Court in Pradeep Kumar Biswas vs. Indian Institute of Chemical Biology, (2002) 5 SCC 111 hence there is force in the contention of Mr.Venugopal that this petition under Article 32 of the Constitution is not maintainable."*

However, it is also pertinent to note that on facts the majority view clearly expressed that there can be no denial that the Board of Control for Cricket in India (BCCI) discharge some duties like

the selection of an Indian cricket team, controlling the activities of the players and others involved in the game of cricket and these activities can be said to be akin to public duties or State functions and if there is any violation of any constitutional or statutory obligation or rights of other citizens, the aggrieved party may not have a relief by way of a petition under Article 32. However, the majority clearly expressed as below :-

> *" But that does not mean that the violator of such right would go scot-free merely because it or he is not a State. Under the Indian jurisprudence there is always a just remedy for violation of a right of a citizen. Though the remedy under Article 32 is not available, an aggrieved party can always seek a remedy under the ordinary course of law or by way of a writ petition under Article 226 of the Constitution, which is much wider than Article 32. "*

(29) Thus, the majority view did not favour entertainment of the proceedings against BCCI, it not being State for the purposes of Article 12 and the petition filed under Article 32 of the Constitution was held to be not maintainable and same is dismissed. The minority view, in great detail has deliberated on the issue in hand and observed that the body regulating the game of cricket would be compelled by the Court to abide by the Rule of law and particularly when it was not in dispute that except the Board, there is no other authority in the field. Applying the test laid down in considering whether a body discharges a public function, the minority view clearly expressed that BCCI has duties towards public as the public at large will look forward

to the Board for selection of the best team to represent the Country and thus, it has a duty to act fairly and it can not arbitrarily, whimsically or capriciously. Public interest is thus involved in the activities of the Board and it is thus, a State actor.

The minority view also dealt with the submission advanced on behalf of the Board that once it is declared to be a "State", the consequences would be devastating, as all its activities would be subject to government control and this submission was turned down, by ruling that in absence of any statute or statutory rules, no such control can ordinarily be exercised by the Union or State.

However, it was clarified the question as to whether a function of the Board would be a public function or a private or function would ultimately depend upon the nature and character thereof and the Court cannot be asked to provide a hypothetical answer to the hypothetical question. The minority opinion, therefore, clearly expressed that the writ petition under Article 32 of the Constitution is maintainable.

In any case, the said decision, delivered by the Constitution Bench, only hold that the remedy of approaching the Apex Court under Article 32 against the BCCI was not available, and this authority is not a precedent for concluding that a writ under

Article 226 would not lie and to the contrary, the majority view have clearly indicated towards such a remedy being available under Article 226.

(30) Per contra, when we perused the subsequent decision of the Apex Court in **BCCI vs. Cricket Association of Bihar** (supra) relied upon by Mr.Khambata, in relation to Board of Control for Cricket in India, we find a clear view being expressed that though the said body discharges public functions and it is not "State" for the purpose of Article 12, it is clearly expressed that its amenability to writ jurisdiction under Article 226 stands well settled and is not permitted to be reopened. Reliance was placed upon the decision in case of **Zee Telefilms Ltd. v. Union of India** (supra) as regards amenability of writ petition of the Courts under Article 226. Reliance is placed before us by Mr.Khambata on the decision of Delhi High Court in **Haryana Wrestling Association vs. Wrestling Federation of India**[4], when the Delhi High Court was approached for praying for issuance of writ of certiorari to quash the order passed by the Returning Officer of the Wrestling Federation of India when the representation of the petitioner No.1 to revise the election schedule was rejected. Petition also sought for quashing of the election of the named respondents on the post of President, Secretary General and Senior Vice President of WFI on the ground that they were elected in utter violation of

4 (2012) SCC OnLine Delhi 51

Constitution of WFI.

The writ petition was entertained by the Delhi High Court and on merits, the petition was allowed. By setting aside the election of office bearers, as well as quashing and setting aside the order of the Election Commission of India.

In **Salcete Football Club v. Union of India**[5], the Division Bench of Bombay High Court at Goa was dealing with the grievance of the petitioner registered Society affiliated with Goa Football Association which raised challenge to the amendment with statute which resulted in deletion of a particular clause of the GFA statute, which provided that an Executive Committee Member shall ceased to be a Member of the Committee if he or she has attained the age of 70 years.

Dealing with the objection raised about the maintainability of the writ petition, reliance was placed upon the decision of Apex Court in case of **Board of Control for Cricket in India v. Netaji Cricket Club**[6], the Supreme Court held that BCCI exercised enormous public function as it select players, umpires and other officials, it exercises total control over them and having regard to the enormity of the power exercised, the Board is bound to follow the doctrine of 'fairness' and 'good faith' in all its activities and it cannot

5 2022 SCC OnLine Bom 1857
6 (2005) 4 SCC 741

act arbitrarily or capriciously. The Division Bench also referred to a decision of **BCCI vs. Cricket Association of Bihar** (supra), holding that BCCI is amenable to writ jurisdiction of the High Court under Article 226 of the Constitution if it is not "State" within the meaning of Article 12. In this regard, the Division Bench observed thus :-

> *"64. The undisputed material on record establishes that what is BCCI to the game of cricket, AIFF is to the game of football at the National level. Similarly, cricket clubs affiliated with BCCI at State levels are comparable to Clubs like GFA affiliated with AIFF. They all virtually hold a monopoly over significant aspects of football at the State level. Mr.Kantak, however, submitted that the issue raised in this petition concerns only the internal management of GFA and, therefore, no public element was involved."*
>
> *65. Again, with respect, we are unable to agree. The GFA discharges public functions mainly at the State level. Therefore, placing an age cap on the office bearers is a provision conceived in the public interest. This provision is accepted in the AIFF Constitution and in the National Sports Code so that such associations that wield the power to make or break the dreams of football players and lovers are governed efficiently."*

The writ petition was entertained by the Division Bench and Rule was made absolute in terms of its prayer.

(31) In light of the aforesaid legal situation emerging before us through the aforesaid authoritative pronouncement, we reject the preliminary objections raised by Mr.Momaya that a writ would not lie against WFI as we hold that though it may not be "State", in exercise of the function discharge by WFI, a Society established for encouraging, promoting and controlling wrestling activities in the Country and since function assigned to it also clearly indicate that it

shall arrange for participation of the Indian Wrestling teams in International Wrestling Championship and in Olympics, Asian and Commonwealth games and it aims to conduct systematic development of the Wrestling Associations, on the lines of BCCI decision of the Apex Court though we do not find that it is a "State" within the meaning of Article 12 as it would involve the control over its functionality by the State, but in our view it is amenable to writ jurisdiction of this Court and we entertain the writ petition.

(32) One more submission of Mr.Momaya, that the petitioner has an alternative and efficacious remedy as the subject matter of the petition pertain to an election, do not appeal to us. He has placed reliance upon the decision of this Court in **Pune District Athletics Association vs. Union of India (W.P.(C)No.14975/2022)** as well as the decision in case of Delhi High Court in **Samadhan Swimming Club vs. Union of India**[7], in support of his submission that the remedy is available to raise a challenge to the elections and the writ court shall not entertain such grievance. In our view, even this objection is equally without merit, as his objection about the maintainability of the writ petition under Article 226, as we find that the challenge before us is not to the election process of WFI or to the election itself, but the petition raises a challenge to its disaffiliation and therefore, we reject the objection.

7 (2018) SCC OnLine Delhi 10782

(33) To deal with the first contention of Mr.Khambata that the WFI was not in existence in the wake of serious accusation faced by it and in light of the Notification dated 21/01/2023, which took within its all activities of WFI, it is necessary for us to refer to the Constitution of WFI to understand the ambit of its operation and activities.

The Constitution of the WFI, highlight its objective, the primary one being to encourage, promote and control amateur wrestling activities and to affiliate wrestling associations of States and to affiliate with the Indian Olympic Association.

WFI is a body which authorized the State wrestling association for holding wrestling competitions of inter regional nature in the country and it is the body which permit conduct of systematic coaching camps for benefit of wrestlers and to do all such things as may be conducive for the promotion and development of wrestling in the Country.

It is worth to note that the membership of WFI comprises of :-

f) "State Wrestling Association

g) Union Territory Wrestling Associations

h) Services Sports Control Board (SSCB) and Railway Sports-Promotion Board (RSPB)

i) UWW Bureau Members

j) Associate Members"

All States Wrestling Associations and Union Territories Wrestling Associations are entitle to send two representatives to the General Council, each representative having one vote. All Union Territories Wrestling Associations are, however, are entitled to send one representative to the General Council, who will have one vote. As far as SSCB and RSPB are concerned they are entitled to send one representative to the General Council, who do not however, exercise any voting right.

(34) The management of WFI (Federation) is carried through its office bearers, headed by the President.

The Executive Committee of the Federation consist of 25% sports-persons elected by General Council from amongst its members and it also include four eminent sports persons (02 male and 02 female), who shall be nominated to the Executive Committee with voting rights.

What is most relevant to note is the composition of the General Council as prescribed in Article-V (c) which reads as under :-

> *"c) The General Council shall consist of :*
>
> *i) "2 Representative from each member of Clause (a)*
>
> *ii) 1 Representative from each member of Clause (b)*
>
> *iii) 1 Representative from each member from Clause without voting right (b)*
>
> *iv) "UWW Bureau Members from Chause (c) This is to meet the requirement of the UWW, which is the international body for wrestling."*

The election of the Office bearers of the General Council is to be held within every four years.

(35) The duties to be discharged by the Council include the formulation of Policy, Bye-laws, Rules, Regulations and Resolutions of the Federation and the principle based on which it shall discharge its function. It is the General Council which is entitled to confer affiliation on the members of any organization as per its constitution. It is also authorised to disaffiliate or take any suitable action against any member unit for indiscipline, misbehaviour or any other undesirable activity or for violation of the Constitution, bye-laws or directions of the Council of Executive Committee issued from time to time or for non-functioning properly or not functioning at all.

To the contrary, the Executive Committee is the body on whom the executive control of the WFI rest. It is empowered for carrying out the day-to-day functions including supervising the finances and accounts, providing financial assistance to its members, and it is responsible for supervision of the teams for National Games under the auspices of the IOA, WFI, UWW and Asian Committee of UWW during the period of games and to consider the annual report prepared by the Secretary General and to submit it to the General Council with its recommendations. It is also authorised to initiate and recommend to the Council schemes for promotion and development of

amateur wrestling in the Country along with its function to sanction the expenditure and also to exercise such powers and to perform such duties as may be assigned to it by its Council.

The Executive Committee is thus a delegate of the General Council, but the main policy making body of WFI is the General Council which has the composition of the membership of State/U.T. Wrestling Associations and other members as set out in Article–III of the Constitution of WFI.

(36) From the analysis of the Constitution of WFI, which has recognized the General Council as the Principal Body and the Executive Committee acting as its delegate as per its instructions, the final authority lies with the General Council.

The Constitution of WFI has also provide for general Disciplinary Regime and this include the Disciplinary Committee to be appointed by the Federation from amongst the members of the Executive Committee to deal with the matters pertaining to Disciplinary Regulations and the Disciplinary Committee shall submit its report or finding to the Executive Committee which shall be put up for ratification of the General Council. Article-XXI of the Constitution thus re-affirms the supremacy of the General Council, as a decision taken by the Executive Committee warrant ratification from the General Council.

As a disciplinary measure Article-XXII make the Federation member liable for the disciplinary sanctions including warning, caution suspension, expulsion from the Federation.

In case of serious infraction, which calls for an immediate action, the Constitution permit a decision to be made by the President on the recommendation of the Disciplinary Committee.

(37) In the Constitution, Article-XXVI is a special provision of Disaffiliation / De-recognition/ Suspension of State Associations and it is a decision of the General Council to be taken on the recommendation of the President WFI either directly or through WFI Executive Committee on the ground contemplated in the said provision after ensuring that the normal law of justice has been observed i.e. show-cause notice being served and an explanation being obtained and considered before a recommendation for Disaffiliation/ De-recognition/ Suspension is made and this includes the non-obervance of the lawful directives issued by the Federation from time to time to its satisfaction and two other grounds viz. non-holding of elections on completion of tenure and non-submission of annual audited statement of accounts, annual report and list of current office bearers within the stipulated time.

In case a decision is taken by the General Council to

disaffiliate an Association, the President of WFI has the authority to constitute an Ad-Hoc body to look after the work of the disaffiliated Association till such time fresh elections are held.

(38) It is in light of this Constitution, the argument of Mr.Khambata deserve an appreciation as it is contended that on 21/01/2023, the Government of India suspended the activities by the WFI. A clear reading of the communication reveal that the Government of India announced its decision to appoint an Oversight Committee on the WFI and in light of the said decision, it suspended all the "ongoing activities" of the WFI with immediate effect till the Committee is appointed and took over the charge of day-to-day activities of the WFI. In order to achieve this goal it cancelled the ongoing ranking competition and also directed return of entry fees to the participants from any ongoing activities.

It is attempted to canvass before us by Mr.Khambata, that this communication has suspended WFI itself which includes the functioning of its General Council as the appointment of Oversight Committee was staged in the background of serious accusations. What is placed before us is a subsequent communication of 24/12/2023 issued by the Government of India and it is canvassed before us that the action was necessitated in the wake of the allegations of sexual harassment against former President, Officials and some Coaches of

the Federation, as well as allegations of financial mismanagement and arbitrariness in the functioning of the Federation.

By relying upon the aforesaid communication, it is brought to our notice that subsequent to the Notification of 21/01/2023, since an unprecedented situation had arisen an Oversight Committee was appointed keeping in mind, the principles of International Olympic Committee policy on safeguarding of athletes from harassment and abuse in Sports and for the implementation of the principles of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act, 2013).

(39) The above communication perused by us, refer to the appointment of the Oversight Committee and the decision of the Ministry dated 24/04/2023 to declare the election process initiated by WFI to be null and void and requesting the Indian Olympic Association to constitute a Transitory Committee to conduct it elections and to manage the affairs of WFI till the newly elected Executive Committee take charge.

It is worth to note that the order refer to the elections of the Executive Committee, but nowhere in the said order, issued by the Government of India, there is even slightest indication of suspension of the General Council and this is what has been

vehemently asserted before us by learned Senior Counsel Mr.Khandeparkar.

The IOA subsequently appointed Justice (Retd.) Mahesh Mittal Kumar as a Returning Officer for conduct of WFI elections and though the Notification was issued, it was stayed by various Court orders, but the stay was finally vacated by the Supreme Court and the Returning Officer was permitted to conduct the elections on 21/12/2023. Pursuant to this, the elections to the Executive Committed were held and the President, Secretary and other office bearers were elected.

The Government of India, however, took note of the information available in the public domain, as it was widely reported that all decision taken by IOA appointed Ad-Hoc Committee had been cancelled indicating void in the governance of the Federation and some decision taken by the newly elected raised significant concern about the governance and procedural integrity. Expressing that the decision ex-facie reflected complete arbitrariness and militate against settled principles of good governance besides being devoid of transparency and due process, as the Secretary General was not involved in the meetings of Executive Committee and this warranted immediate attention.

Further noting that the unilateral decision-making process that was adopted was in breach of the internal Federation norms and also contradicted the broader ethos of accountability and inclusivity, to deal with the unprecedented situation warranting immediate measures to have good governance, in consonance with the provisions of the National Sports Development Code of India, 2011 and in compliance of the International Olympics Committee policy, instructions were issued that the "newly elected Executive Committee" of the WFI shall abstain from administering and managing the day-to-day activities of the Federation until further orders.

(40) We have also perused one more Notification issued by the Government of India on 24/04/2023 with reference to the order 23/01/2023 appointing an Oversight Committee for the WFI. The said Notification records that the Oversight Committee submitted its report to the Ministry, which was under examination and some time would be consumed to act on the recommendations though the Government of India noted certain grave lacunas like absence of duly constituted internal complaint committee under the POSH Act, 2013 etc. and expressed the needs for transparency and consultation with the Federation and stakeholders. However, on 24/04/2023 it was clearly noted that on submission of the report of the Oversight

Committee its role has come to an end and the Committee has ceased to exist.

(41) With reference to the notice published on the website of WFI which revealed that the elections of the Executive Committee were scheduled on 07/05/2023, the Government of India was of the view that in light of the findings of the Oversight Committee, the election to the Executive Committee should be conducted under a neutral body and since Wrestling was an Olympic sport and WFI was an affiliate Member of the Indian Olympic Association, the Government of India deemed it appropriate to request IOA to constitute a Transitory Committee or Ad-Hoc Committee to conduct the election of its Executive Committee and manage its affairs which included selection of athletes and making entries for the participation of sportsperson in international events for the interim period when the election to the Executive Committee were in the pipeline and the newly elected body take charge.

(42) A clear reading of the aforesaid communication dated 24/12/2023 to be read with a Notification dated 21/01/2023, issued by the Government of India, thus, make it evidently clear that the discharge of powers by the Executive Committee of WFI were suspended or kept in abeyance and there was no suspension ever of the General Council.

We agree with Mr.Momaya and Mr.Khandeparkar that the General Council would not have been suspended by the Government of India, as per the Constitution, it being the Principal Body policy making body of WFI which included the representatives from the State/U.T. Wrestling Associations, as well as SSCB and RSPB and other Associate members.

We do not find any power in the Government of India to suspend the General Council which is responsible for formulating the policy, bye-laws, rules, regulations of the Federation, the General Council being elected after every four years. There is no provision which is pointed out to us, which would enable the Government of India to suspend the General Council of the Society i.e. WFI. We therefore, did not find merit in the contention of Mr.Khmbata that the action taken to disaffiliate the petitioner by the General Council is beyond its competence, as the General Council ceased to exist on the day when the impugned order is passed.

(43) As far as the contention of Mr.Khambata that the action of the General Council in passing the impugned order is malafide, and the contention that it is a repeated attempt on the part of WFI to eliminate the petitioner-Association, we have carefully examined the said contention. It is worth to note that on 04/07/2022, WFI had informed the petitioner that in its meeting held on 30/06/2022, a

decision was taken to dissolve the Maharashtra State Wrestling Association.

The petitioner approached this Court and in Writ Petition No.12237/2022, the Division Bench of this Court declared that the said decision was unreasonable, illegal and unenforceable. The subsequent election conducted by the Ad-Hoc Committee on 31/07/2022 was also declared as illegal. The High Court declared that the elected body of the petitioner will hold office till its tenure come to an end and shall carry its day-to-day function in accordance with its Constitution.

This decision being delivered on 09/11/2022, a show-cause notice was issued to the Secretary of the petitioner-Association in accordance with Article-XXVI of the WFI Constitution and it accused the petitioner of two charges; (i) no election being held after 2015 and (ii) the Association has not submitted its annual audited statement of accounts and annual report of Association to WFI.

In addition, it is also alleged that a request was made by the General Council of WFI to conduct the National Championship to it, but at the last stage, it refused to hold a competition, which caused lot of trouble to the WFI and also to the participating wrestlers and this included the two National Wrestling Championship and one Cadet National Wrestling Championship.

The show-cause notice alleged that WFI had issued a notice on 29/08/2018 in respect of organization of the commercial league without forwarding any intimation to WFI and reply was received that it was being organized for development of Maharashtra Wrestlers. The WFI in its show-cause notice, therefore, found it surprising that the petitioner was more interested in organizing commercial tournaments then in conduct of national competitions.

It also sought certain documents which included the balance-sheet of the petitioner-Association for Financial Year 2017-2018, but the documents were not received. Another serious accusation was levelled to the effect that the selection committee of the petitioner-Association was selecting Wrestlers who were fudging their date of birth and a show-cause notice was issued in that regard on 17/04/2018, but no satisfactory reply was received.

(44) The show-cause notice issued to the petitioner sought response from the petitioner-Association by asking it to show-cause notice, as to why disciplinary action should not be taken against it and the affiliation shall not be withdrawn. Till completion of inquiry the Ad-Hoc Committee under the Chairmanship of Mr.Sanjay Singh was directed to look after the day-to-day activities of Wrestling in Maharashtra State.

A reply was received to the said show-cause notice and though in exercise of its writ jurisdiction we may not get into the justiciability of the stand/defence adopted, as we find that in exercise of our writ jurisdiction we may not be in a position to weigh the evidence, either supporting the accusation or the evidence in defence thereof, but in exercise of our writ jurisdiction we can only examine the fairness in the decision making process.

Suffice it to note that after receipt of the response from the petitioner, the Disciplinary Committee of the WFI submitted its report on 03/04/2023 and we find that in the whole process the Secretary of the Association Mr.B.S.Landge, had actively participated as in response to the show-cause notice issued on 13/11/2023, and it is he forwarded his reply on 22/11/2023 and 02/12/2023.

(45) The Disciplinary Committee noted that the proof submitted by Mr.Landge in respect of observer from WFI was fake and it was verified from WFI's office administration which denied receipt of any such mail.

Apart from this, the Disciplinary Committee observed thus :-

"As mentioned in the letter of the Secretary General, WFI's letter dated 30th November 2022 that Sh.B.S.Landge had signed a sponsorship contract with Amanora Park Town, City Corporation Limited for a period of 5 years for organizing the Maharashtra Kesari and State Wrestling Championship. On 2nd January 2020, the competition was executed at Pune and Sh. B.S. Landge also received an amount of Rs.15 lakhs as Royalty from the Amanora Park Town, City Corporation Limited. The entire expenditure of about Rs.65,89,251/- was incurred on the organization of this competition

by the Amanora Park Town, City Corporation Limited [Copy Enclosed]. On the other hand, Sh. B.S. Landge also sent a letter to the Maharashtra Govt. stating that total expenditure of Rs.2,39,22,940/- will come for holding the above competition. Sh. B.S.Landge also stated in the said letter that an amount of Rs.1,69,22,940/- will be arranged through sponsorship and requested to the Maharashtra Govt. to provide the financial assistance of remaining amount of Rs.70 lakhs for holding the said competitions. The Maharashtra Govt. sanctioned an amount of Rs.42,18,000/- for this competitions [copy enclosed]. As mentioned in the letter of M/s.City Corporation Limited dated 11th July 2022 [copy enclosed] that the entire expenditure of Rs.65,89,251/- was incurred by the Amanora Park Town, City Corporation Limited for holding the above competition and a royalty of Rs.15 lakhs was also paid to Sh.B.S.Landge. On the documents produced before the Committee, it is not understood where Sh.B.S.Landge spent the money of Rs.42,18,000/- received from the Maharashtra Govt. for the said competition by giving false information to the Maharashtra Govt.

During the enquiry, the Committee asked Sh. B.S. Landge to produce the sponsorship contract signed with Amanora Park Town, City Corporation Limited for a period of 5 years for organizing the Maharashtra Kesari and State Wrestling Championship. Sh. B.S. Landge denied to signing any such contract. On the other hand, an Agenda Item No. 6 of the Executive Committee of Maharashtra State Wrestling Association, it is clearly mentioned that the agenda items had brought before the members for approval the above contract [copy enclosed].

With regard to the organization of the National Competitions in Maharashtra State, Sh.B.S. Landge pointed out that the 2018 Cadet National Wrestling Championship was organized under the aegis of Maharashtra State Wrestling Association while on checking the records, this competition was allotted to Sh. Vijay Barate, the then Associate Vice President of WFI after refusing by Sh. B.S. Landge [copy enclosed]. Similarly, the Under-23 National Wrestling Championship was also allotted to the Rahata Taluka Taalim Sangh, Ahamednagar after refusing by Sh. B.S. Landge.

A documents in respect of the Emergency Executive Meeting of Maharashtra State Wrestling Association held on 26th November 2022 under the Chairmanship of Sh. Sharad Pawar, was also produced before the Committee. This document revealed that Sh. B.S.Landge had resigned from the post of General Secretary. On being asked about the minutes of the meeting, Sh. B.S. Landge denied the resignation and explained that it was the proposal. But as per the minutes of the meeting which had signed by Sh. B.S. Landge, it is clearly mentioned that Sh. Sharad Pawar, President, Sh. B.S. Landge, General Secretary & Sh. Namdevrao Mohite, Working President have resigned from their respective posts."

(46) The findings of the Disciplinary Committee were crystallised as below :-

"Findings

After hearing carefully to Sh. B.S. Landge, the following conclusions were observed :

- *'M/s. Amanora Park Town, City Corporation Limited signed the contract with Sh.B.S.Landge and the grant sanctioned by the Maharashtra Government, are only because of the Maharashtra State Wrestling Association is affiliated to WFI. The WFI has given recognition and membership to Maharashtra State Wrestling Association only to promote the amateur wrestling in the State, but by organizing the professional wrestling, Sh.B.S. Landge proved it that he is running wrestling activities in state only for making money. The expenditure incurred on organizing the State Championship has been huge and unbelievable. It seems that a huge amount of money was embezzled to organize this championship, which has been concealed by Sh.B.S. Landge. He misused the name of WFI by signing the contract with M/s. Amanora Park Town, City Corporation and collected huge fund from them. The Government of Maharashtra has also considered sanctioning a huge amount to Sh.B.S.Landage because MSWA is affiliated to WFI.*

- *The proof submitted by Sh. B.S. Ladnge in respect of requesting Observer from WFI, looks fake as the WFI's staff has denied to receiving any such email.*

- *The National Championships allotted to Sh.B.S.Landge were organized by the local sport-lovers in Maharashtra State after refusing by Sh.Landge.*

- *The Minutes of the Emergency Executive Meeting of Maharashtra State Wrestling Association held on 26th November 2022 clearly shows that Sh.B.S.Landge has resigned from the post of General Secretary with his consent.*

Keeping in respect of the Hon'ble Court order, the WFI can't dissolve the Maharashtra State Wrestling Association led by Sh. B.S. Landge Landge but can withdraw its affiliation from Maharashtra State Wrestling Association. Therefore, after detailed discussion, the Committee recommends taking appropriate action to withdraw the affiliation of Maharashtra State Wrestling Association led by Sh. B.S. Landge. The committee also recommends that till the new body is formed, the Ad-hoc Committee should continue to look after the day-to-day affairs in Maharashtra"

(47) This report of the Disciplinary Committee of the WFI was placed for consideration before the General Council in its meeting held on 16/04/2023 at Nandini Nagar, Gonda (U.P.). The minutes make a reference to the Disciplinary Committee and its decision to

withdraw the affiliation of Maharashtra State Wrestling Association lead by Mr.B.S.Landge.

This meeting also has a reference of a request made from Mr.Ramdas Tadas, President, Maharashtra Rajya Kustigir Sangh to confer affiliation on their Association for the State of Maharashtra and since the Secretary General, WFI informed the General Council that Association of Mr.Ramdas Tadas has extended its full support to the Ad-Hoc Committee of Maharashtra Wrestling Association in organizing State Wrestling Championship, selection trials etc. and its application for approval of affiliation shall be considered, the General Council of WFI unanimously agreed to withdraw the affiliation of the petitioner-Association and approved grant of affiliation to Maharashtra Rajya Kustigir Sangh led by Mr.Ramdas Tadas i.e. Respondent No.5.

This was followed by an order formerly issued by WFI on 18/04/2023, with reference to the meeting held on 16/04/2023, at Gonda (U.P.) withdrawing the affiliation of the petitioner-association.

(48) From the minutes of the Disciplinary Committee, we are of the view that the conduct of the petitioner-Association was highly objectionable and as the show-cause notice accused it of focusing on commercial interest by abdicating its function to conduct the National Wrestling Competition. The Disciplinary Committee has arrived at a

conclusion that Mr.Landge was responsible for embezzlement of a huge amount of grant sanctioned by the Maharashtra Government only on the ground that it was affiliated with WFI and he even went to the extent of misusing the name of WFI by signing a contract with private entity and collecting huge fund.

The Disciplinary Committee also found that Mr.Landge had wrongly faked that a request was made for appointment of an Observer from WFI, but no response was received rather than the National Championship could not be organized by the petitioner-Association, and it was conducted through local sports lovers in Maharashtra causing huge lot of embarrassment to the WFI.

(49) We find the findings reached by the Disciplinary Committee to be of substantial nature and as an affiliating body, WFI, in the wake of provision in its Constitution subjected the petitioner-Association to disciplinary proceedings and disaffiliated it by affording an opportunity to the petitioner-Association in form of a show-cause notice and the response was called from the petitioner-Association. The response was received from Mr.Landge, Secretary General of the Association, we do not find that there is any violation of principles of natural justice or that the procedure contemplated in law has not been followed.

As we have already indicated that we may not be in a position to get into the merits of the matter, since as a writ court we are bound to examine only the decision making process and not the decision by itself and even though arguments are advanced by Mr.Khmbata about the political vendetta being attempted to settle, in absence of any proof thereof or persons exercising such power or authority being impleaded as respondents before us, we refrain ourselves from accepting the said contention advanced by Mr.Khambata.

(50) There is a challenge in the petition even to the decision of the Returning Officer, in not accepting the nomination of the petitioner and this is also examined by us in great detail.

It is pertinent to note that the petitioner-Association made a representation to the Returning Officer of WFI on 19/06/2023, claiming that it is affiliated to WFI since 1960 and it is the only State Body promoting Wrestling in State of Maharashtra. Staking that the petitioner body fulfilled all the criteria as set out in the Constitution of WFI, it sought nomination of two members to the electoral college and it also raised a grievance that the action which is proposed against the petitioner was not sustainable since WFI itself was under suspension and all its activities were suspended perceiving an appointment of Oversight Committee.

The Returning Officer of WFI on 21/07/2023 passed a detailed order, when he had two rival claims before him as two set of nominations were received from the State of Maharashtra, namely, party No.1 Mr.Ramdas Tadas and Mr.Yogesh Dodke nominating themselves as President and General Secretary from 'Maharashtra Rajya Kustigir Sangh', whereas from party No.2 Mr.Dayanand Ramchandra Bhakta and Mr.Waman Maroti Ghadge nominated by Mr.Sharadchandra Govindrao Pawar and Mr.Balalasaheb Shankarrao Landge as President and General Secretary from 'Maharashtra State Wrestling Association'.

By making reference to Article-IV on the Constitution of WFI, where only two Executive Members can be nominated as representative and entitled to vote at the election, the Returning Officer sought clarification/evidence to substantiate their respective claims.

The order of Returning Officer record that on the basis of the material furnished by the WFI representatives, it was found that party No.2, Mr.Sharadchandra Govindrao Pawar and Mr.Balasaheb Shankarrao Landge, were respectively the elected President and General Secretary of 'Maharashtra State Wrestling Federation', but the said unit of the State was dissolved by WFI on 30/06/2022, and its dissolution being challenged before the High Court, by order dated

09/11/2022, it was declared that the elected body of the petitioner-Association was entitled to hold office till its tenure came to an end. However, on 26/11/2022, at an emergency meeting of the Executive Committee of State unit, Mr.Ramdas Tadas was nominated as President and Mr.Dayanand Bhakta was nominated as General Secretary.

On the aforesaid positions being filled through nominations and not by election, and the decision of dissolution of the State unit by WFI was reversed by the High Court and the State unit subsequent to the order of the High Court nominated new President and General Secretary Mr.Ramdas Tadas and Mr.Dayanand Bhakta, however, Mr.Landge, who was General Secretary and the petitioner in the High Court of Bombay, did not approach WFI or file any case against the State unit or WFI when he was stripped of the post of General Secretary, but on 05/05/2023, he informed the Ad-Hoc Committee of WFI that the situation had remain unchanged as was pointed out by the Bombay High Court and he continued to be the General Secretary and Mr.Sharadchandra Pawar was the President of the State Unit.

The Returning Officer, however, observed that to the contrary, the report provided by WFI and the report of the Disciplinary Committee of WFI dated 03/04/2023 indicated that the new Executive Committee of the State Association (party No.1) has

shown as Mr.Ramdas Tadas, as President and Mr.Yogesh Dodke as General Secretary and the name of five other office bearers were also given and these names were in public domain having been uploaded on the website of WFI.

(51) It is in light of the aforesaid, the Returning Officer passed the following order :-

> *"I have thoughtfully considered the oral and written submissions made by both the factions. Mr. Bhupender Singh Bajwa, Member Ad-hoc Committee and other WFI representatives have provided information available with the WFI.*
>
> *On facts, it has remained undisputed that Party No.1 namely Maharashtra Rajya Kustigir Sangh has not been able to obtain any recognition from the State Olympic Association for any reason whatsoever. Likewise Party No.2 Maharashtra State Wrestling Association has no affiliation and recognition from Wrestling Federation of India. Article XXIV (f) of the Constitution of WFI mandates that WFI shall not affiliate a Sports Unit of any State that has not been affiliated /recognized by the State Olympic Association which in turn is affiliated to the Indian Olympic Association. The aforesaid provision is set out below verbatim:*
>
> > *"The WFI shall not affiliate a Sports Unit of any State that has not affiliated recognized by the State Olympic Association which is affiliated to the Indian Olympic Association."*
>
> *The aforesaid provision provides for a mandatory requirement of affiliation / recognition by the State Olympic Association and then by the WFI. The factual position as depicted during the hearing and from record does not leave " any manner of doubt that both the rival groups either lack affiliation with the State Olympic Association or the Wrestling Federation of India. Accordingly, both would not qualify to nominate any member of their Executive for constitution of Electoral College. I also find that there is a serious deadlock between the rival groups. The Maharashtra State Wrestling Association approached Bombay High Court. After the directions of the High Court orders have been passed by the Wrestling Federation of India and a new Executive Committee was brought putting in saddle Party No.1. As on date Party No.2 did not challenge that action before any court of competent jurisdiction. Obviously, they could have approached Bombay High Court but they allowed the deadlock to linger on. As a Returning Officer, I feel restricted to adjudicate whether the action taken by WFI suffers from any legal infirmity. The jurisdiction for such exercise of power lies elsewhere and Party No.2 could have easily sprung into action.*

Therefore, keeping in view the serious deadlock, I do-not feel it safe to permit either of the parties to nominate any of its members to constitute Electoral College. In- that regard, I invoke the provision of Article X (A) which provide that a member association would automatically cease to be a member of the Wrestling Federation of India in case his State / UT is divided which is the status as on date.

As a sequel to the above discussion, I find both the rival factions ineligible to nominate any of their members to constitute Electoral College and reject their claims."

(52) In any case, we find that in this regard much water has flown and we are unaware whether elections of WFI were conducted without any representation from Maharashtra, but in any case, we find the decision of the Returning Officer to be justified as he did not allow either of the petitioner and that of respondent No.5 to send its representatives in the election of the WFI and at this stage it is too late in the day to examine the legality of the said issue.

(53) We must also note that there is no challenge to the affiliation of respondent No.5 by WFI in the petition and we have heard Mr.Khambata asserting that the said body is not affiliated to Indian Olympic Association. However, Mr.Momaya, has pointed out to us that this discrepancy no longer exist as respondent No.5 has received affiliation as on date.

(54) It is also noted that the decision taken by the General Council on 16/04/2023 followed by the recommendation of the Disciplinary Committee on 03/04/2023, was ratified by the General Council on 21/12/2023 and we find that there is no challenge raised

to the ratification, which has attained finality and in absence of any challenge raised to the order dated 21/12/2023, we are not inclined to show any indulgence in setting aside the said decision.

(55) In light of the aforesaid, on entertaining the writ petition despite a vehement opposition from Mr.Momaya representing WFI and on appreciation of the rival contentions advanced before us, since we do not find any legal flaw in the decision taken by the General Council of WFI reserving to disaffiliate Maharashtra Wrestling Association, we uphold the impugned order dated 18/04/2023 disaffiliating the Petitioner Association. Further, no case is made out by the petitioner to set aside the impugned order dated 21/07/2023 passed by the Returning Officer of WFI, as according to us, it is a balanced order in the given circumstances. Similarly, no ground is made out by the petitioner in seeking a relief of disaffiliating respondent No.5, which is now affiliated by WFI and has also obtained membership of the Indian Olympic Association, is what is informed to us on behalf of respondent No.5.

As a result of the aforesaid, the petition fails.

Rule is discharged. No order as to costs.

Interim Application stands disposed of.

[MANJUSHA DESHPANDE, J.] **[BHARATI DANGRE, J.]**